Subsequent scholarship has shown Dahl’s skepticism to have been well founded (see Dahl 1956: 105–12, 1989: 188–92, Tushnet 1999, Hirsch 1999). Indeed, there are reasons for thinking that the popularity of independent courts in new democracies may have more in common with the popularity of independent banks than with the protection of individual freedoms. They can operate as devices to signal foreign investors and international economic institutions that the capacity of elected officials to engage in redistributive policies or interfere with property rights will be limited. That is, they may be devices for limiting domestic political opposition to unpopular policies by taking them off the table (Hirsch 2000).

This is not to deny that there may be an appropriate role for second-guessing institutions, such as courts, in majoritarian systems. Ways of thinking about courts that reinforce democracy rather than wall it in are explored in chapter 4. It is to say, however, that the fear that majority rule would become the engine of majority domination has not been borne out historically. Indeed, those on the ideological left who hoped that the “parliamentary road to socialism” would be achieved by the majority appropriation of what they saw as the minority’s ill-gotten gains through the ballot box have been sorely disappointed. The reasons for this are taken up in chapter 5.

1.2 Deliberative Conceptions of the Common Good

The literature on deliberative democracy is to some extent a reaction to dissatisfaction with the aggregative literature, but not for its inattention to the questions about power and collective action that we have been considering. The aggregative literature concerns itself with how to do the math to solve Rousseau’s problem; proponents of deliberative democracy are also in search of the common good. But they hope to get to it by transforming preferences rather than aggregating them. It is not really a Rousseauist project (Rousseau had no faith in deliberation as a useful political device). However, it owes something to his injunction that people should vote not their individual preferences but rather their perceptions of what is good for the society as a whole. The goal is to move us “beyond adversary democracy” (Mansbridge 1980).

14 For Rousseau voting was a means of disciplining private interest by getting people to focus on what is best for society as a whole. As he put it, “When a law is proposed in the people’s assembly, what is asked of them is not precisely whether they approve the proposition or reject it, but whether it is in conformity with the general will which is theirs; each, by casting his vote, gives an opinion on this question” (Rousseau [1762] 1968: 153).
CHAPTER ONE

People advocate deliberation for different reasons. Some think it inherently worthwhile. More commonly deliberation is valued for instrumental reasons: achieving consensus, discovering the truth, and consciousness-raising are among the usual suspects. Some of the time, at least, deliberation promotes these and related values. But it also has costs. Wasted time, procrastination and indecision, stalling in the face of needed change, and unfair control of agendas are among its frequent casualties. Sometimes by design, sometimes not, deliberation can amount to collective fiddling while Rome burns. If deliberation is not always and everywhere an unmitigated good, how do we determine the conditions under which it is desirable?

Deliberative remedies are put forward in response to various maladies that are perceived as pervading contemporary democracy. Poor quality of decision making, low levels of participation, declining legitimacy of government, and ignorant citizens are among the more frequently mentioned. Advocates of deliberative democracy such as Gutmann and Thompson (1996) and Ackerman and Fishkin (2002) argue for the merits of deliberation by pointing out how little of it there is in contemporary politics dominated by superficial television campaigns and political advertising. The idea is that if we can get away from the soap opera of electoral one-upmanship, more thoughtful and effective political choices will result. Deliberative forums can range from town meetings, to designated deliberation times, to citizen juries and “deliberative polls”—randomly selected groups who become better informed about particular issues and render decisions as to what should be done (Fishkin 1991). On some accounts such entities should inform existing processes; on others they should replace them en route to instituting a more robust participatory politics. The unifying impulse motivating these proposals is that people will modify their perceptions of what society should do in the course of discussing this with others. The point of democratic participation, on this account, is more to manufacture the common good than to discover it. Indeed, deliberative theorists sometimes write as if the activity of searching for the common good is itself the common good (see Shapiro 1996: 109–36). Some deliberative democrats do not go this far, but usually they do assume that if people talk for long enough in the right circumstances, they will agree more often, and this is a good thing.

1.2.1 Reciprocal Deliberation as the Common Good

One influential account of how deliberation might work in practice has been put forth by Gutmann and Thompson in their much discussed book...
Medicaid recipients (see §1.2.2 below). But they fail to mention any actual delibe-
trative process that does not fall significantly short of their deliberative ideal. According-
ly, the claim that their model would have the benef-
cial effects claimed for it remains speculative.

