

## Friendship, Tradition, Democracy: Two Readings of Aristotle

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In a short speech published in 1988 entitled "The Politics of Friendship," Jacques Derrida concluded with a distinction between two models of friendship, exemplified by Aristotle and Cicero on one hand and Montaigne on the other, and suggested that these two models lead toward different notions of politics:

The Greco-Roman model [of friendship] appears to be marked by the value of *reciprocity*, by a homological, immanentist, finitist, and politicist concord. Montaigne (whom we are reading here as the example of a paradigm) doubtless inherits the majority of these traits. But he breaks the reciprocity therein and discreetly introduces, so it seems to me, heterology, asymmetry, and infinity . . . . Shall one say that this fracture is Judaeo-Christian? Shall one say that it depoliticizes the Greek model or that it displaces the nature of the political? (Derrida 1988: 643-4)

Thus, if hesitantly and only in the form of a rhetorical question, Derrida seemed to oppose the Greek model of love between finite men with another model, foreign to the humanism of the Greeks: the Judaeo-Christian model of love of an infinite God.

As Derrida explained in his author's note, "The Politics of Friendship" was only the "minimal matrix" of a work in progress. Subsequently, in the full-blown version published in 1994, he somewhat surprisingly answered his own rhetorical question in the negative (or, to be more precise, qualified any possible affirmative answer by rejecting the "simplicity" of any such fracture): "One can no longer speak here of a *simple* fracture and say that it is Judaeo-Christian. Nor that it depoliticizes the Greek model nor that it shifts the nature of the political." (Derrida 1997: 293 (emphasis in original)) Rather, he argued that the classical and Judaeo-Christian models cannot be understood in a relation either of "opposition" or of historical "rupture," but in a form of continuity that he characterizes as a "generative graft in the body of our culture." (185)

This subtle shift in position takes place in the context of Derrida's interrogation of the concept of friendship in the history of Western political philosophy. Friendship, as Derrida argues in both versions, has played a critical and yet paradoxical role in the philosophical tradition, on the one hand exemplifying a relationship of absolute singularity between two individuals while at the same time serving to underwrite many of the canonical discourses on public virtue, justice and moral and political reason in thinkers from Plato and Aristotle to Kant and Hegel to Nietzsche. (Derrida 1988: 641) As a way of approaching this divided tradition, *Politics of Friendship* is structured by the continual return at the outset of each chapter to a single saying attributed to Aristotle ("Oh my friends, there is no friend"), a structure justified by Derrida's claim that it is Aristotle who "stands guard" over all of these philosophical discourses. The book is also unified thematically by Derrida's special critical attention to the fact that each of these discourses, in different ways, subordinates its concept of friendship to the "principle of fraternity"--the equation of the "friend" with the "brother." (Derrida 1997: 6, viii) This interrogation of the traditional philosophical figure of the friend-as-brother is simultaneously a "protest" against the "*familial, fraternalist* and thus *androcentric* configuration of politics" which has always accompanied the brother-friend pair, an interrogation carried out in the name of what Derrida calls a democracy "to come" (*une democratie a venir*). (viii, 306)

Why friendship, why Aristotle, and (perhaps especially) why Derrida in this special issue devoted to "current North American legal scholarship"?

By chance, about a year before the publication of *Politiques de l'amitie*, Anthony Kronman, the Dean of Yale Law School, also published a book in which Aristotle's doctrine of friendship played a key role in a critique of the dominant philosophical conception of politics. (1993) Unlike Derrida's book, which is a series of tightly-wound readings of philosophical texts, *The Lost Lawyer* is a mixed bag of philosophical argument, cultural critique and practical observations ostensibly aimed not at political philosophy as such but at the possibility of restoring a "failed ideal" of lawyering to a legal profession that has lost its sense of leadership and calling. Nevertheless, in its own way *The Lost Lawyer* is as ambitious in its critique of the modern conception of politics as is *Politics of Friendship*. It is the most comprehensive of a series of works that Kronman has written over the past 20 years documenting the ravages of

modernity--Max Weber's "disenchantment of the world" (Weber 1946: 139)--on all aspects of lawyering, from the law office to the judge's chambers to the academy.<sup>1</sup> If the focus of Kronman's concern is the legal profession, however, his diagnosis of modernity runs much deeper to the condition of the polity as a whole. And, as in Derrida's book (although with the opposite valence), it is Aristotle's analysis of friendship and fraternity in particular that provide the linchpin of Kronman's arguments for restoring the legal profession to its allegedly proper status as the shepherd of democratic politics.

Of course, apart from their common interest in a critique of modern politics and shared belief that Aristotle has a key role to play in such a critique, Kronman and Derrida's differences stand out in much starker contrast. Kronman writes from within and against the tradition of Anglo-American liberalism. Derrida comes out of a very different political and philosophical context and the philosophers and writers he discusses in *Politics of Friendship* apart from Aristotle (Montaigne, Michelet, Nietzsche, Heidegger, Carl Schmitt and Maurice Blanchot, among others) are notable for their near-total absence from current American jurisprudential debates. Moreover, accompanying that radical difference in tradition there is a radical difference in their approaches to tradition. Kronman is the American legal academy's most eloquent defender of "traditionalism" as a self-conscious stance, the "idea that we are bound, within whatever limits, to honor the past for its own sake, to respect it just because it is the past we happen to have," (Kronman 1990: 1037) and it is from this Burkean position that he launches his critiques of modernity. Derrida, as all of his writings attest, takes a distinctly un-Burkean stance toward tradition, viewing it as a heterogeneous archive of both "dominant structures" and "tension[s and] ruptures" which have been "covered over or destroyed" by the dominant discourse. For Derrida, these tensions and ruptures within every tradition constitute "internal potentialities" that can serve as a "springboard for a leap further out" (Derrida 1997: 233, 234)--a futural orientation that could hardly be more different from respect for the past just because it is the past "we happen to have." And these differences crystallize in the two writers' attitudes toward the "fraternal" model of friendship--as noted, for Derrida the fraternal metaphor is the chief target of his critique; for Kronman, as we will see, it is the cornerstone of his traditionalist defense of the classical ideal of politics and of lawyers' special role within the democratic polity.

Despite these contrary indications, my goal in this essay is to suggest the possibility of a *rapprochement*--or more specifically a "generative graft," to use Derrida's terminology--between Kronman and Derrida's approaches to the political-philosophical problem of modernity. In this I am reading Kronman as exemplary of certain fundamental structuring tendencies of the American legal academy as a whole. Kronman has the virtue (for the critic, at least) of expressing in self-conscious and sometimes extreme forms the common political-philosophical assumptions (liberal), the common underlying dilemma (the impact of modernity on the sphere of law), and the common methodological orientation (traditionalism in one variant or another), that constitute the mainstream of American legal academic theory. I am likewise reading Derrida as exemplary of a certain current in contemporary post-Kantian Continental ethical and political philosophy which take its primary orientation from the philosophy of Emmanuel Levinas. What I thus hope to suggest is the possibility of a "generative graft" not just between Kronman and Derrida's work, but between the two very different traditions that I am using them to represent.

