

## ARTICLE

## Benjamin Constant and the Combination of the Freedom of the Ancients with that of the Moderns

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The genesis of this article may be found in Benjamin Constant's assertion, at the end of 'The Liberty of Ancients Compared with that of Moderns', that freedoms must be combined before they can be separated. Possible means to bring about such a union may be found in his works. First, he examines the need for action on the part of citizens and how such action could occur in modern conditions, both from the point of view of the individual and of class. The second part of the text analyzes how moral sentiment, patriotism and well-understood interests are the central components of a union that would guide both action and participation. The formal dimension of the combination of freedoms within institutions is explored, as well as the theoretical aspects of neutral republican power as contrasted with its monarchical counterpart. I conclude that, despite modern and liberal constraints, Constant does not completely abandon the republican tradition, expressed in the active life of citizen and institutions, in the fight against arbitrariness and in the defense of collective self-government by means of laws. This leads us to the observation that the neo-republican view of Constant as insensitive to participation in modernity is gravely limited.

**Keywords:** Benjamin Constant; freedom; citizenship; participation; interest.

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“...cette liberté politique, qui sert au pouvoir de barrière, lui sert en même temps d’appui”. Benjamin Constant, *Principles of Politics Applicable to All Governments*, 1806.

After the publication of ‘Two Concepts of Liberty’ (1997, pp. 191-242), by Isaiah Berlin, critics and scholars roundly denounced the author’s lack of originality (BIGNOTTO, 2003, p. 38; BOBBIO, 2005, pp. 08-20; KALYVAS and KATZNELSON, 2008, p. 160; PETTIT, 2012, p. 09, p. 30; PETTIT, 1997, pp. 17-19 and 27; SKINNER, 2002, pp. 188-189; VIROLI, 2001, pp. 38-41). A conceptual division between positive and negative freedom had already been more or less arrived at in Constant’s original 1819 speech on the subject<sup>1</sup>. As is commonly accepted, Constant had found the heart of the dichotomy. The freedom of the ancients existed in the context of territorially small, homogeneous societies where labor was provided by slaves captured in wars. By contrast, the freedom of the moderns exists in a large heterogeneous society and consists of enjoying private life and personal interests in a context of free labor and trade as the mode of acquisition. In modern conditions, the guarantees of individual rights are the guarantees of freedom (CONSTANT, 1997a, p. 610).

In addition to pointing out his lack of originality, Berlin’s critics identified the inherent mutual contradiction that would preclude any union of ancient and modern liberties. For neo-republican critics, Berlin, like Constant, establishes a dichotomy so extreme as to ensure that any alternatives would be impossible, not least because their view of self-government could never be viable in the modern/negative iteration of liberty, and the law itself acts to circumscribe freedom rather than guarantee it (PETTIT, 2012, p. 108). For

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<sup>1</sup>Constant himself (1997a, p. 277) related the words ‘negative’ and ‘positive’ to freedom: “Freedom does a good, so to speak, negative, although gradual and general. Favoring seeks immediate and personal positive advantages. Selfishness and obtuse visions will always be against freedom and favor”. And, criticizing Filangieri, states: “But he would not be sufficiently convinced [the reader] that these obstacles [to the government] would not be increased by positive measures, and considering justly the drawbacks that exist, he continually used the expressions that imply direct action. [...] The result is that government functions are purely negative”(CONSTANT, 1840, p. 212).

such critics, republicanism presents an alternative means of conceiving of liberty, which must be considered as a political-social status in respect of private lives and as freedom from domination in respect of relations with the State. Thus, to be free is to be not dominated by the arbitrary will of third parties and is by definition a negative concept, just as is liberal freedom, but one where citizen participation remains necessary because of the imperative to supervise the actions of those in government. In this way, if liberal freedom for neo-republicans is negative in the non-interference sense, and therefore laws limit the freedom of every individual since they interfere in the lives of everyone, republican freedom is more all-embracing, more complete and more desirable, since, by permitting citizens to modify laws, it makes them all equally free.

The neo-republican response to Berlin's dichotomy presupposes an oppositional rigidity that Constant does not necessarily share (BIGNOTTO, 2003, p. 39). When criticisms of Berlin are applied to Constant, by correctly placing him in the liberal tradition, the concept of freedom as non-interference is extended to all of liberalism (FALCÃO, 2017)<sup>2</sup>. In fact, for Constant, the modern world condemns men to primarily private lives disengaged from public affairs, and as "political freedom is the guarantee [of individual freedom], political freedom is, therefore, indispensable" (CONSTANT, 1997a, p. 612). Thus an obvious problem arises: if under modern conditions there is no individual impetus for public action, the government becomes easy prey for those who wish to use it for their own private gain, and in more radical cases, there may be no-one who disinterestedly accepts political positions in the interest of doing public good (cf. KALYVAS e KATZNELSON, 2008, p. 162). Constant addresses the solution to this problem at the end of his speech:

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<sup>2</sup>There are interpretations of modern republicanism that distance themselves from the Neo-Romans in different ways. For example, Kalyvas and Katznelson (2008) aim to bring republicanism closer to liberalism by understanding specific characteristics of modernity from authors, in addition to Constant, such as Adam Smith, Adam Ferguson, Thomas Paine and James Madison. Given market conditions, a trained national state, military professionalization and, above all, the development of capitalism, republicanism until then had to adapt to the new historical conditions. The present article, in part, aims to contribute to this interpretative aspect in opposition to the conceptual rigidity of Neo-Roman republicanism.

“Combining one [freedom] with the other” (CONSTANT, 1997a, p. 618). My fundamental point is that he does not elaborate on how to combine those freedoms nor to what degree a union of them is possible.

In a criticism of Berlin, Skinner (2002, p. 187) presents the genealogy of the negative concept of freedom and demonstrates that not even Constant can claim originality, as authors before him had considered the subject in the same conceptual key<sup>3</sup>. Even Todorov (1999, pp. 42-45 and p. 99) who advocated a ‘liberal democracy’ reading of Constant in which participation is essential, affirms that, in contrasting the ancient and modern, liberty is the private sphere’s last line of defense against public intrusion. In fact, in Constant’s own work it is possible to find this ambivalence<sup>4</sup>. Still, there is no objective evidence that the union of freedoms was a topic directly considered by Constant. He described the conditions of government and those who do the governing, and the functions performed by each branch of government and the interests involved in each social class (cf. CONSTANT, 1997a, p. 320; 1840, p. 204), but little is said about how modern and ancient freedom come together. Constant is unambiguous about those who govern: they must be well educated, widely respected and owners of property, preferably of productive property, as a means to safeguard against speculation. Furthermore, given that rural land<sup>5</sup> is a fixed asset and a source of food, it provides a direct benefit to the nation as a whole (CONSTANT, 1991, p. 283; 1872, p. 225). These characteristics, argues Constant, are necessary for the independence of power in the face of private interests (CONSTANT, 1872, p. 453). But what motivates someone to act in the public good – the ‘principle’ of Montesquieu – is

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<sup>3</sup>On Berlin and its various uses, cf. Coser (2019). Skinner points to Bentham (An Introduction to the Principles of Morals and Legislation, 1789) as the author who originally coined the expression. It must be kept in mind that, although the word freedom does not appear, Paine ([Common Sense, 1776] 1984, p. 06) relates society and government to expressions positively and negatively. Todorov (1999, pp. 46-51) locates in Staël the origin of the dichotomy between ancient and modern freedom.