Sometimes, perhaps, people might better resolve differences and accom-
modate themselves to views they reject by more deliberation of the pre-
scribed sort. But what reason is there to suppose that failure to attempt
this is the principal reason why the public policy issues they examine are
not resolved along the lines Gutmann and Thompson advocate? It is one
thing to think that much of what divides people politically is susceptible
to rational analysis more often than people realize; quite another to believe
that what prevents better resolution of prevailing disagreements is insuf-
cient deliberation of the Gutmann-Thompson sort. They give a plausible
account of the nature of some moral disagreements and of possible argu-
mentative strategies for constructive responses to them when protagonists
are appropriately inclined, but their account attends too little to the role
of power relations and conflicts of interest in politics.

The main reason for Gutmann and Thompson's call for more deliberation
is that there seems to be so little of it in the political debate they
observe. "In the practice of our democratic politics, communicating by
sound bite, competing by character assassination, and resolving political
conflicts through self-seeking bargaining too often substitute for delibera-
don the merits of controversial issues" (Gutmann and Thompson 1996:
12). But sound-bite politics and media-driven campaigns may well result
principally from the powerful American antipathy toward publicly financed
elections and the concomitant influence of private money in politics. This
would presumably remain in a world of expanded deliberative institutions,
given the Supreme Court’s 1976 declaration that regulating political
expenditures is an unconstitutional interference with free speech. Any cred-
icable defense of deliberative democracy in the American context would have
to show how deliberative institutions would be any less corrupted than are
existing institutions by those with the resources to control agendas and
bias decision making, and that it would merit its cost.

Gutmann and Thompson are not alone in treating deliberation as a
panacea. Consider, for instance, Bruce Ackerman and James Fishkin’s
(2002: 129–52) proposal for "deliberation day," to be held a week before

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minor constraints on corporate expenditures in Austin v. Michigan State Chamber of
Com-
merce, 110 S. Ct. 1391 (1990), but for all practical purposes the Buckley rule makes it impos-
sible to limit privately funded political advertising.

17 Ackerman and Fishkin (2002: 148) insist that "it is a big mistake to view the annualized
cost of $15 billion through the lens of standard cost-benefit analysis" on the grounds that
its "large" benefits "cannot be reckoned on the same scale as other elements in the cost-
benefit equation." Even if we were to concede that the benefits could coherently be declared
to be large at the same time as they are said to be incommensurable with their costs, their
claim ignores the point stressed here: that its benefits surely should be weighed against other
ways in which such a sum could be spent to enhance American democracy.
learns that any empirical claims she makes must be consistent with “relatively reliable methods of inquiry.” Nor will she be much comforted by Gutmann and Thompson’s gloss to the effect that this does not “exclude religious appeals per se” (why not, one wonders?), so long as these do not include taking the Bible literally. The reason for this latter constraint is that virtually all contemporary fundamentalists subject biblical claims to interpretation, accepting some as literally true and revising the meaning of others. To reject moral claims that rely on implausible premises is therefore not to repudiate religion” (Gutmann and Thompson 1996: 56). If the syllogistic force of this claim was not lost on the fundamentalist in the abstract, surely it would be once it was explained to her that it denies her the right to insist on the literal truth of any particular biblical imperative. She will rightly expect to come out on the short end of any deliberative exchange conducted on that terrain. The Gutmann-Thompson model works only for those fundamentalists who also count themselves fallibilist democrats. That, I fear, is an empty class, destined to remain uninhabited.

Gutmann and Thompson are plausibly skeptical of those, like Owen Fiss and Ronald Dworkin, who believe that courts are better suited to achieving principled resolution among contending moral perspectives in the public realm than are other political institutions. Neither a compelling theoretical argument nor any persuasive evidence has ever been adduced in support of this view. Contrary to what they seem to suppose, however, this is scarcely relevant to the standard constitutionalist argument for avoiding, or limiting, public deliberation about intense—particularly religious—differences. This does not turn on any illusion that courts can resolve them in a principled fashion, but rather on the recognition that no one can. The idea is that their explosive potential is so great that it is better, for the welfare of both religious adherents and the democratic polity, if they are kept out of organized politics as much as possible, subjected to what Stephen Holmes (1995: 202–35) describes as “régulier rules.” Hence the First Amendment’s Establishment Clause. That is the serious constitutionalist case against promoting attempts to resolve religious disagreements in the public sphere. Perhaps there is a reply to it from the deliberative democratic perspective, but Gutmann and Thompson do not supply it.