This project may appear quixotic, especially in light of the malign neglect and wilful distortion to which Derrida's thinking has been subjected within the American legal academy. Nevertheless, I hope to demonstrate, through close readings of Kronman and then Aristotle, the impossibility of avoiding the hard questions and Levinasian responses<sup>2</sup> that the tradition Derrida represents addresses both to philosophical modernity and to Aristotelian ethics, regardless of one's own tradition of thought. I therefore also hope to succeed in making a parallel (and similarly Derridean) point about the impossibility of remaining immanently within one's "own" tradition, regardless of one's ostensibly Burkean commitments. In conclusion, I sketch (in a very preliminary way) the outlines of the ethical-political philosophy that takes place at the intersection of Levinasian ethics and Kantian liberalism and suggest its relevance to the problems of legal-political modernity with which I began. In short, I hope to show that Levinasian and Derridean insights have something to offer American jurisprudence and, beyond that, that these insights are not simply exotic foreign imports but already have potential roots in Anglo-American discourse.<sup>3</sup>

Every graft requires a split or fracture in the stock (the rooted plant), where the scion (the unrooted shoot) can be inserted so that they grow together, and my argument proceeds accordingly. In Part I, I locate such a fracture in Kronman's failed attempt to enlist Aristotle in his effort to restore the legal

profession to its assertedly traditional status as a noble calling that has a legitimate claim to political leadership in our democracy. Kronman's argument sets out on the assumption that that lost status "has its beginnings in Aristotle's political philosophy" (1996: 489) and proceeds on the methodological premise that "only philosophy can breathe life back into an ideal when the tradition that sustained it dies away." (Kronman 1993: 14) I am critical in this section of both Kronman's "traditionalist" reading of Aristotle and his simplistic faith in philosophy as a means of overcoming the dilemmas of modernity. The details of this argument require a detour through Kant, the philosopher of modernity whom Kronman takes as his chief philosophical foil. My claim in this section is, first, that one cannot simply resurrect Aristotelian ethics in its traditional form as a professional ideal without taking account of the way in which Kantian morality, with which Aristotelian ethics is deeply inconsistent, now forms the ground of our institutional arrangements and deeply-held moral intuitions as a matter of historical fact and not just philosophical argument. Second, I highlight the surprising fact that by the end of *The Lost Lawyer* Kronman himself concedes that his lost professional ideal had its historical origin in a very different tradition, the religious view of the early Protestants that work was service to God as well as a means of self-sustenance and self-advancement. In Kronman's highly pessimistic conclusion, I argue, one sees reflected Derrida's earlier suggestion of a "simple fracture" between the classical (Aristotelian) model of friendship and politics on one hand and a Judaeo-Christian model that "depoliticizes" the classical model on the other, an historical fracture that Kronman treats as necessarily defeating his attempted philosophical reconstruction of a special public role for lawyers in a modern democracy.

In Part II, I call Kronman's historical pessimism into question by questioning his traditionalist reading of Aristotle. Through a close reading of critical passages in the *Nicomachean Ethics*, where Aristotle's most sustained discussion of friendship's role as the mediating link between the individual and social goods is found, I argue that something resembling the Judaeo-Christian belief in an obligation to an infinite God that transcends any obligation to one's self is already presaged in Aristotle's ethics. Moreover, this incipient "infinite-ization" from within the Greek model (to use Derrida's terminology) is necessary to make sense of Aristotle's claims about the nature of ethical obligation and the political bond. Or, to translate this point into the philosophical idiom that best articulates it, something like Emmanuel Levinas' thematics of the precedence of the infinite Other over the self is already at work, in a subterranean way, in Aristotle's text, structuring its arguments even in those passages where Aristotle's explicit philosophical claims appear to be precisely the opposite of Levinas'. My argument here is thus that, contrary to Kronman's implicit conclusion, "one can no longer speak here of a *simple* [historical] fracture and say that it is Judaeo-Christian," since the essence of what Kronman identifies as an historical break with the Aristotelian model--the Protestant belief that one's obligation to an infinite God is the source of the meaning of one's actions--is already to be found *in nuce* in Aristotle's text. To return to the "graft" metaphor, I attempt in this section to show how Levinasian themes can take root and grow out of Aristotle's text.

I then attempt in Part III to provide a political-philosophical pay-off for this counter-traditional reading of Aristotle. I first show how an ethics based on such a Levinasian reading answers both Kronman's critique of Kantian morality and my own critique of Kronman's traditionalist reading of Aristotle. Finally, I suggest, in a very preliminary way, how a notion of democratic politics based on this Levinasian ethical model might answer some of the questions of modernity that are central concerns not only for Kronman and Derrida, but for contemporary jurisprudence and political philosophy generally.

## I

Kronman summarizes his diagnosis of our modern ills in a characteristically eloquent passage from a recent speech. He identifies four: privatization--"the tendency in a large free enterprise economy like ours for individuals to concern themselves exclusively with their own private welfare and to neglect or forget entirely the claims of public life which the Greeks and Romans had pursued with such memorable passion"; specialization; alienation--"the sense of detachment from one's work and secondarily from other human beings"; and "forgetfulness"--"the loss of a sense of historical depth, and the consequent disconnection of the present moment, characterized by the idiocy of material comfort, from both the pain of the past and the calling of the future." For Kronman, the legal profession is uniquely situated to act as a "counterweight" to these disintegrative forces by virtue of its defining characteristics. These are, he argues, the profession's intrinsic commitment to the "good of the community," "the non-specialized nature of law practice," its cultivation of the "full complement of emotional and perceptual and intellectual powers that are needed for good judgment," and its "special relation to the past" (i.e.,

the authoritative role that tradition plays in legal discourse and practice). (Needless to say these claims are themselves highly contestable, but here I am simply following Kronman's argument.) Unfortunately, the legal profession itself is not immune from modernity's disintegrative forces, and Kronman acknowledges that each of these defining characteristics has been severely compromised by the vagaries of modern life that also affect society outside the profession. How then to restore the profession to its role as "an integrative force in a world of disintegrating forces"? (Kronman 1999b: 92-5, 97-8)

This is the question Kronman sets out to answer in *The Lost Lawyer*. The stakes are high, and, as he makes clear, include not only the well-being of lawyers but the "the claims of public life" generally, that is to say, the emphatic notion of democracy and politics "which the Greeks and Romans had pursued with such memorable passion." In *The Lost Lawyer* he argues that the decline of legal practice from meaningful calling to alienated work is attributable to the dissolution of the ideal of legal practice that prevailed during the nineteenth century--the ideal of the "lawyer-statesman" (Kronman consistently uses the masculine forms for the general). Relying on Aristotle's virtue-based notion of ethics, he argues that the "lawyer-statesman" was an ideal of character, embodying wisdom and good judgment and not just technical expertise. During its heyday, the widely-held belief in this ideal among the profession, even if only rarely achieved in fact by individual lawyers, held out the possibility of a professional life of "intrinsic fulfillment" and "affirmed the self-worth of lawyers as a group." (Kronman 1993: 3, 16) But today the ideal has fallen victim to the rise of modern social-scientific approaches to law (Kronman calls this phenomenon the ideal of "scientific law reform," exemplified by the Law & Economics school), a view that reduces the lawyer's role to technocrat, draining it of its intrinsic value and status. The thrust of the book is that Aristotle's ethics provides a philosophical basis for resurrecting the lawyer-statesman ideal and thereby restoring lawyers' self-esteem and the meaning they once took from their work.