<sup>4</sup>Cf. Constant (1997a, II, ch. 06 to 08, p. 35 and p. 673; 1991, p. 130, p. 242 and p. 347; 1872, p. 440 and p. 270; 1840, p. 194).

<sup>5</sup>There are texts in which he praises industrial owners, for being urban and civilized, they are the future, but this does not make them different in the government aspect from the others (CONSTANT, 1997a, p. 626; 1840, p. 198).

not clear, except in the case of monarchies where honor and glory are paramount.

In the face of this uncertainty, this article explores the possibilities described by Constant about the need for political action, even if this is not at the heart of modern freedom, and argues that one must challenge the ancient and modern concepts of positive and negative freedom and critically appraise the possibility of their union. I conclude that his concept of freedom, when interpreted in the light of the need for a union of ancient and modern freedoms, is not fundamentally different from the neo-republican version. This does not mean that Constant is a republican *stricto sensu* but, on the contrary, that neo-republicanism cannot be anchored to the thin concept of freedom as non-domination.

### **Need for action in the union of freedoms**

Even in his openly republican phase (1796-1799), Constant did not accept the Rousseauian terms for the reconstruction of the world of the ancients. For him the time for small republics had passed and the best way forward was to consummate a representative government that legitimizes interests and guarantees individual rights (CONSTANT, 1991, p. 297). The republic is the regime most suited to free forms (CONSTANT, 1991, p. 111; 1997b, p. 71) – the institutional need for complex regimentation occurs because of the conditions of modernity, whatever the form of government (GRANGE, 1991, p. 18; NEMO, 2006, p. 420). However, a sophisticated constitutional framework is an insufficient mechanism for guaranteeing modern freedoms and rights. There are additional and better options. Constant espouses the need for action and participatory citizenship, independent of, or even contrary to, established institutions.

We will first examine his criticism of hereditary power laid out in the first part of his work (CONSTANT, 1988, p. 114). In addition to being inherently irrational, heredity contradicts a principle professed by its defenders, namely that the natural inequality of man implies the legitimacy of greater public prestige (CONSTANT, 1997b, p. 70; 1991, p. 133; 1988, p. 76; GAUCHET, 1997, p. 20;

GRANGE, 1991, p. 28). Constant counters by stating that, in fact, it is a criterion of luck and chance rather than merit:

These distinctions are a leveling in the opposite direction, because they subject the different degrees of merit to the empire of chance; they create an inequality, however, more factitious and that can always be contrasted with natural inequality; they place in a forced position, and by itself dangerous, the social position of man and his intrinsic value. These are the apologists for hereditary distinctions, who seem indifferent to the superiority of talents and virtues (CONSTANT, 1991, p. 115).

Now, if talent and virtue are distinctive elements among men because they are possessed in different degrees (CONSTANT, 1997b, p. 71; 1991, p. 252), a regime that values the good quality of the government should not shy away from employing the most talented (CONSTANT, 1991, p. 304; 1872, p. 207). “All the natural faculties, like all social advantages, must find their place in political organization, and talent is certainly no less of a treasure than opulence. But, in an organized society, talent leads to ownership” (CONSTANT, 1997a, p. 193). Behind this assertion is the notion that those who are more talented will occupy the most prominent positions (CONSTANT, 1997a, p. 359; 1991, p. 264; GAUCHET, 1997, p. 50). The republican spirit courses through his work, as in: “any individual guarantee is impossible in the absence of equality” (CONSTANT, 1991: 118). It is through equality that human diversity will manifest itself, because, in a hereditary system – be it a monarchy or an aristocracy – the rulers are talented and virtuous only by chance and luck (CONSTANT, 1997a, p. 381; 1997b, p. 211; 1988, p. 72).

Surprisingly, it does not occur to Constant that this handful of virtuous people might prefer to spend their time at their ease, enjoying the fruits of their labor or the incomes from their properties and engaging in such activities as they please (CONSTANT, 1997a, p. 155). The freedom of the moderns does not leave anyone out. An example of this can be seen in the followers of Rousseau and Mably, says Constant (1997a, p. 211-214, p. 605, and p. 671; 1997b, p. 65; 1991, p. 165), who are nothing more than anachronistic, since it is impossible to relive the freedom of the ancients (cf. BIGNOTTO, 2003, p. 42; GAUCHET, 1997, p. 51). There seems to be a contradiction here: those who, due to their individual talents, are more capable of having free time end up not having it, because they

dedicate themselves to the government. If the interest in modernity is shared by all classes and the virtue and talent of only a few men, how to make them dedicate themselves to the public is the central question. One might assume that the most talented and virtuous possess a public spirit that others do not have. But this idealizing of the aristocracy conflicts with Constant's universalist principle about individual freedoms, that is, talents and virtues applied in the public or private spheres do not lead anyone to choose a disinterested, selfless life dedicated to the public good (cf. CONSTANT, 1997a, p. 174, p. 207, p. 353; 1872, p. 229)<sup>6</sup>. And, given that power must be protected from usurpation, we can assume that both the virtuous and non-virtuous are equally prone to be attracted to power, and not always with the best intentions.