1.2.2 Deliberation and Conflicting Interests

Gutmann and Thompson’s acknowledgment that deliberation might move politics away from the agreement and accommodation they value skirts the tip of a large iceberg. Beyond the issue of uncompromising religious values, people with opposed interests are not always aware of just how opposed those interests actually are. Deliberation can bring differences to the surface, widening divisions rather than narrowing them. This is what Marxists hoped would result from “consciousness-raising”: it would lead workers to discover their interests to be irreconcilably at odds with those of employers, assisting in the transformation of the proletariat from a class-in-itself to a revolutionary class-for-itself. In the event, these hopes proved naive. The general point remains, however, that there is no particular reason to think deliberation will bring people together, even if they hope it will and want it to. A couple with a distant but not collapsing marriage might begin therapy with a mutual commitment to settling some long-standing differences and learning to accommodate one another better on matters that cannot be resolved. Once honest exchange gets underway, however, they might unearth new irreconcilable differences, with the effect that the relationship worsens and perhaps even falls apart in acrimony. Deliberation can reasonably be expected to shed light on human interaction, but this may reveal hidden differences as well as hidden possibilities for convergence. It all depends on what the underlying interests, values, and preferences at stake actually are.

Gutmann and Thompson’s inattention to the contending interests at stake is most evidently revealed in their discussion of health care reform in Oregon in the early 1990s. Rationing of health care procedures for the nonelderly poor by the legislature followed a series of “town meetings” in which citizens and various health professionals were asked to rank medical procedures. The object was to find a way of settling disagreements about priorities in health care insurance, given the hard choices that public budget constraints impose. Gutmann and Thompson note that this procedure was flawed because the plan covered only the nonelderly poor. They describe this as a “basic injustice” that “may have adversely influenced the surveys and community meetings, which in any case fell short of the delib-

18 See Simon (2000) and Sunstein (2002) for discussion of empirical conditions under which deliberation leads to divergence rather than convergence of opinion.

19 The participants were asked to rank categories of treatment by importance and articulate the values that guided their decisions. The state legislature then used the list as a yardstick to appropriate Medicaid funds. The Oregon Plan was intended to expand Medicaid eligibility from 68 percent of those at the federal poverty level to 100 percent, and to finance the increased cost by prudent rationing of procedures. Although Oregon did end up expanding coverage to some 126,000 new members by February 1997, much of this was actually achieved by appropriation of new funds by the legislature rather than from savings generated by the deliberations about rationing priorities. See Daniels (1991) and Montague (1997: 64–66).
CHAPTER ONE

ative ideal.” Yet they commend the process on the grounds that it
“forced officials and citizens to confront a serious problem that they had
previously evaded—and to confront it in a cooperative (‘first person plural’) spirit.” They go on to claim that the process helped ameliorate the
underlying injustice, because when the legislators “finally saw what treat-
ments on the list would have to be eliminated under the projected budget,
they managed to find more resources, and increased the total budget for
health care for the poor” (Gutmann and Thompson 1996: 143–44).

Notice that the legislature’s decision to appropriate additional funds
was unrelated to the substance of the deliberative meetings, which never
dealt with what the overall budget should be or how health care resources
should be traded off against other demands on the state treasury. It was
not a product of reciprocal deliberative exchange whereby citizens with
moral disagreements came closer together. It was, rather, a fortunate exter-
nality, for the uninsured poor, of the deliberative process—such as it was—in
that the publicity it generated helped spotlight their plight in the media
and the legislature. If this is the proffered defense of the Oregon process,
one would have to compare it to other ways in which the condition of the
uninsured poor might have been publicized with similar or better effect—
such as publicity campaigns, public protests, or class action lawsuits. This
issue, however, does not bear on Gutmann and Thompson’s defense of
deliberation: that it reduces disagreement and increases mutual accom-
modation of differences that cannot be resolved.

In fact, as a device for settling disagreements about how hard choices
should be made in the rationing of health care resources, the Oregon
deliberative process was a notable failure. Gutmann and Thompson ack-
nowledge, as have others, that it is hard to find a relationship between
the final rankings of medical procedures and the results of the deliberative
process, which eventually became little more than a vehicle for public out-
rage at attempts to introduce a measure of prudence into Oregon’s health
care priorities (see Hadorn 1991). Nonetheless, Gutmann and Thompson
conclude that the deliberations “evidently helped citizens, legislators, and
health care professionals arrive at an improved understanding of their own
values—those they shared and those that they did not.” But whose values
are we really talking about? The “citizens, legislators, and health care pro-
fessionals” by and large excluded those who would be covered under the
Oregon plan: the nonelderly poor. This is not to speak of the injustice
which Gutmann and Thompson acknowledge—that in effect this choice
was really about “making some poor citizens sacrifice health care that they
need so that other poor citizens can receive health care they need even