Put in terms of lawyers' self-esteem and sense of personal meaning, Kronman's project may sound trivial in the extreme. But it must be recalled that for Aristotle, the good life for the individual in its highest sense is a life of individual self-fulfillment, albeit a self-fulfillment that also serves simultaneously to link the good person to the community in which she is a member and to confirm the larger political bonds of that community. As we will see, that is the sense in which Kronman pursues his analysis of the good life for lawyers, and in doing so he is entirely faithful to his traditional reading of Aristotle. Testing the validity of the passage from the ethical life of the good individual to the social solidarity of the community, first in Kronman (in this section) and then in its original formulation in Aristotle (in the next section), is one of the aims of this essay.

"Statesman," Kronman explains at the outset of his argument, is a "word we use to express our admiration for those men and women who lead their communities with exceptional wisdom and skill" (Kronman 1993: 53) and it is this form of approbation--wise leadership--that Kronman seeks to restore to the legal profession as a whole. He describes a complex of moral virtues that comprise the practical wisdom of the lawyer-statesman, including "sobriety, fair-mindedness, incorruptibility," and the capacities for both "sympathetic compassion" and "detachment." (43, 66) It is the latter two character dispositions that play the most significant role in his account, because together they enable the practically wise person to understand all points of view in a conflict while remaining above the fray of competing interests, an ability that allows the lawyer-statesman to serve as the "glue" holding together the bonds of his larger community.

If the character virtues of practical wisdom hold together Kronman's linkage of the good for lawyers with the public good, the argumentative mechanism that establishes this linkage is an analogy between the lawyer-statesman's "friendship to himself" and the "political fraternity" that constitutes the community's unifying bond. This analogy emerges at a point in Kronman's argument that he describes as an "apparent impasse." (60) Kronman's goal is to articulate the statesman's virtue in terms of the ability to deliberate wisely over political ends. But, he explains, the most important decisions over political ends are the least likely to be amenable to "calculative means" of decision-making, and the most likely to require instead a "groundless decision"--that is, a decision among incommensurable values in which there are no "agreed-upon standards for making it." (60) Moreover, the situation of conflicting incommensurable fundamental values--which is characteristic of modern political life--is most acute where the very "identity of the community, the commitments and goals its members consider basic to their common life," is at stake. Although this is the circumstance in which the need for wise leadership is greatest, the absence of any calculative means of decision and the "groundlessness of the choices that

are made... seems to deprive us of any basis for defining the statesman's excellence of judgment in this important class of disputes." (61)

In response to this dilemma, Kronman turns for guidance from the public realm of political decision-making to the private realm of personal life-choices, where analogous competing claims between incommensurable values must also be decided. (62) I will have more to say about the merits of this analogy shortly, but for now I simply want to highlight the fact that the guiding thread in this discussion is a particular model of friendship, one that emphasizes friendship to one's self as paradigmatic. (79-85) For Kronman it is in friendship to one's self that one realizes the virtues characteristic of practical wisdom that, as we will see, also serve as the foundation of the statesman's art of political deliberation. A friend simultaneously identifies with and provides an external, critical perspective for the benefit of the person with whom she is friendly, and "friendship for one's self," in Kronman's account, replicates this relationship. Kronman's point here is that friendship for one's self embodies both a sympathetic compassion for and cool-headed detachment from one's own past history and life decisions, qualities that permit the practically wise person to avoid falling into an unfulfilled life of regret and self-recrimination. For Kronman (and this is the first rhetorical step in the return to the discussion of political deliberation), self-recrimination about one's life choices constitutes a "state of internal civil war, tending toward the dissolution of the soul itself." (84) The practically wise person, by means of his "self-directed friendship," avoids this internal psychological strife and in so doing achieves what Kronman calls "integrity," a state of personal integration that allows him to "live in friendship with himself after whatever choice he makes." (87) Integrity is thus not a perfect integration of all the parts of the soul, but the learned capacity of living at peace with one's own internal contradictory desires and life decisions.

Kronman calls the public correlate of the private virtue of friendship to oneself, "political fraternity." Political fraternity is a condition of certain communities in which "the members... are joined by bonds of sympathy despite the differences of opinion that set them apart on questions concerning the ends, and hence the identity, of the community." (93) A political culture marked by fraternity in this sense is, on one hand, "not to be confused with the unanimity of sentiment and belief that characterizes the most tightly knit human communities" (such as "certain households and religious sects"). On the other hand, it involves greater political cohesiveness than "mere tolerance," understood as the "virtue of noninterference." (93, 94) As Kronman explains, "the value of political fraternity (a condition of communities) may thus be compared to that of personal integrity (a condition of individual souls)." (95) Moreover, it is the role of the lawyer-statesman to foster this sense of community, and the friendship-to-oneself of the practically wise person is therefore both an analog of the political friendship that prevails under conditions of political fraternity and an enabling condition of it, insofar as it is the practically wise members of the community--in Kronman's ideal world, the legal profession--who lead in the creation of this sentiment. In all of this Kronman's argument closely follows Aristotle's, which in crucial respects (and in particular the passage from individual ethical life to the political life of the community) depends on the notions of friendship and friendship-to-oneself as well.

The final characteristic of the lawyer-statesman ideal that pertains to political fraternity is the ideal's fundamental conservatism. According to Kronman, the basic impulse of the lawyer-statesman is to preserve the political fraternity of the community against rupture. Kronman locates this conservatism in the particularism that characterizes practical wisdom--its need to address and decide contextual problems that do not admit of large, abstract solutions. Here, however, I want to highlight how strongly Kronman links his ideal to the goal of "survival," whether of the individual's identity in her struggle against the internal conflicts that threaten to tear her apart, or the political community's identity in its similar struggle to maintain itself against revolutionary impulses. "Without political fraternity... no moderately complicated community can survive, just as no soul complex enough to be at all interesting can survive without the self-directed friendship that constitutes the core of personal integrity." (106) Kronman thus draws a hard distinction between "politics" on one hand and "revolution" on the other. He acknowledges that "there are communities so irreversibly corrupt that efforts to sustain them through the cultivation of political fraternity are indefensible." But he insists that in these situations the answer is revolution, and that "the normal situation in politics is not... a revolutionary one, and it would be a terrible mistake to think that the ordinary processes of political deliberation should be measured against those typical of revolutionary episodes or refashioned in their image." (107) Revolution, he says, is the "least political" of events. Accordingly, the lawyer-statesman's goal of securing political fraternity (which, Kronman says, is "the good of politics itself") necessarily "entails a commitment to order and the status quo," because "politics is always the pursuit of order." (108)

Thus Kronman's faithful transposition of Aristotle's virtue ethics (with remarkably few added modern elements<sup>4</sup>) to the contemporary situation of lawyers and their potential role in a political order that has overcome the modern pathologies that currently afflict it. Let me now turn to the fundamental flaw in this reconstruction: Kronman's failure fully to come to terms with the extent to which another and very different system of ethics--expressed in its purest form by Immanuel Kant--has come to be concretely embodied by all of our modern institutions, including our form of government, legal system and market-based economy, and his related failure to comprehend how this concrete embodiment represents a philosophical barrier to the resuscitation of the Aristotelian ideal in the form he suggests.