A partial solution is well known. Only a representative government is able to assure fundamental equality without doing a disservice to the talented and virtuous. Hereditary regimes and ancient models can offer no such guarantee (CASSIMIRO, 2016). Representative government assumes that publicly elected leaders will come to power for the same reason that they were able to accumulate wealth and property: "The dissemination of properties and lights having confused the various classes, natural inequality, that is to say that which results from merit and unequal talents, should triumph over institutions" (CONSTANT, 1991, pp. 127-128). The structural decay of the nobility, the redistribution of properties and an increasingly free movement of labor lead to fundamental equality and are the hallmarks of civilizational progress (CONSTANT, 1997a, p. 633 and p. 714; 1997b, p. 38; 1991, p. 142; 1840, p. 227; cf. GRANGE, 1991, p. 81; TODOROV, 1999, pp. 66-68), but they are also themselves explanatory of public participation and the enjoyment of private life, because "making equality triumph [is] letting freedom act freely" (CONSTANT, 1997a, p. 727; 1872, p. 489). A representative government makes modern freedom feasible for those who are not willing to be involved in politics and at the same time guarantees that opportunity for those who are willing (CONSTANT, 1997a, p. 357; 1991, p. 164 and pp. 288-295; GAUCHET, 1997, p. 56). In these

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<sup>6</sup>There are suggestive passages in which Constant (1997a, p. 377; 1977b, p. 208 and p. 235) praises the free time enjoyed with literature and the arts in general, the sciences and study, nothing that leads to public action.

conditions, “the interest [is] evidently in accordance with its duties” (CONSTANT, 1997b, p. 180). In this way, the old principle of self-determination is maintained, with the modern advantage of freedom.

However, these two characteristics, self-determination and individual freedom, cannot be completely controlled by the State. There is a long sought-after opening for citizen action that should be necessarily independent of the laws of the chain of command, as “the reason of the people must be formed and matured by action”(CONSTANT, 1872, p. 173). In ‘On the Responsibility of Ministers’, Constant (1872, p. 405) discusses the possibility of a minister committing irreparable harm. He is concerned with the question of whether a subordinate employee with a purely administrative function should be held responsible for the wrongful orders of his superiors. “If you prescribe to the agents of authority the absolute duty of an implicit and passive obedience, you will launch on human society the instruments of arbitrariness and oppression, which a furious power could unleash at will” (CONSTANT, 1988, p. 101; 1872, p. 394). Constant clearly states that ministers cannot demand blind obedience. There is a level of reasonable common sense that everyone has, says Constant (1997a, p. 158), which leads to the conclusion that not all orders must be heeded, and that good sense depends only on “freedom of examination [...] [the] absence of any collective intervention”(CONSTANT, 1997b, p. 155).

This does not mean that these agents should be responsible for the actions of the ministers, but that they must know how to discern what can or cannot be done, despite written laws, orders and norms to the contrary, because “passive obedience [...] is completely impossible” (CONSTANT, 1997a, p. 414; 1872, p. 395) and “we will never make men become totally foreign to examination” (CONSTANT, 1997b, p. 147; 1872, p. 396). “In deciding if an agent subordinate to a minister, who consented or refused to obey him, acted well or badly, the written law is quite insufficient” (CONSTANT, 1997a, p. 247; 1872, p. 397).

In 1815, in the ‘Principles’, Constant went further still when he held that government agents must act responsible since “if this responsibility does not begin with the immediate executor of the act, it does not exist” (CONSTANT, 1997a, p. 413). In addition to this theoretical justification, which implies that ordinary citizens



have a responsibility, in practice laws are unable to “predict all the cases that may arise: but they are felt, the reason for each warns of this” (CONSTANT, 1997a, p. 416). As moral beings, men are able to apply “common sense” and “natural good reason” (CONSTANT, 1997a, pp. 417-418; 1872, p. 319) when the law does not specifically prescribe a sanction or judgment. In a sense, the author trusts “individual judgment” (CONSTANT, 1997a, p. 417) of the citizens for the application of the principles of freedom and justice, which includes punishment of lower level bureaucrats (CONSTANT, 1997a, p. 421 and p. 464).

If Constant wrote exclusively about a man who was only self-interested, calculating and maximizing of his personal profit, he would not be able to assign him any function other than that dictated by orders from superiors or those directives prescribed in regulations. His argument is bolstered as it attributes to the ordinary employee the “natural tendency, further favored by his interest and *amour propre*, to always be obedient” (CONSTANT, 1997a, p. 418). Self-interest and ‘*amour propre*’ inspire the subordinate to avoid responsibilities attributed to their superiors as it protects them from public judgment of those acts. After all, what makes men act or refuse to act contrary to the chain of command is a sense of collective duty. “It will always be necessary, therefore, to organize in every circumstance a means of speaking, and the best of all means is to entrust the right to speak to the most impartial men, those most identified with individual interests and public interests. These men are jurors (CONSTANT, 1997a, p. 420).

A civil jury, as Tocqueville would observe two decades later, is one of the most effective examples of a mediation of public and private interest (CONSTANT, 1997a, p. 410; 1872, p. 183). It is not just a pedagogical method to develop citizenship; it is the idea of individual duty in the collective dependent on popular participation chosen by lot (CONSTANT, 1872, pp. 323-324).

While it may be a stretch to connect disobedience and the drawing of jury service lots with political participation, these examples serve to highlight the need for active citizenship in a way that isn’t clear in a reading of the freedom of the moderns. Even more so when we remember that civil servants and soldiers generally do not enjoy electoral prerogatives and do not have a noble ancestry or any responsibility arising from political power. In short, bureaucrats and soldiers are part of the people (CONSTANT, 1991, p. 348). Thus, for them to

decide to oppose orders from superiors, it would be necessary to be familiar with the laws and norms of the state but, in addition to possessing common sense (CONSTANT, 1872, p. 398), they would have to be well versed in both the conditions of life in the society for which they work and the limits and powers of its governments. Refusing to act under higher orders is an attitude or a position that can only be taken actively and consciously and is always calibrated by the advantages and disadvantages involved under the criteria of moral judgment and reason and in view of the possibility of accountability. Morally speaking, when an order given by the elected official or by written law is illegitimate or unjust (CONSTANT, 1997a, p. 319 and pp. 332-333; 1872, p. 466), bureaucrats or soldiers must refuse to comply on moral grounds. The moral statutes of a society confer the right of disobedience<sup>7</sup>.

This is a particularly interesting case because this moral right of refusal is bestowed upon ordinary citizens or soldiers, and not exclusively to an aristocracy or nobility concerned with notions of honor, nor even to those talented and virtuous people described above.