more urgently, while better-off citizens can get whatever treatment they
need.” Rather, the question is this: why should we attach any legitimacy
at all to a deliberative process that involved very few of those whose health
care priorities were actually being discussed?28 Gutmann and Thompson
themselves make a similar point in criticizing workforce and welfare reform
later in the book. There they suggest the need for participatory processes
that “encourage the participation of economically and educationally dis-
advantaged citizens” (Gutmann and Thompson 1996: 143–44, 303–6).
That seems right so far as it goes. But, as I argue in §1.3 below, it needs
to be taken further.

Only part of the infirmity in these cases is that those who must live with
the results go more or less unrepresented in the decision making; the other
part is that most of those making the decisions know that they will never
depend on the good whose rationing or provision is under discussion. In
countries like Britain and Canada, where the great majority of the popu-
lation use collectively rationed medical services, their participation in demo-
cratic decision making through the political process lends legitimacy to
the resulting policies. By contrast in Oregon, upwards of 80 percent of
the population is unaffected by the rationing program (see Daniels 1991:
2233–34). The general point here is that the legitimacy of decision-mak-
ing processes varies with the degree to which they are both inclusive and
binding on those who make them. Deliberative processes are not excep-
tions. Gutmann and Thompson acknowledge this in principle. They define
political decisions as collectively binding, adding that “they should there-
fore be justifiable, as far as possible, to everyone bound by them” (Gut-
mann and Thompson 1996: 13). However, their discussion is not sensitive
to the reality that different people are differently bound by collective de-
cisions. When there is great variation in the impact of a decision, then inter-
ests diverge in ways that are relevant to the assessment of the decision’s
legitimacy.

This is most obviously true when there are substantial differences in
the capacities of different groups to escape the effects of policies on
which they are deciding. Those who can easily avoid them do not have
the same kind of interest at stake in a decision as those whose exit costs
are prohibitively high. The story of apartheid in American public schools

28 Daniels (1991: 2234) reports that the meetings were attended predominantly by “col-
lege educated, relatively well off, and white” audiences, half of which consisted of health
professionals. Of the attendees 94 percent were uninsured (whereas 16 percent of the state’s
population was uninsured at the time), and Medicaid recipients (among other things the
only direct representatives of poor children) were underrepresented by half.
Attest eloquently to what happens when this goes unrecognized. Urban public schools are starved of resources by white middle-class voters who opt out either fiscally, to private schools, or physically, to suburban schools (see Hochschild 1984). It should be added that the latter may live in towns that are paragons of deliberative democracy. In 1995, for instance, a statewide Connecticut plan to reduce school segregation was duly deliberated upon at great length in New England town meeting after New England town meeting in which the inner-city residents of Hartford and New Haven had no effective voice at all. As a result, their interests were simply ignored and the plan was easily defeated (see McDermott 1999: 31–53). Gutmann and Thompson place great stress on the importance of adequate elementary and secondary education, like adequate health care, in providing the necessary basic opportunities for living in a democracy. But they seem not to appreciate that as deliberation operates on the ground in what Douglas Rae (1999: 165–92) has described as the “segmented democracies” that Americans increasingly inhabit, it is often an obstacle to providing these goods. When there are great differences in capacity for exit, what is often needed is not widespread deliberation but action to protect the vulnerable.

1.2.3 The Context of Deliberation: Shaped by Elite Money

Another weakness in the deliberative literature concerns its relative inattention to what shapes the terms of deliberation in modern democracies. To the extent that more deliberation would be a healthy thing in the formation of public policy, the principal obstacle often is not the lack of will on the part of people with differing moral convictions to deliberate in ways that can minimize their differences. Rather, the obstacle results from decisions by powerful players who make it their business to shape the terms of public debate through the financial contributions they make available to politicians and political campaigns. Engels once described ballots as “paper stones.” In the post–Buckley v. Valeo world, when all credible political campaigns require multimillion-dollar war chests to buy the requisite television time to do political battle, public deliberation all too often consists of verbal stones hurled across the airwaves, with victory going to whoever has the most bountiful supply. Granted, this is a long way from what Gutmann and Thompson have in mind when they advocate deliberation, but it is surely curious that a book about the importance of enhancing deliberation in contemporary American politics can ignore the reality it creates.