It is true that Kronman devotes a thoughtful section of his book to the manner in which the Kantian morality, with its thin notion of human nature and formal conception of equality, has eclipsed Aristotle's substantive notion of human virtue and vice. As he explains, Kant held that "the bare power of action in accordance with the conception of a rule is the final and exclusive source of every person's moral worth." (Kronman 1993: 46; Kant 1959) Since this "bare power" is available to all insofar as they are rational--i.e., capable of exercising their will--it follows that each person has from the outset an intrinsic equal moral worth.

As Kronman emphasizes, it is far from clear that Aristotle's substantive character-based conception of moral worth can be made consistent with this abstract and egalitarian view. The problem is with Aristotle's grounding of ethics in exemplary, as opposed to shared, characteristics of the moral subject. Aristotle describes these exemplary characteristics in various ways--Kronman lists "excellence, leadership, judgment, wisdom, [and] character"--but at their core is the assumption, frequently repeated in the *Nicomachean Ethics*, that true moral worth is the exception rather than the rule. Hence, as Kronman says, "if one starts with a Kantian conception of self-rule... the assumption of a differential order of excellence in politics is bound to seem suspect: at best an immoral idea and at worst an unintelligible one." (49) Yet--again, as Kronman himself points out--the lawyer-statesman ideal is premised on just this assumption of exemplarity: the assumption that full moral worth can only be attained by achieving the singular status of an idealized role-model. (108) Thus Kronman is well-aware that the Aristotelian belief in the exemplary status of the moral subject is contrary to Kant's *a priori* egalitarianism at the most fundamental level.

Moreover, although less explicitly thematized in the book, Kronman's entire project is directed against Kant's philosophy insofar as it is ultimately the Kantian moral paradigm that, at the level of philosophy, represents the ascendancy of modern over traditionalist worldviews. By grounding morality on the bare power to act in accordance with a rule, Kant's philosophy at once makes the individual the unit of moral discourse, defines its freedom in terms of the elimination or minimization of external constraints (including those constraints implicit in the subject's membership in a community or state), and banishes substantive notions of the social good in favor of formal standards for judging individual conduct. (Thurschwell 1994: 1615) Taken together, these characteristics supply a philosophical explanation and impetus to the privatizing, individualizing and socially alienating tendencies of modern life that Kronman decries. As Kronman puts it, it is the dominance of the Kantian paradigm that makes practical wisdom an "embarrassed virtue."

In sum, Kronman is well-aware of the hurdle that Kant's philosophy presents to a neo-Aristotelian approach. Nevertheless, he argues on behalf of a restoration of the Aristotelian virtues as if Kant's morality could be displaced by a well-taken philosophical argument. But the real obstacle is something much more resistant than Kant's moral philosophy, which has been roundly criticized as a philosophical matter at least since Hegel. (1967) It is rather a form of life (*our* form of life) which has incorporated Kant's premises--above all the respect due each individual *qua* moral subject regardless of the "content of her character"--that not only shapes our modern institutions but limits what we recognize as an acceptable ethical/political/legal argument.

One sees this clearly in Kronman's doomed attempt to reconcile Aristotle's premises with the modern principle of universal enfranchisement. Kronman makes this effort in order to deflect the charge that any political philosophy rooted in Aristotle will necessarily carry his elitism along with it. It is true, as Kronman points out, that the most offensive aspects of Aristotle's ethics can be eliminated by dropping his assumption that character is determined by natural class and the related limitation of the franchise to only that class (free Hellenic males) that possesses the character attributes necessary for political self-rule. Kronman suggests that, stripped of these assumptions, Aristotle's ethics remains useful as a

criterion for evaluating political and ethical judgment and thus can still serve his purpose of reinvigorating the lawyer-statesman ideal with an explicit philosophical justification. As he puts it, "repudiating Aristotle's biological elitism (which shapes his conception of the limits of the public realm) thus leaves this other, character-based elitism (which underlies his account of excellence within that realm) in place." (Kronman 1993: 41, 42)

Nonetheless, any conception of politics that distinguishes the relative value of participants in the political process on the basis of their "character" remains in at least apparent tension with the principle of universal enfranchisement, even if not in outright contradiction with it. Kronman recognizes this but argues that the tension is not with universal enfranchisement itself but with "the Kantian justification for it." There are other justifications for this "political practice" (his words) that do not conflict with the Aristotelian view of politics, he claims, and suggests four: that universal enfranchisement minimizes the "alienation" that results when political decisions are beyond popular control; that it serves as an "obstacle to tyranny;" that it maximizes the "pool of talent from which those with a calling for politics may be drawn;" and that it flows from the practical difficulty in finding any correlation between "political ability, on the one hand, and easily identifiable natural or social traits, on the other" that could serve as a basis for a limited franchise. (48)

Yet, contrary to Kronman's suggestion, these asserted justifications would have astonishing consequences for democratic politics if actually adopted in a context where they could determine the shape of a basic political institution. Consider, for example, the effect if they were adopted by the United States Supreme Court while considering the constitutionality of a Congressional act that limited the right to vote in national elections to high-school graduates who scored 1200 or higher on their Scholastic Aptitude Test (or some other comparable test of general intelligence). How would Kronman's Aristotelian justifications for universal enfranchisement fare in this scenario? The notion that universal enfranchisement staves off political alienation rings rather hollow at a time when electoral participation in the United States is at or near an all-time low. Furthermore, by its terms the act would not affect "the pool of talent from which those with a calling for politics may be drawn" since it places no limits on *who* may be elected to office by the newly-restricted electorate--merely who gets to make the judgment about capacity to lead in the first instance. As for the difficulty in correlating "political ability" with a "natural or social trait" (like intelligence), this would seem to be an empirical question of the type that demands the greatest judicial deference to the legislative judgment. If Congress makes a legislative finding of fact, it is not ordinarily the Supreme Court's place to determine that it has employed faulty social science in reaching this decision. Finally, it is difficult to know what to make of Kronman's suggestion that universal enfranchisement can serve as an "obstacle to tyranny." What would "tyranny" mean here? Clearly not simply that it is inherently evil for the few to rule over and against the wishes of the majority--this would directly contravene Kronman's rejection of Kant. Having rejected egalitarianism *per se* as a basis for politics, it would appear from an Aristotelian perspective that a political order ruled by the wise few is at least as, if not more, justifiable than a system run by an unwise majority.