Surprisingly, Constant reveals an important facet of his understanding of freedom in the annexes to the 1818 edition of 'Principles'. He engages with the topic in the same text (CONSTANT, 1997b, p. 61) in order to attack Bentham's utilitarianism (KALYVAS and KATZNELSON, 2008, p. 161), and ends up revealing an important facet of his understanding of freedom. For him, utility neither outweighs nor replaces law because it is the end result, desired or not. This inadvertent consequence of the utilitarian calculation not only adheres Constant to normatively oriented universal rights (CONSTANT, 1997a, p. 512; 1997b, p. 321), but also puts civic duty at a higher level (CONSTANT, 1997a, p. 513). At the same time, Constant establishes that "individuals have rights, and that these rights are independent of social authority" (CONSTANT, 1997a, p. 514) and that

Authority is like a tax, each individual consents to sacrifice a part of his fortune in order to subsidize public expenses, the aim of which is to ensure the peaceful enjoyment of that which they keep; but if the State

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<sup>7</sup>The criterion adopted by Constant for anyone to decide whether the order or the law is legitimate is outside the scope of this study, but he indicates it with examples of non-retroactivity of the law, 'habeas corpus' and producing evidence against yourself (CONSTANT, 1997a, p. 317; 1991, p. 371).

demanded from each one the totality of his fortune, the guarantee that it would offer would be illusory, because that guarantee would have no application. In the same way, each individual consents to sacrifice a part of his freedom in order to secure the rest; but if the authority invaded all his freedom, the sacrifice would be pointless (CONSTANT, 1997a, p. 514).

This contractualist language (CONSTANT, 1997a, p. 639 and p. 654; 1997b, pp. 30-33; 1988, p. 103; 1840, p. 213; GAUCHET, 1997, p. 94; GRANGE, 1991, p. 31; KALYVAS and KATZNELSON, 2008, p. 172; TODOROV, 1999, p. 40) should not overshadow the question at hand: are there situations in which the law must be disobeyed? Despite the intellectual digressions, Constant builds his most sound argument around the tax analogy: there is a certain individual good, be it money or freedom, which one abdicates for a greater good. When government spending is dictated by public good rather than abuse of power it is for both public and private benefit, without distinction (CONSTANT, 1988, p. 75). The only question is how much freedom or resources should be abdicated to the collective.

Part of the freedom that one abdicates would, in the language of 1819, be a non-modern freedom, demanding voluntary dedication to the public sphere as a foundation of government by consent. This can only occur in a government of laws (CONSTANT, 1997a, p. 339), because only legal bodies can limit and establish taxes and freedoms relative to the degree of progress of a given society (CONSTANT, 1997b, p. 128 and p. 662; TODOROV, 1999, p. 55). Therefore, the freedom of the ancients and that of the moderns are united by the rule of law, by limiting the freedom of the moderns, they institute the freedom of the ancients in such a way that there is a balance considered morally acceptable by each society (CONSTANT, 1997b, p. 59; 1991, p. 268). “We owe this freedom to the law. [...] Obedience to the law is a duty: but, like all duties, it is not absolute, it is relative; it rests on the assumption that the law starts from a legitimate source and is contained within just limits” (CONSTANT, 1997a, p. 517). Or again, “domestic ties are praised, but the sanction of domestic ties is individual freedom, the hope founded on communal life, of living free, which justice guarantees to citizens” (CONSTANT, 1997a, p. 230). This is an inversion of Rousseau: being free by obedience and not being forced to be free. The duty to obey legitimate laws requires citizens to consent to their content, but also to take action – if not, it would be only a right (CONSTANT, 1997b, p. 52; 1840, p. 229). Man is free to live together with other men

and does not live together to be free. “It is a positive, general duty, without restriction, whenever a law seems unfair, to not be its executor” (CONSTANT, 1997a, p. 520). There is an oxymoron here – the instrument that guarantees individual freedom is the same that limits it, and therein the freedoms are confused and cease to remain distinct.

However, there is still a deeper dimension of citizenship that cannot refuse to comply with orders or moral duties in relation to their fellow citizens – military and political duties in the defense of the country. “When enemies dare to attack a people right in their territory, citizens become soldiers to repel them. It was the citizens, the first citizens, who liberated our borders from the foreigner who desecrated them” (CONSTANT, 1997a, p. 434; 1997b, p. 292). This passage is written in the context of a description of the armed forces in a constitutional State. Constant argues that professional military personnel, a particular condition of modernity (CONSTANT, 1997a, p. 435; 1872, p. 241), only defend the country’s territory from foreign invasions. However, there is a need for the police, an internal armed force to curb private conflicts. The above quote reveals that in addition to the professional military, the citizen and the soldier come together in the same entity in order to defend the country. In fact, this is a common trope of republicanism, in which it is said that the freedom of the city and the citizen are closely related and mutually dependent: “Citizen soldiers, far from having one less right, have one more right than others, because they fight for their country” (CONSTANT, 1991, p. 354). This is not an affirmation of Constant’s supposed virtuous republicanism but the influence of the republican tradition in the combination of freedoms. No individual would be willing to be a soldier if he were not a citizen supportive of the national project, more so if he were an ordinary citizen and not an honorable nobleman. This concept of national defense is a unity of freedom of the ancients and of the moderns. If a soldier refuses to do such a task, it would be up to the State to ensure compliance. But this creates a problem:

No soldier appears in his vast territory to maintain public order, all citizens owe assistance to the magistrate in the exercise of their functions; but this obligation has the disadvantage of imposing odious duties on citizens. In our populous cities, with multiplied relationships, the activity of our lives, our businesses, our occupations and our

pleasures, the execution of such a law would be vexatious, or rather, impossible (CONSTANT, 1997a, p. 438).

France's modern living conditions prevented someone from being forced to assist magistrates, notable evidence of modern freedom (CONSTANT, 1872, p. 176). Constant does not compare this freedom with the ancients but with the contemporary United States. Thus, it is specificities unique to France that limit, but do not impede, disinterested citizen action. It is important to clarify that the military obligation of the Americans is carried out under conditions of modernity (CONSTANT, 1991, p. 355; 1840, p. 237). Again, it is not a question of the freedom of the ancients, but of combining it with that of the moderns.

In the 'Principles' of 1815, Constant suggests that property-owners should be political office holders. This is an aristocratic and anti-republican principle that he finally justifies in the combination of freedoms. In the ancient world, slave labor freed citizens for obligatory political activity, seeing as it left them with time for it. This is an essential factor for understanding the freedom of the ancients, that is, political action can only be carried out through idleness (CONSTANT, 1991, p. 404). In modern conditions, even as the author condemns idleness for its own sake, dedication to the public sphere requires time – a public official needs to be released from work. For this reason property ownership, not just wealth, should be a prerequisite for holding public office because “property itself makes men capable of exercising political rights” (CONSTANT, 1997a, p. 367). According to Constant, the criterion must be that

the sum is sufficient to maintain a man through a year, without having to work for anyone, even if he is not entirely an owner. He is, in terms of the proportion of property he lacks, in the class of wage earners. Property owners are masters of their existence, since they can refuse to work for it. Only those who have the necessary income to exist independently of any other will can, therefore, exercise the right of citizenship. A lower property-owner condition is illusory, a higher property-owner condition is unfair (CONSTANT, 1997a, p. 370).