For instance, in their discussion of the failure of the Clinton administration’s attempt at national health care reform, Gutmann and Thompson seek to lay blame on the secret meetings of Hillary Clinton’s Task Force on National Health Care Reform, along with other unmentioned factors. Endorsing the claims of critics who, at the time, said that support for the plan would be more difficult to achieve “if the policy makers did not show that they were responding to criticisms and taking into account diverse interests in the process of formulating the plan,” they conclude that even when “secrecy improves the quality of a deliberation, it may reduce the chances that a well-reasoned proposal will ever become law” (Gutmann and Thompson 1996: 117). Perhaps the secret meetings contributed something to the failure, along with the Clinton administration’s inability to enlist the support of essential Capitol Hill barons like Senators Moynihan and Nunn, their inability to come to grips with the sheer economic scope of the proposal (12 percent of a $5 trillion economy), and the structural deficit inherited from the Reagan and Bush administrations. But how can anyone who lived through the huge amounts of public misinformation that contributed to the steady decline in the bill’s popularity, and its eventual abandonment by the administration, not be struck by the importance of the $50 million public relations and lobbying campaign that the medical, insurance, and other corporate establishments waged to kill the legislation?

We need not quarrel with Gutmann and Thompson’s contention that secrecy is generally a bad thing in government to ask how much it had to do with the failure of health care reform in 1993 and 1994. Secrecy’s importance seems de minimus when compared to the way the options were presented in the war of words on television and the activities of political lobbyists. They ensured that important options (notably a Canadian-style single payer system) were never seriously discussed, and that the entire debate came to focus on issues that were irrelevant to the bill’s basic goal of achieving universal health care coverage. Arguments about the feasibility of managed competition and the freedom people might or might not have in selecting their own physicians dominated the discussion, as the plight of the 40 million uninsured fell by the wayside. It is difficult to see how any aspect of Gutmann and Thompson’s “deliberative deficit” was responsible for this, since the problem had nothing to do with reaching...
agreement among the contending views or finding an accommodation among those who could not agree. Rather, the problem was that some of what ought to have been the contending views never confronted one another in the public mind. How else is one to explain the fact that a single payer system could not be seriously mooted, even at the start of the public debate, despite a substantial body of academic commentary which suggests that it is, by far, the most cost-effective way of achieving affordable universal coverage?

For anyone perturbed by the Clinton health care debacle, worrying about how money structured the debate should be high on the list of concerns. Yet Gutmann and Thompson never mention it. Perhaps they would say their book is simply not concerned with this subject, but that is difficult to square with their insistence that their focus is on “the everyday forums of democratic politics,” differentiating their deliberative perspective from other academic discussion, which is said to be “insensitive to the contexts of ordinary politics: the pressures of power, the problems of inequality, the demands of diversity, the exigencies of persuasion.” As my discussion has indicated, their own account pays surprisingly little attention to these very features of politics. They are heartened by the fact that although “the quality of deliberation and the conditions under which it is conducted are far from ideal in the controversies we consider, the fact that in each case some citizens and some officials make arguments consistent with reciprocity suggests that a deliberative perspective is not utopian” (Gutmann and Thompson 1996: 2-3).

We should not be so easily fortified. Unless it can be shown that these arguments can be made on a sufficient scale and can garner enough institutional force to influence the ways politics is structured by powerful interests, it is difficult to accept the suggestion that deliberation will lead people to converge on the common good through reciprocal recognition of one another’s valid claims. The decisive role played by money in politics means that politicians must compete in the first instance for campaign contributions and only secondarily for the hearts and minds of voters. By ignoring this, Gutmann and Thompson attend too little to the ways in which power relations influence what deliberation should be expected to achieve in politics.

Likewise with the Ackerman-Fishkin proposal for “deliberation day.” The chances that this could have an impact on actual political options seem negligible. In addition to ignoring the role of campaign expendi-

\[\text{tures, it ignores candidate selection, conventions, platforms, and interest group activities. Perhaps these difficulties might be mitigated if deliberative mechanisms were injected into the political process much earlier than a week before Election Day and structured to have an impact on the ways in which resource inequalities shape political outcomes. That Ackerman and Fishkin do not even consider such possibilities underscores the extent to which they conflate lack of deliberation with power contexts within which deliberation takes place.}\]

1.3 Deliberation in Ideal Settings?

Fishkin’s proposal for deliberative polls raises comparable worries. They differ from his joint proposal with Ackerman in that they are intended to take place in structured settings in which power inequalities are rendered immaterial: participants are randomly selected and paid for their participation. To be sure, such deliberative polls offer certain advantages, particularly with respect to the trade-off between the costs of deliberation in terms of time and the benefits in terms of sophisticated understanding of complex issues. The idea—which actually goes further than Fishkin suggests—that some political decisions might be devolved to such groups is an innovative one. Perhaps they could develop democratic legitimacy for reasons analogous to those attending the legitimacy of juries. Indeed, one group that organizes such polls, the Jefferson Center in Minneapolis, calls them “citizen juries.”