It is thus far from obvious that Kronman's proposed substitutes for Kantian egalitarianism would be sufficient to strike down a law that enfranchised only the "suitably intelligent." Our unwillingness to accept such a result in practice is the pragmatic sign of the fundamental flaw in an Aristotelian defense of democratic institutions and practices. This flaw is already signaled by Kronman's characterization of universal enfranchisement as a "political practice." To the extent that universal enfranchisement is conceived as a practice *of* politics and not a foundation *for* politics, it cannot be reconciled with the modern conception of the entitlement of persons to equal respect and equal participation in collective self-rule. The question is whether universal enfranchisement is simply a means to some greater political good that is extrinsic to it--e.g., rule by the suitably wise--or is itself a trump card in the political-philosophical deck that decides the shape of the supreme political good. As the preceding thought experiment demonstrates, the Kantian conception of the equality of persons as a political trump card is not just an abstract philosophical argument but is ingrained in our most basic beliefs and feelings about the political organization of modern life.<sup>6</sup>

Of course, these reflections are rather far removed from the main thrust of Kronman's project, which is to fashion an ethical ideal for contemporary lawyers to emulate. Thus, to return to a more immediate and practical context, one can also test Kronman's classical lawyer-statesman ideal by comparing it to a contemporary example to see whether the ideal comports with the current reality. As both Aristotle and Kronman advise, one learns the nature of the ideal by studying its finest exemplars. Kronman suggests a few recent examples--Cyrus Vance, Paul Warnke, Carla Hills--but I am thinking of a person whose

merits as a lawyer-statesman seem to me even less arguable: Nelson Mandela. Mandela unquestionably exemplifies many of the virtues Kronman identifies: wisdom and patience, "sobriety, fair-mindedness, and incorruptibility" (Kronman 1993: 43), as well as public-spiritedness and leadership in the highest degree. But other aspects of Kronman's picture seem highly questionable when held up against this example. Could Mandela, a civil rights attorney who devoted his life to destroying the form of government under which he lived, and who left his law practice for a life of revolutionary violence, be described as "conservative"? As abjuring revolution in favor of "gradual reforms"? As concerned with preserving the bonds of his society's "political fraternity" above all other ends? It only adds to the irony of Kronman's inability to account for him or his virtues that Mandela's revolutionary statesmanship was carried out in the name of the militantly egalitarian--and thoroughly Kantian--project of establishing equal rights for all, regardless of race, education, station in life, or "character."<sup>7</sup>

For Aristotle politics is continuous with ethics, the deliberative attempt to give meaning to one's life.<sup>8</sup> Kronman follows by attempting to show that the professional good of the lawyer as well as that of the politician can be constituted according to the model of the individual's ethical life. Indeed, as we saw above, the linchpin of Kronman's argument for the continuing validity of the statesman-lawyer ideal is his analogy between the role of practical wisdom in one's personal life and the role of practical wisdom in political life. In his words, he "presupposes that these two realms are sufficiently alike to justify using an account of one as a guide to the structure and aims of the other." (Kronman 1993: 88) In fact, however, this analogy is only conceivable in a society in which the individual's interests are pre-aligned with the polity's interests--i.e., a society in which the political class is restricted to individuals of essentially similar life-interests.<sup>9</sup>

The flaw in Kronman's attempt to apply the ancient analogy is signaled by a change that he is forced to make in it to give it persuasive effect. His precedent for using the analogy between the personal and public good is Socrates' discussion of the "justice of souls" in *The Republic*. In this passage, Socrates seeks the meaning of the "justice of souls" by analogizing it to justice in the political realm of the city-state, and exploring this latter realm first as the basis for drawing conclusions about the former. The justice of the city-state is claimed to be the justice of the soul writ large (literally, since Socrates compares them to larger and smaller versions of the same letter of the alphabet).<sup>10</sup> Kronman notes that he is reversing this procedure--he seeks the meaning of the good in political deliberation by analogizing it to the good in personal deliberation, only discussing political wisdom after he has analyzed the dimensions of personal wisdom. (Kronman 1993: 62-3) But he never asks why the good of the political realm was sufficiently self-evident to Plato that it could serve as the basis for understanding one's personal good, whereas today the political good is so obscure that *it* has become the object of philosophical inquiry. The essential continuity between the life-interests of the citizen and the life-interests of the state that was a given for the ancient philosophers<sup>11</sup> is precisely what cannot be taken for granted by us as moderns--indeed, this broken continuity constitutes the foundational problem for modern political philosophy and political science. As a result, it is now the ethical justification of the state--not the individual--that has become problematic. Kronman thus presupposes precisely what remains to be proven when he assumes that the public and personal realms of practical wisdom are sufficiently analogous to support his argument.

Indeed, in his resolutely pessimistic conclusion (ironically subtitled "Hope") Kronman implicitly acknowledges that as a practical matter Aristotle's original ethical vision cannot finally help return the lawyer-statesman ideal to its former glory as a motivational force in the professional lives of lawyers. In a passage that calls his entire project into question, he concedes that "the idea that a person can find life's meaning in his or her work... plays no role... in the writings of the ancient moralists, who would have thought it absurd." Aristotle would indeed have found it absurd, since he relegated work to the sub-political and sub-ethical realm of slaves, women and laborers. Yet it was precisely the nineteenth century--the heyday of the lawyer-statesman ideal--that witnessed the transformation of the practice of law from a vocation of the landed gentry into a means of earning a living, i.e., into "work." Thus, as Kronman ultimately recognizes, rather than classical ethics, the nineteenth century lawyer-statesman ideal ultimately drew its force from a very different tradition, the "inner-worldly ascetism of the early modern Protestant sects" analyzed by Max Weber. (Kronman 1993: 370)

Work, for the early Protestants, was a potential source of intrinsic moral worth--a "path to salvation"--because they viewed it as playing an integral role in fulfilling the divine plan of creation. In its original version, the Protestant worldview reflected the same Judaeo-Christian tenet of the equality of all before God that found its pure intellectual expression in Kant's moral philosophy. As Kronman puts it, "all forms



of work were assumed to stand on the same plane because all were equally dedicated to the service of God, even the most lowly." (371) The decline of the worldview's underlying religious supports left in place what became the nineteenth century ideology of "professionalism," whose passing Weber mourned--the notion that if not all, then at least a few occupations possessed an intrinsic ethical value and meaningfulness that went beyond their pure economic function. It was this lingering shadow of the original religious doctrine that authorized the exalted notion of legal practice as a "calling" and not just a job, and it is the disappearance of even this shadow under the pressures of modernity that has left the lawyer-statesman ideal in its present desuetude.<sup>12</sup> Kronman's summary of this history nicely captures both the Protestant ethic's moral-political significance and the significance of its decline into our present unhappy state:

At the end of the twentieth century we have returned, then, to a democratic regime like that which existed in the seventeenth-century Puritan's imagination, but with one important difference. For while the Puritan's vocational democracy rested on the equal capacity of every kind of work to bring salvation, ours is based on the equal incapacity of all to offer any. (372)

But if, as Kronman here concedes, the motivating appeal of the lawyer-statesman ideal rested all along on Christian-theological underpinnings, then it would appear that his effort to restore it by Aristotelian means is no more likely to succeed than attempting to shore up the foundations of a crumbling nineteenth Century church by repairing its neoclassical facade.