The political function of property in modern times is correlated with slave labor in antiquity, that of freeing the possessors of wealth to engage in politics. For this reason wealth is not enough, there must be something more solid, since wage earners would never have the necessary conditions of independence and

available time (CONSTANT, 1991, p. 283)<sup>8</sup>. Here is the connection between the ancient and the modern in terms of freedom: in both cases full citizenship only occurs with an abundance of economic autonomy and free time, which is not to say that partial interests are absent. Constant shrewdly notes that owners of industrial enterprises will be less committed to the public sphere because their economic interests are not anchored to the national project while the economic success of rural landowners is more closely tied to the economic development of their nation (CONSTANT, 1997b, pp. 185-189; KALYVAS and KARZNELSON, 2008, p. 173). Immobile capital binds class interests to the national project, while highly liquid capital circulates easily across countries and borders (CONSTANT, 1997a, p. 737; 1997b, p. 175). This distinction within the capitalist class reveals that commitment to the public sphere is not determined by wealth per se but what that wealth provokes in each person. In this way, different classes of owners with different interests are formed. Furthermore, the condition of wage earners can be compared to that of the slave in antiquity: the owner is the master of the wage earner, non-owners are thus not free, as they are arbitrarily dominated by the owners (CONSTANT, 1997b, p. 88). This concept of domination is exactly what the neo-republicans seek in their definition of republican freedom.

Thus far we have identified two common threads that unify the two freedoms – the individual and social class. Moral duty and economic interest bind ancient and modern freedoms individually and collectively. Now we ask how to integrate these partial interests into the general interest.

What is the general interest but the agreement that occurs between the private interests? What is the general representation if not the representation of all partial interests that must agree with the objects that are common to them? The general interest is certainly distinct from private interests, but it is not against them. It is always spoken as if the gain of one implies the loss of another, this is only the result of combined interests (CONSTANT, 1997a, p. 187 and p. 355; 1991, p. 270; 1988, p. 133; 1872, p. 208).

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<sup>8</sup>Constant is betting on progress such that the vast majority of the population at some point becomes moderately proprietary, facilitating equitable representation and less heterogeneous interests. Cf. Constant (1997a, p. 363 and p. 443).

The combination of interests depends on the combination of freedoms and its manifestation is a combination of virtue<sup>9</sup>, honor and interest.

### Self-government, interest and the neutral branch

It is not, therefore, just a matter of limits when one cannot excuse an action for being a simple breach of orders and becoming a soldier, or the equalization of class interests with general interests. It is an understanding of a society's values, which can only be guaranteed through the rule of law and state intervention where necessary, for example in the development of science and industry. And for these values to be properly met, some collective self-determination is necessary (CONSTANT, 1997a, p. 307), as there is no legitimate form of law that is not equally applied to everyone with the consent and participation of all, even indirect participation, as it is the "equality of rights that we indicate, and all those who have their rights will be allowed to compete for its defense, that is, to participate in all ways of making the laws that determine government action" (CONSTANT, 1997a, p. 625). "Citizens govern themselves, taking care not to infringe the laws" (CONSTANT, 1991, p. 449).

The example of the employee, the soldier and the taxpayer reveals a concern with individual action and the example of the capitalists reveals the dynamic of class interest. The concept of self-government manifests that same rational morality, but collectively, and always implemented with a legal regime that protects against the whims and ambitions of men. Neo-republicans inaccurately accuse Constant of denying the rule of law and freedom as non-dominating in his use of the master and slave metaphor. In fact he speaks quite clearly on these two points: "I mean by despotism a government where the master's will is the law alone; where only corporations, if any, are their bodies; where the master considers himself the sole owner of his empire and wants his subjects to simply enjoy it" (CONSTANT, 1997a, p. 223 and p. 291; 1988, p. 74; 1840, p. 206). In addition, although it is not common in the 'Principles', the very idea of domination is used by Constant in a very similar

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<sup>9</sup>Strangely to the better established liberal tradition, Constant also attributes an important role to virtue, in the case, for example, of tyrannicide (CONSTANT, 1997a, p. 137 and p. 241; 1872, p. 465).

sense of historical reconstruction and neo-republican theory as opposed to freedom: “If domination escapes feudal lords, it falls to the great property-owners” (CONSTANT, 1840, p. 203).

One of the basic impediments to self-government in modern times lies in the territorial dimension, “the experience of Greece is not applicable to large modern States” (CONSTANT, 1991, p. 238; 1988, p. 67), because “all the old republics had a narrow limit” (CONSTANT, 1997a, p. 596). This maxim established by Montesquieu is contested, not from the perspective of the size of the country or population, but for the justifications that make these characteristics impediments to collective self-determination (CONSTANT, 1991, p. 311; 1988, p. 70 and p. 135; 1872, p. 436; GAUCHET, 1997, p. 52; GRANGE, 1991, p. 61). In ‘Fragments’, Constant revisits the problem:

These [Greek and Roman] republics started out small. In spite of their growth, they preserved the institutions that are suitable only for small republics, and the disproportion of their institutions to their functioning was the cause of their destruction. How does this prove that a republic that begins with a large territory, and that has institutions adapted to its greatness, would have the same fate? (CONSTANT, 1991, p. 239).

These republics failed because their institutions<sup>10</sup> were small compared to the size of their population or territory and not because of their size alone. This implies that a republic should not fail if its institutions are suitable for its size. Adequate institutions are foundational for progress and the correct application of the rule of law. This theoretical approach assumes the inventive capacity of the legislator, but, above all, an adjustment process between size and institutions (CONSTANT, 1997a, pp. 168-169). Rome’s downfall was due to the fact that “individuals no longer governed themselves, making [the republic] impracticable” (CONSTANT, 1991, p. 240). The ancient method of capital acquisition by war led

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<sup>10</sup>In the same way that it is not the size of the republic that corrupts the ruler, but the process of aggrandizement of the State, wealth is not the agent of corruption, but enrichment (CONSTANT, 1991, p. 285). This aristocratic predisposition of our author reveals much more about his concern with the processes of transformation than with the actual existence of a large republic or concentration of wealth.



republics to pursue military conquest (CONSTANT, 1997a, p. 127; 1997b, p. 286; 1840, p. 200), however, in modern times, the expansion of trade has made such activity innocuous and inefficient (CONSTANT, 1997a, p. 176; 1840, p. 201). Hence Constant's condemnation of the colonial expansionism of his time (CONSTANT, 1997a, p. 161 and p. 669; 1840, p. 202). But this connection cannot be purely institutional; Maynor suggests (2003, p. 97) that a degree of public morality is needed primarily based on the collective virtue, originated, for example, from religious practices (CONSTANT, 1997a, p. 649; 1997b, p. 141)<sup>11</sup>.