Yet proponents of deliberative polls and citizen juries fail to address obvious questions that are pertinent to their democratic legitimacy. Who decides which issues should be presented to these groups for discussion, and, possibly, decision? Who sets the agenda? The “experts” who testify before the randomly selected groups are supposed to be “balanced,” but who does the balancing, and who decides what criteria they should use? Participation in deliberative polls and citizen juries might alter people’s views, but without satisfactory answers to these questions it is hard to see why we should have much confidence that they have been altered for the better, or that they are owed any particular deference in a democracy.

Other deliberative theories have been developed that abstract from actual politics even more thoroughly than do deliberative polls and citizen juries. Jürgen Habermas’s (1979, 1984) “ideal speech situation,” for ex-
ample, appeals to a model of uncoerced speech that is divorced from the power considerations of actual politics, as does Bruce Ackerman’s (1980) dialogic model of justice. Proponents of these theories believe that they can establish what political institutions, arrangements, and policies would be agreed upon in ideal deliberative conditions. In this their endeavor is analogous to Rawls’s (1971) enterprise of trying to determine what basic structure of political institutions people would choose behind a veil of ignorance designed to factor out self-interest. As my discussion of Buchanan and Tullock in §1.1.4 indicated, you cannot derive something from nothing, and it is scarcely surprising that writers in the Rawlsian tradition reach different results depending on the assumptions about human nature and the causal structure of the social world that are fed into their models (see Shapiro 1986). For present purposes notice that these are solipsistic theories, geared to answering this question: what institutions or arrangements would a rational person choose under specified ideal conditions?26

The ideal deliberative theories confront the additional difficulty that if, per impossible, this question could be answered unequivocally for one person, then presumably it could be answered for everyone. But what, then, would be left for deliberation? Ideal deliberative theorists are caught on the horns of a dilemma. Either they must concede that their speculations about what would be chosen under ideal deliberative conditions are indeterminate, prompting one to wonder, as with Gutmann and Thompson’s speculations, what purpose they can serve in the actual world. Alternatively, they might claim that skepticism about their ability to demonstrate what outcomes authentic deliberation would converge on is misplaced. But in that case deliberation adds no value.

26 On the differences between the Habermas and Rawls, see their exchange: Habermas (1995) and Rawls (1995).

That deliberation is not the cure-all proponents often believe it to be does not mean it is worthless in politics. But how should we think about its appropriate role in promoting the common good? Given the difficulties we have confronted with the aggregative and deliberative notions of it considered thus far, I propose that we operate with a stripped-down conception of it—suggested by Machiavelli rather than Rousseau. In The Discourses Machiavelli intimates that the common good is that which those with an interest in avoiding domination share.1 Perhaps a more robust notion of the common good can plausibly be defended, but this is a bedrock commitment that most plausible theories of justice and democracy share (Shapiro 1999a: 1–63). If we embrace it, the question whether deliberation promotes the common good is reframed as the question whether it diminishes domination.

To begin answering it, I turn, in §2.1, to the power literature. It is more suggestive than instructive because for the most part its practitioners have ignored institutional arrangements. Either they have seen them as irrelevant to power’s operation, or the preoccupation with epistemological questions has diverted theorists of power from exploring the institutional implications of their own views. Even theoreticians who agree on a particular theory of power have not been much moved to explore its implications for institutional design or normative theory. Rather, they have been concerned to defend their theories against critics—for instance, by showing that the so-called second and third faces of power that deal with the shaping of agendas and preferences can be studied in empirically rigorous ways, or that structural theories capture features of power that have been missed in the “faces” debate. Worthwhile as these activities might be, they leave unanswered the question: how should considerations about power feature in theorizing about democracy? I begin addressing it in §2.2 by developing an account of a potential role for deliberative institutions that piggybacks on significant insights gleaned from the power literature. My account

1 See his consideration, in The Discourses, of the Roman argument that the common people should be made the guardians of freedom because, unlike the aristocracy whose desire is to dominate, their desire is not to be dominated. Machiavelli ([ca. 1517] 1970: 1.5).