In this apparent defeat of Kronman's original methodological optimism--his faith that "only philosophy can breathe life back into an ideal when the tradition that sustained it dies away" (Kronman 1993: 14)--we seem to see reflected the historical "fracture" that Derrida identified in the earlier version of "The Politics of Friendship," an unbridgeable divide between the advent of the Judaeo-Christian world view of the equality of all before the infinite judgment of God and the classical world view of Aristotle. The question remains, however, whether Kronman's pessimism about the ultimate efficacy of his return to Aristotle is foreordained by the historical dominance of the modern world view, or whether it is rather caused by the traditionalist form of his approach to Aristotle. In other words, does there remain the possibility of a "generative graft" between the two world views, as Derrida suggests in the later *Politics of Friendship*, that offers an intellectual path beyond this apparent historical impasse and a hope for a future politics beyond our modern pathologies? In the next section I suggest an affirmative answer to this question, by locating in Aristotle's text itself an originary fracture between the classical model of "homological, immanentist, finitist, and politicist concord" and something resembling Judaeo-Christian "heterology, asymmetry, and infinity." If Aristotle's ethical philosophy already contains this split *in nuce*, then there can be no "simple fracture" between the two traditions and there remains a chance for a politics that incorporates what remains vital in both Aristotle's ethical philosophy and the political philosophy of modernity.

## II

From the foregoing it is clear that in order to continue to rely on Aristotle's philosophy as a means of restoring "the claims of public life which the Greeks and Romans had pursued with such memorable passion," (Kronman 1999b: 94-5) a more radical reinterpretation of this tradition is required than the one that Kronman provides--an interpretation that does not seek simply to overleap the historical dominance of the Kantian model and its egalitarian premises. In the remainder of this paper I would like to sketch the direction one such reinterpretation might take. What I attempt is a reading that exacerbates the tension within Kronman's justifications for the lawyer-statesman ideal that I have just identified, the tension between "friendship to one's self" as the model of character virtue that gives the ideal meaning and motivating force, and the Protestant model of service to God that originally underwrote the idea of work as a source of meaning. As I will now try to show, a form of this tension already exists in Aristotle, one that "fractures" his *Nichomachean Ethics* from within and enables another, antithetical reading of the text that suggests ideals of politics different than the ones Kronman's more conventional Aristotelianism produces.

The site of this fracture is the discussion of friendship in Books VIII and IX of the *Nichomachean Ethics*. These are critical sections, because for Aristotle (as for Kronman, who follows him here closely) the concept of "friendship" mediates the passage from the good of the individual as such to the good of the polity--the social good. Friendship is first of all recognized as an attribute of the individual's own life, if it

is to be good--"for without friends, no one would choose to live, although he had all other goods," as Aristotle says. (1155a5-6) But from the outset of the discussion friendship is also compared to--or even suggested as a substitute for--political justice. He says, "Friendship seems too to hold states together, and lawgivers to care more for it than for justice; for unanimity seems to be something like friendship, and this they aim at most of all. . . and when men are friends they have no need of justice, while when they are just they need friendship as well, and the truest form of justice is thought to be a friendly quality." (1155a22-28) Later, the comparison becomes an analogy, and this analogy in turn become increasingly specific and is granted greater argumentative weight--different forms of friendship are said to correspond to different forms of political justice, for example.<sup>13</sup> Indeed, speaking of the different possible political constitutions of states, Aristotle says, "Each of the constitutions may be seen to involve friendship just in so far as it involves justice." (1161a10-11) It would not be too much to say that "friendship" for Aristotle represents the essence of the justice of the political order.<sup>14</sup>

Following the development of these analogies and comparisons in Book VIII, Book IX considers more closely the nature of friendship itself. Here I want to focus on two sections that undertake to answer the questions whether "a man should love himself most, or someone else" (1167a28-29) and whether "the happy man will need friends or not" (1169b3-4), questions that go directly to the heart of the relationship of individuality to sociality and ethics. As to the first question, Aristotle concludes, surprisingly, that a good man <sup>15</sup> should first of all be a "lover of self." But a lover of self in a special sense: The good man loves himself best for possessing what is best, the highest good, virtue in its highest forms. This self-love thus takes the form of a love of honor and nobility--a self-concern for "doing the right thing"--and not the quotidian self-love that concerns itself with egoistic self-satisfaction. Indeed, paradoxically, love of self (in the special, noble sense) is a guarantor of the good of the community as well as the good of the individual: "Those [lovers of self] who busy themselves in an exceptional degree with noble actions all men approve and praise; and if *all* were to strive towards what is noble and strain every nerve to do the noblest deeds, everything would be as it should be for the common weal." (1169a6-10.)

The paradoxical nature of Aristotle's conception of self-love is evident in the acts to which it may lead the good man, acts that do not resemble self-love at all:

Therefore the good man should be a lover of self (for he will both himself profit by doing noble acts, and will benefit his fellows).. [However,] it is true of the good man too that he does many acts for the sake of his friends and his country, and if necessary dies for them; for he will throw away both wealth and honours and in general the goods that are objects of competition, gaining for himself nobility; since he would prefer a short period of intense pleasure to a long one of mild enjoyment, a twelve-month of noble life to many years of humdrum existence, and one great and noble action to many trivial ones. Now those who die for others doubtless attain this result; it is therefore a great prize that they choose for themselves. (1169a18-28) It is a strange self-love indeed that leads to sacrifice of the self for the sake of the other.

Henry Staten highlights this passage in an interesting article, arguing that it is a "stunning moment in the *Nicomachean Ethics*, a moment at which Aristotle abuts on Bataille." (1995: 1564) Staten's project in his article is the very one that I suggested above - in his words, to "adapt Aristotle's picture of ethics to our very different cultural situation" in order to criticize the dominant Kantian morality. (1563) For Staten, also, this implies a reconsideration of the relationship of Aristotelian ethics to Judaeo-Christian morality. But, as his reference to Bataille intimates, he argues that what is needed is a return to a thoroughly pre-Christian understanding of Aristotle, one that takes seriously the possibility that ethics is concerned above all--contrary to the Judaeo-Christian tradition--with the pursuit of pleasure. Of course, he does not mean by this that "pleasure" should be taken in its contemporary sense of ego-satisfaction or sense-gratification. As the above-quoted passage shows, an interpretation of Aristotelian ethics that took "pleasure" as its master concept would have to be one that incorporated self-overcoming and self-sacrifice as its highest forms (a proposition for which Staten also cites Nietzsche (1564)).

I cannot engage with Staten's complex notion of pleasure here. Instead, to throw my own position into relief, I want to take issue with Staten's reading of the passage quoted above, in which Aristotle equates self-sacrifice with self-love. Staten attempts to smooth over this apparent contradiction by amalgamating "self-love" and "self-sacrifice" under a notion of pleasure conceived along the lines of Nietzsche's Will to Power. <sup>16</sup> As I will now try to show, his attempt ultimately fails, because Aristotle's text makes this reconciliation impossible--the "fracture" is too deep to be healed. Yet--and more

importantly--as I will also try to show, this fracture may itself be more productive for ethical theory than any unitary reading of Aristotle could be.

Let us return to Aristotle. If self-love takes precedence over love of the friend, then does the good (and therefore "self-loving" and happy) man need friends at all? Aristotle purports to answer this question in the affirmative in chapter 9 of Book IX. This discussion is critical, because it contains the *Nicomachean Ethics* most detailed analysis of the relationship of friendship to happiness, and thus at the same time (because for Aristotle happiness is the goal of ethics) provides the cornerstone for the ethical justification of sociality in general--the move from friendship as self-love to friendship as love of the other.