Religious congregations establish standards of moral judgment that, if freedom of religion is respected, become widely held societal viewpoints and shape the legal regime. This type of freedom is a necessary condition for collective self-organization, at first inscribed in the society's moral code (TODOROV, 1999, p. 57) then codified in law. This sociological feature of Constant's thought leads him to the conclusion that individual freedoms are, in fact, interdependent on self-government (GAUCHET, 1997, p. 69): "Saying to a people: your laws are insufficient for you to govern yourself, the people are allowed to answer: if our laws are insufficient, we desire other laws; and with these words all legitimate authority is questioned: there is nothing left but strength" (CONSTANT, 1997a, p. 485).

A government's worst mistake is to try to instruct public morality; rather it must only issue orders, rules and laws. In fact, this is a classic case in which the principle of popular sovereignty (CONSTANT, 1997a, p. 313) falls into normative or legal order. "Give the depositaries of the executive authority the power to undermine individual freedom and you will annihilate all guarantees, which are the first condition and the sole purpose of uniting men under the rule of law" (CONSTANT, 1997a, pp. 487-488). Moreover, there are cases where government oppression incites a popular revolt: "It is the popular indignation that has advanced against the oppression of power" (CONSTANT, 1997b, p. 119). Given these maxims, it is very difficult to maintain that freedom in the modern sense, for Constant, is merely the enjoyment of individual guarantees without corresponding

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<sup>11</sup>The relationship between religious practices and citizenship in conditions of modernity, developed mainly in 'De la religion', it is so interesting and complex that it would require a separate job.

civic duties. In spite of the popular neo-republican critique of liberalism (MAYNOR, 2003, p. 25; PETTIT, 2012, p. 108; 1997, p. 50) it is clear that the law does not limit freedom but rather guarantees it.

Republicanism and liberalism find common ground in their belief – the first more emphatically – that the rule of law is fundamental for removing arbitrary tendencies (FRELLER, 2019), but only by means of self-governance. “By absolving arbitrariness, we want to overcome dangers. With that, it is always thought that citizens have no relationship with the depositaries of the supreme authority” (CONSTANT, 1997a, p. 489 and p. 593). Constant does not refer to a resumption of natural rights when the people lose confidence in the depository of power, to speak in the terms of classical liberalism, but to the perennial dimensions of social and political daily life that demand the combination of freedoms. Tolerance of a diversity of religious beliefs produces a morality that is independent of religious belief itself. The fundamental question is not only how the possible unities between freedoms are executed but also the way in which those unities impact government and society. The most evident of these is patriotism.

The values established in the defense of the country serve as a common denominator between national and individual interests and are necessary for the viability of self-government.

This class [of the workers] has no less patriotism than other classes. It is always ready for the most heroic sacrifices and its dedication is more than admirable, as it is rewarded neither with wealth nor with glory. But, I think, patriotism, which gives you the courage to die for your country, is one thing; another thing is the ability to recognize your interests well (CONSTANT, 1997a, p. 367).

In his critique of the modern spirit of conquest, Constant emphasizes a fundamental distinction between expansion and defense. The former is indefensible while the latter is essential to modernity. “But it is not a question of war itself, but of legitimate defense, that is, of patriotism, of love for justice, of all noble and sacred feelings” (CONSTANT, 1997a, p. 128). He notes that working class patriotism is created from the working man’s self-serving interests. Workers, although patriotic, are unable to identify their interests. The glory of conquest during ancient times has transformed into myopic commercial interest in modernity – what was once

military virtue has become civil vice (CONSTANT, 1997a, p. 133; 1997b, p. 332; 1840, p. 201). However, the nation's desire for protection and defense remains intact, modern patriotism refers to a self-governing citizenry and defensive but not imperialistic military actions (CONSTANT, 1840, p. 230). "Note the difference that always exists between self-defense and the conquest system. That difference still stands now. The soldier who fights for his homeland does nothing but pass through danger. He has the future perspective of rest, freedom, glory (CONSTANT, 1997a, pp. 140-141).

Which freedom, ancient or modern, does Constant refer to in this passage? There is no doubt that patriotism is a way of combining both.

However, the patriotism that Constant discusses with goes well beyond the nation's military defense; it also touches on feelings connected to individual interests and not necessarily to class. As an instrument that leads ordinary people to understand that, at a certain level, their individual interest is dependent on patriotism, the plurality of interests in modernity has love for the motherland as a common denominator. "As long as patriotism exists only as a vivid accessory to interests [...] Those [interests] dry up this natural source of patriotism, and they want to replace it with a false passion, an abstract being, a general idea" (CONSTANT, 1997a, p. 164). The diversity of interests characteristic of modernity requires patriotism, since none of the private interests – even those in conflict – can be realized without self-government. But it must be made clear that the substitution of patriotism for private interest is, in fact, a gross error in the understanding of self-interest.

This plurality of interests, as Madison had just pointed out to the United States, has roots in the local rather than national. "Even in the states that were formed a long time ago, and where the union lost its hatred of violence and conquest, we see the patriotism that is born of local varieties, a kind of true patriotism" (CONSTANT, 1997a, p. 167). Between diverse local interests there exists a commonality that takes form in national representation. Acting locally is always related to national causes and consequences. Patriotism is expressed then from local interests, and it combines freedoms (CONSTANT, 1997a, p. 356). Constant rarely links modern participation in the public sphere modern to the ancient notions of morality and values such as honor, virtue or glory. Institutionally: "representative

government is nothing other than the people's admission to participation in public affairs" (CONSTANT, 1840, p. 191). Participation is not an imposition, a law or a coercion by third parties, individuals or institutions, but the gradual propensity to realize the wills that combine or demand political action in and of themselves. Otherwise, "patriotism would become the banal excuse for all crimes. The great sacrifices, the acts of devotion, the victories concerning the natural inclinations of the austere republicanism of antiquity, serve as a pretext for the frantic agitations of selfish passions" (CONSTANT, 1997a, p. 221 and p. 707). In this sense, to understand self-interest is to exercise modern freedom voluntarily in conjunction with ancient freedom.

Interest, deeply explored in Tocqueville's work, occupies a specific space in Constant's thought. For him, there is a fundamental link between the understanding of interest and the formation of public opinion through careful explanation (CONSTANT, 1997b, p. 392; 1991, p. 327; 1872, p. 459; GRANGE, 1991, p. 58; NEMO, 2006, p. 427; TODOROV, 1999, p. 80). Constant, in keeping with a French intellectual tradition remarkably different from its 17th century English counterpart, does not believe that all self-interests accurately or appropriately manifest themselves into real world actions (CONSTANT, 1997b, p. 37 and p. 753). Someone could misinterpret or misapply their own self-interest. "Without a doubt, as men do not always obey their well-understood interests, caution is necessary" (CONSTANT, 1997a, p. 325). Understanding one's own interests well means distinguishing in which situation and time frame an attitude combines private and collective interests, such as those of rural landowners, and when they are opposed, if indeed they are truly someone's interests. Passions distort comprehension of self-interest and forge counterproductive opinions and actions (CONSTANT, 1997a, p. 236 and p. 321; 1991, p. 416). An adequate way to correct an individual's misunderstanding of their self-interest is to calibrate it with public opinion (CONSTANT, 1997a, p. 228 and p. 350; 1991, p. 390), which depends on the predisposition of each individual (CONSTANT, 1997a, p. 660). The problem becomes more complex when State powers suffer this lack of clarity (CONSTANT, 1997a, p. 240). It is evident, for Constant, that it is in the interest of a power to respect the limits of the sum of powers and, therefore, of sovereignty, because, otherwise, it

would itself be attacked and disrespected (GAUCHET, 1997, p. 81). Those in power only abuse the limits of their power because of a misunderstanding of self-interest (CONSTANT, 1997a, p. 613). Thus, “we say every day that everyone’s well-understood interest invites us to respect the rules of justice. We make laws, however, against those who violate them, because it is found that men are often absent from their well-understood interest” (CONSTANT, 1997a, p. 226; 1872, pp. 178-179).

Constant then considers the institutional mechanisms that underpin a free State. In the 1815 edition of ‘Principles’, Constant (1997a, p. 332) admits that “republics are forced to have the supreme responsible power”. For the ultimate authority there is no irresponsible application of power. In the absence of a neutral branch there are no ways of vertical or horizontal intermediation of political powers (CONSTANT, 1991, p. 380; 1872, pp. 194-196 and p. 481), which constitutes a major disadvantage. But he didn’t always think that way. In ‘Fragments’, the neutral branch of the republic is popular election, fulfilling a function similar to that of the monarch, save for one characteristic. In any regime, the neutral branch has the function of controlling political powers, therefore, it must have a neutral interest in relation to the legislative and executive (CONSTANT, 1991, p. 387). In addition, it must take care of the people’s freedom (CONSTANT, 1991, p. 279). A key aspect of constitutional monarchies is that the monarch exercises the functions of neutral branch over other powers; his superiority is due to the dignity of his position, to tradition and to the nobility (CONSTANT, 1997a, p. 325; 1872, p. 480; GAUCHET, 1997, p. 102; KALYVAS and KATZNELSON, 2008, p. 170). For this reason, he outranks legislators and executors.

In a large republic, the function of arbitrator and guarantor of the people’s freedom also resides in neutral branch, but one that is not above the other branches: “It is necessary to create a third branch that is neutral between the legislative and the executive” (CONSTANT, 1991, p. 373), or, more clearly, “if you compose this intermediate power, which we call the preserving branch, with men who are not governors, they will have the same interest as the governed, that of the people’s freedom” (CONSTANT, 1991, p. 375). At first glance, this may seem like a simple detail of constitutional engineering but in fact the consequences are enormous. Given the king’s superiority, the limits of intervention are very clear: they concern

the balance and distribution of tasks among the political powers so that they do not form a faction and turn the regime despotic. Any direct attribution of additional governing functions to the monarch would constitute a major attack on freedoms, given the monarch's hereditary and lifelong superior position of authority (CONSTANT, 1997a, pp. 324-327; 1991, p. 341). In large republics, the function of the neutral (or preserving) branch of government is primarily one of intermediation (CONSTANT, 1997a, p. 333 and p. 346; GRANGE, 1991, p. 45). Its role becomes more active since it is a duly elected, term-limited branch and not above the other branches but beside them. The king fulfills his function of guaranteeing the freedom of the people in an indirect way by restricting the action of the political powers. But the Council that assumes neutral branch in the republic must be more incisive in this regard because, once it is elected, its interests are confused with those of the people. "In a republican State, the people should be given all the function of the government that is compatible with their order and cloak the people's rights in popular forms" (CONSTANT, 1872, p. 173). The central terms of the policy principles applicable to all governments are present here: popular freedom, representation of the republic, the interest of modern life in the guarantees of individual freedom and the honor of office arising from the monarchical principle.

Not by chance, this power that guarantees the freedom of moderns is in itself an oxymoron, as is the definition of law (CONSTANT, 1997a, p. 611). The same principle that organizes the law so that it maintains and limits freedom is that which governs the neutral branch, that is, the combination of freedoms. The people elect a neutral branch, which does not govern and is not constitutionally superior, but limits and regulates the governing branches. Such an institution does not exist of its own accord but rather by a fundamental charge – the neutral branch is the judiciary of the other political branches (CONSTANT, 1872, p. 181), and when it is elective (CONSTANT, 1872, p. 300) the defense of people's freedom precedes its responsibility as a balance between executive and legislative. "It is above all in free constitutions that a neutral branch is necessary, because these constitutions organize different powers with a certain degree of independence, the struggle is unfailingly established between these powers" (CONSTANT, 1991, p. 374). Since its political assignment is neutral, and not the neutral interest of the

monarch, this power is legitimized by its direct connection with the people and its popular elections.

Note that the positions are reversed in relation to the constitutional monarchy. In a monarchy, the neutral branch has a neutral interest and is superior to political powers, in the large republic, the preserving branch has an interest directly linked to that of the people, but it is not superior to the executive and legislative powers. Constant's assumption in this regard is that rulers and ruled have, once the legislature is elected, distinct interests (CONSTANT, 1997a, p. 339; 1991, p. 256 and pp. 273-376; 1872, p. 449), that is why "representative assemblies [...] are circumscribed" (CONSTANT, 1991, p. 258). "If the preserving branch were composed of men who could return to being people, or who needed the people to prolong their function, there would be no different interests between them and the people" (CONSTANT, 1991, p. 384). Everything indicates, then, that in a modern republic, the neutral branch is merely an accessory and fulfills only the function of negotiating executive and legislative activities. However, Constant is adamant when affirming that "the power to dissolve the legislative assemblies, and to remove the depositaries from the executive branch" (CONSTANT, 1991, p. 387) belongs to a preserving branch.