The problem arises because for Aristotle happiness and self-sufficiency ("autarky") go hand in hand. Thus it is unclear why the good life for the individual should require friends. Aristotle's answer to this objection attempts to make the passage from self-love to other-love by way of a twisting path through what we would now call <sup>17</sup> consciousness, self-consciousness, pleasure and desire. Aristotle begins with the proposition that the essential power of man as the rational animal is perception and thought, from which it follows--since "power [*dynamis*] is defined by reference to the corresponding activity [*energeia*]"--that the life of man is thinking and perceiving. This life is intrinsically good in itself ("life is among the things that are good and pleasant in themselves"). <sup>18</sup> But, he says, if the life of man is consciousness (i.e., "perception and thinking"), then it is necessarily self-consciousness as well ("in the case of all other activities. . . there is something which perceives that we are active, so that if we perceive, we perceive that we perceive, and if we think, that we think; and. . . to perceive that we perceive or think is to perceive that we exist (for existence was defined as perceiving or thinking)"). This self-consciousness is itself a good, because it is his self-consciousness that enables the good man to take pleasure in the goodness of his life ("perceiving that one lives is in itself one of the things that are pleasant (for life is by nature good, and to perceive what is good present in oneself is pleasant)"). And, since one desires those things that one has become aware are pleasant, it follows that one's life--and particularly the good man's life--is intrinsically desirable to one's self ("life is desirable, and particularly so for good men, because for them existence is good and pleasant (for they are pleased at the consciousness of the presence in them of what is itself good)") Finally, by asserting an analogy between the friend *qua* self and the good man *qua* self, Aristotle takes the argument's ultimate step and concludes that the life of the friend must be equally desirable to the good man as the good man's own life is to himself ("as the virtuous man is to himself, he is to his friend also (for his friend is another self))." (1170a26-1170b7)

Or rather *almost* equally desirable. "If all this be true, as his own being is desirable for each man, so, *or almost so*, [*paraplesios*] is that of his friend." <sup>19</sup> (1170b7 (emphasis added)) The life of the friend can at best be "almost" as desirable as the good man's because the desirability of life itself is rooted, in a move that presages Kant, in the self-consciousness of the good man as a rational being--the perception of himself as one who "perceives" and "thinks." <sup>20</sup> While the good man can be conscious of the friend's life, he cannot be conscious of the friend as one who "perceives" or "thinks" in the same manner that he is conscious of himself. Where consciousness is the key medium, self-consciousness takes incontestible precedence over other-consciousness. As a necessary consequence of the privileged status granted to the relation-to-self, the relation-to-the-friend has to be relegated to a lower ethical plane, however slight the difference.

In turn, the differential ethical status between the relation-to-self and relation-to-other problematizes the smooth transitions and analogies that run from ethics as the study of the good for *individual* man, to friendship *between* men as the model for justice and the forms of sociality, to politics proper as the study of the forms of social organization that provide for the good of all. It also calls into question Aristotle's immediately preceding claim that those who choose to die for their friends attain the highest form of moral good ("Rightly then is he thought to be good, since he chooses nobility before all else" (1169a32-3)), since it seems to postulate that a good man should sacrifice his own life for one (the friend) whose life is only "almost" as desirable as his own and it should not be lost sight of that for Aristotle the ultimate aim of ethical action is "that which is always desirable in itself and never for the sake of something else." (1097a35) In short, it calls into question the equation of the highest good with that which is most desirable to the good man. Thus it appears that the modern split between the general and individual good is already present, *in nuce*, in Aristotle's ethics.

What then do we make of Aristotle's insistence that dying for another is the highest form of the good?

The implication that the life of the friend is (merely) "almost" as desirable to the good man as his own life suggests that Staten's interpretation of Aristotle's praise of the good man willing to die for his friends is inadequate--it would seem that "pleasure" (even in the special Greek sense) cannot explain it, since the good man's life is of a more desirable kind than the friend's. But is there another way of saving Aristotle's text from this apparent internal rupture? Despite their reservations about the specifics of the argument in chapter 9 of Book IX, most of the recent commentators who have focused on the problems presented by the argument have sought to preserve his general point about the good man's need for friends by reference to other, parallel arguments in the *Nicomachean Ethics*, the *Magna Moralia* or the *Eudemian Ethics* that do not pass so overtly through the relationship of self-consciousness to other-consciousness.<sup>21</sup> To the extent that this strategy were successful, one could presumably continue to reconcile the good man's self-sacrifice for the sake of the friend with the primacy of the individual's own good for himself (although none of the commentators actually focus on this problem). However, this strategy runs afoul of Aristotle's own evaluation of his various arguments since he characterizes the Book IX, chapter 9 argument as "deeper" than the others<sup>22</sup> (1170 a13), an evaluation that seems warranted given the overall framework of his ethics.

Kronman also discusses the Book IX, chapter 9 argument in "Aristotle's Idea of Political Fraternity," the article that provides the philosophical development of the notion of "political fraternity" that in turn underwrites the argument of *The Lost Lawyer*. (Kronman 1979) Kronman's main point in this article is to establish that what he calls "political fraternity" is required to make sense of Aristotle's passage from individual ethical life to the political life of the *polis*. Toward that end, Kronman argues that "political fraternity" is a hybrid form that embodies two contradictory forms of social unity--the strong unity of the personal dependencies of the household (*oikos*) on one hand with the weaker, political unity of the *polis*. His argument leads him inexorably toward the classical figure of "the brothers" as the prevailing metaphor of political life--the chief target, as we will see below, of Derrida's critique in *Politics of Friendship*.

As I have already suggested in the preceding section, his argument is that political fraternity is the means by which the social solidarity of the *polis* is guaranteed by something resembling the unity of the individual with himself. Of course, the two forms of unity are distinct, and therein lies the "hybridity" of political fraternity: First, for Aristotle, the individuality of the dependent members of the *oikos*--wife, children and slaves--are subsumed in the master of the household, and thus the *oikos*, although made up of different individuals, stands under the sign of the strong unity of individual self-identity. The members of the *polis*, on the other hand, are necessarily equal in status and self-sufficient, and thus separate individuals, with a correspondingly weaker sense of unity. Integral to the *oikos/polis* distinction, Kronman further argues, is Aristotle's understanding of the "deliberative" character of the *polis* as opposed to the *oikos*--the political life of the *polis* requires of its members the ability to deliberate, while membership in the *oikos* requires only obedience and an understanding of one's given role within the organic whole of the household headed by the master. Finally, since Aristotle appropriates deliberative powers exclusively to the masculine, one is driven to the figure of "the brothers" as the hybrid figure of politics, sharing both the strong self-identity of the shared household with the distinct identities of citizens. This is in fact how Kronman concludes his paper: "The relation of brotherhood therefore provides a peculiarly appropriate foundation upon which to build the hybrid institutions of political fraternity." (1979: 138)

The medium of passage to this conclusion is Aristotle's discussion of virtue friendship, in which Kronman detects the contradictory tendencies of political friendship that constitute political fraternity. Kronman reaches the Book IX, chapter 9 argument that I have just analyzed towards the end of his article, just before identifying "brotherhood" as the ideal of politics. His treatment of this passage is characteristic of a traditionalist approach: Rather than acknowledging its problematic nature, he says that this argument "makes sense only if one assumes that character-based friendships do indeed exhibit the two distinct and conflicting sorts of unity that I have described"--which of course is the very thesis that Kronman has set out to prove in his article, and which in this passage returns, full-circle, to "make sense" of Aristotle. (135) In other words, rather than seeking to learn from the ways that Aristotle's argument does *not* "make sense"--as might a reader of Derridean bent--Kronman suggests that it can be saved by finding an appropriate "assumption," one that not surprisingly serves Kronman's purposes as well as Aristotle's.