At this point in the argument, two dilemmas must be resolved. First, is having a neutral branch necessarily a neutral interest? How in a large republic, does it adhere to the interests of the people? Second, if in a republic neutral branch is not superior, how does it dissolve the legislative and executive (CONSTANT, 1991, p. 280; GRANGE, 1991, p. 39)? The answer to these questions lies precisely in the understanding of the crisis exposed above, that is, the neutral interest is no different from the freedom of the people and calling for new elections is not a strictly political action. The monarchy cannot implement this because it does not have the legitimacy of having been elected, therefore, there is no connection to the people and the guarantee of the people's freedom is an inadvertent consequence. What makes neutral branch the judiciary of political powers is a double negative, that is, to deny the interest of the government or, but objectively, a counterweight. In this sense once elected it is entirely inactive (CONSTANT, 1997a, p. 335; 1872, p. 206), since it considers interests that go well beyond political powers. In short, the executive has an interest in maintaining and expanding its power, the legislature partially

expresses the wishes of voters, and both, united or in disagreement, end up opposing the true popular interest. The defense of this, therefore, falls to the neutral branch of the republic.

The people's desire to live free, that is, without arbitrary interventions by third parties, is a constant in republican thought. It is this point that has led the neo-republicans to affirm the concept of freedom as non-domination and that is precisely what Constant has in mind. It would be tedious and unnecessary to scrutinize all the author's arguments against arbitrariness, it is enough to emphasize that individual freedom "is the objective of every human association, on which public and private morals are based [and that] arbitrariness is for morality as the plague is for health" (CONSTANT, 1997a, pp. 483-484). Individual freedom, since it is the common interest of partial interests and incompatible with arbitrariness, goes hand in hand with collective freedom. From an institutional point of view, the freedom of the ancients and that of the moderns are combined in the expression of neutral republican power that ignores the interests of political powers and reflects those of the people.

## Conclusion

Despite the ferocious attacks Constant made on Rousseau throughout most of his life, there are times when he recognizes the positive aspects of his fellow Swiss compatriot. From the 'Additions' of 1818 to the 'Principles', in responding to the furious attacks against the 'Social Contract' he states that he is "far from joining Rousseau's detractors" (CONSTANT, 1872, p. 278). At no time does Constant fail to recognize that Rousseau is the main representative of the revival of the ancients and is therefore anachronistic. However, what he does in this context of revival is to separate Rousseau's objectives, legitimate and correct as they may be, from the way in which they were appropriated, for good or ill, by despots (read Jacobins and Realists). "What do rights mean when the more we enjoy them, the more they are alien to us? What is freedom by virtue of which one is freer the less one follows one's will entirely? Defenders of despotism can draw immense advantages from Rousseau's principles (CONSTANT, 1872, p. 278).



For Constant, Rousseau correctly reflected on the theory and practice of legitimate societies, namely, the union between law and freedom. In the ‘Principles’ he states that “society cannot exercise for itself the rights that it receives from its members. Consequently, it delegates them” (CONSTANT, 1997b, p. 41 and p. 123; 1991, p. 407). The problem lies, say with Constant, in the naivety of believing in a return to the ancient world through an abstraction that gives power to an individualized authority and not to the legitimate magistrate – a criticism that is not exactly original to Constant. Regardless of the content of the interpretation, the fact is that the basic notion that there are political principles applicable to all governments is in direct line with popular sovereignty, in principle. In practice, however, it becomes despotism due to the historical conditions of modernity, which fact led Todorov (1999, p. 77) to affirm that “it would be a mistake to believe that Constant chooses the freedom of the moderns over that of the ancients”.

A similar argument had already been developed in the ‘Principles’ comparing Montesquieu’s concept of freedom with that of Rousseau<sup>12</sup>.

Freedom, says [Montesquieu], is the right to do whatever the law allows. Undoubtedly, there is no freedom when citizens cannot do everything that the laws do not defend, but the laws could defend so many things that there would be no freedom. Monsieur de Montesquieu, like most political writers, seems to me to have confused two things, freedom and guarantee. Individual rights are freedom, and social rights are guarantees (CONSTANT, 1997b, p. 35).

If Montesquieu defines freedom as the space of human action limited by laws, according to Constant, the law is its limit and, therefore, it is a concept of freedom as non-interference, if we want to use the vocabulary that neo-republicanism has taken from Berlin. Constant’s implicit criticism of Montesquieu lies in the fact that he rejects the idea that the law limits freedom. On the contrary, says our author, it guarantees it, since Montesquieu is “often a faithful supporter of inequalities and privileges” (CONSTANT, 1840, p. 190). For this reason, says Constant, freedom must be understood as an individual and collective right

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<sup>12</sup>The argument is published, in other words, in Constant ([1796 and 1818] 1872, p. 493), which means that the author made it public while still alive. On Montesquieu and Rousseau in Constant, cf. Todorov (1999, pp. 35-37).

(CONSTANT, 1997a, p. 445; 1872, p. 432). Given this, it seems quite unconscious, or at least a reductionism, to claim that Constant is a supporter of Berlin's negative freedom. Furthermore, when it is observed that the author strongly criticizes Hobbes on the theme of freedom (CONSTANT, 1997a, p. 664) – the latter being, according to the neo-republicans (MAYNOR, 2003, p. 17; PETTIT, 2012, p. 16; 1997, p. 37; SKINNER, 2002, p. 160; VIROLI, 2001, p. 18), the creator of the concept of negative freedom – as the “man who most spiritually reduced despotism in system” (CONSTANT, 1872, p. 280) and because his absolutist system impedes freedom (CONSTANT, 1997b, p. 46; 1872, p. 282).

Constant could never be considered a republican in the most profound sense – he does not employ virtue in its magnitude, he does not recognize the balance of powers per se and he is not even an antimonarchist in principle – but to say that his concept of freedom is the same as that of Hobbes or Berlin is certainly a mistake. Combining freedoms is not a way of defending the republic, but it is a republican way of thinking about the conditions of modernity. In fact, to be precise, it must be said that the union of freedoms, at this point in the argument, especially between revolution and restoration, does not distinguish republicanism from liberalism. Therefore, extrapolating to Constant the dichotomy of the two freedoms is not only a dangerous exercise due to its anachronistic nature, but is also conceptually unsuccessful, because of the need for their union.

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