Kronman does not, to my knowledge, discuss the passage in the *Nicomachean Ethics* concerning self-sacrifice for the sake of the friend, but his treatment of self-sacrifice in other contexts reaches similarly

traditionalist conclusions. Kronman claims that a *polis*--by which he also means, ideally, our own political order--requires of its citizens "the self-sacrificing habit of devotion that we commonly call the habit of patriotism." (Kronman 1996: 490) As Kronman's discussion in "Aristotle's Idea of Political Fraternity" makes clear, "the habit of patriotism" here signifies devotion to one's nation as an extension of one's self (or one's household), and thus sacrificing oneself for one's fellow citizens amounts to sacrificing oneself *for oneself*, where one's fellow citizens are treated as "other selves"--to use the suspect premise of Aristotle's argument in Book IX, chapter 9. Kronman thus confirms the tradition of *pro patria mori* as the highest calling of politics, a tradition that also rests ultimately on the assimilation of politics to brotherhood. As a result, Kronman fails to see that it is only by glossing over the fracture in Aristotle's argument from self-love to other-love that the classical conception of patriotism -- and the nationalist politics that takes "patriotism" as its foundation, with all its fraternalist overtones--can be given a grounding in Aristotle.

### III

What if, however, contrary to Kronman's approach, one were instead to permit Aristotle's arguments in Books VIII and IX not to "make sense"? Could the rupture between his discussion of self-sacrifice on one hand and, on the other hand, the failure of his argument from self-love to other-love--a failure that seemed to recapitulate the political dilemma of modernity--be productive in its own right?

Here I can only be suggestive. Nevertheless, following Aristotle's analysis in Book IX, it would appear that a desire that would make one lay down one's life for another must be stronger than the self's desire for its self or the pleasure of its self-identification with the good, and more original than the consciousness that reflects back upon itself in the movements of selfhood Aristotle describes in chapter 9. In the realm of ethical philosophy, however, to invoke a desire for the other that is prior to the self and to consciousness is to invoke the work of Emmanuel Levinas. In particular, it is to recall his notion of a metaphysical "desire for the invisible," the desire for an Other who is beyond the grasp of consciousness and ideation. This desire is metaphysical in the sense that it grounds the being *of* the self on its being *for* the other. The "I" for Levinas is not primarily the site of self-concern, as it is for Aristotle (or rather, the traditional interpretation of Aristotle), nor is it the site of a consciousness, transcendental moment of apperception or similar support for thought (as it is for modern philosophers like Kant), but the occasion for the being of the Other.<sup>23</sup> Indeed, Levinas formulates this principle in a manner that recalls the radicality of Aristotle's formulation: "To die for the invisible--this is metaphysics." (Levinas 1969: 35) Thus, where Staten hears echoes of Bataille and Nietzsche in Aristotle's equation of self-love with self-sacrifice, I rather hear echoes of what Levinas calls the "substitution" of the self for the Other and an expression of the radical responsibility for the Other--a responsibility that antedates the self itself--that Levinas calls "the religiosity of the self." (Levinas 1981: 113-18)

It would require too long a detour to delve into the intricacies of Levinas' ethical philosophy of responsibility, its Judaeoprophetic provenance, or its general relevance to the philosophy of law and legal ethics.<sup>24</sup> Here I simply note the trace of certain Levinasian thematics in the text of Aristotle's *Ethics* which suggest the possibility of another, antithetical and counter-traditional interpretation, one that locates what we might call (for lack of a better term) a Judaeo-Christian impulse toward an infinite responsibility for the other--beyond the finitude of the self, its pleasures or its happiness--at the heart of Aristotle's self-directed virtue of "nobility."

Such a Levinasian interpretation answers the historical objection I raised to Kronman's more traditional Aristotelianism, because Levinas' ethical philosophy does not seek to submerge the unique moral worth of the subject in a social solidarity presupposed to be homogeneous with the individual subject's morality. To that extent it is modern and consistent with Kant. But it goes beyond Kant in denying the moral status of the individual subject *qua* self-determining rational agent, finding beneath the relation-to-self an antecedent responsibility-to-the-other: "man's ethical relation to the other is ultimately prior to this ontological relation to himself. . . or to the totality of things we call the world."<sup>25</sup> In this sense it is more "transcendent" even than Kant's transcendental schematism. The infinite responsibility that for Levinas underwrites the subject's ethical transcendence is not formal, moreover, as is Kant's schema, but singular to the point of inadequation to any generalizing concept, arising uniquely in every unique approach of a unique Other. Accordingly, the morality of transcendence rests not on the *shared* character of every subject's constitution, but on the individual and unique responsibility such constitution confers in each singular encounter with a singular Other.<sup>26</sup> Thus, like Aristotle (but unlike



Kant), Levinas posits the exemplarity of the moral worth of the moral subject, its singularity in relation to all others. But in Levinas' ethics, unlike Aristotle's, the exemplarity takes the form of a unique call to responsibility -- paradoxically, "unique" for every individual and in each case -- whereas for Aristotle (and for Kronman) the exemplarity takes the form, as in the ideal of the lawyer-statesman, of a uniquely deserved self-regard that in turn is exemplary for others' emulation.

I hope that even as schematic an account as this is sufficient to suggest the virtues of such a counter-traditional, Levinasian reconstruction of Aristotle's fractured text. Against the deracinating tendencies of modernity on ethical life--which receives its philosophical reflection in the formalism, rationalism and abstraction of Kantian morality--this reading suggests an intensity of ethical experience that approaches that of religious faith, without, at the same time, giving up on the recognition of the universal and equal dignity and worth of each moral subject.<sup>27</sup> But can such an inherently personalistic ethics, no matter how attractive as a basis for inspiration and action in the realm of individual responsibility, ground a *politics*? Kantian morality translates politically as the liberal social contract theory that has come to serve as the philosophical blueprint for the disaffected individualism currently afflicting our politics. Classical virtue ethics embodies an elitist politics that cannot take account of our pluralist societies and the requirement of equal moral worth. What then would a politics based on the Levinasian interpretation<sup>28</sup> look like, and would such a politics serve any better as a cure for modernity's ills? Can ethical responsibility as faith and "absolute passion" for the other (Derrida 1995: 80) underwrite a return to "the claims of public life which the Greeks and Romans had pursued with such memorable passion"?<sup>29</sup> (Kronman 1999b: 94)

It is not immediately apparent how this reconstructed ethics could bridge the gap left in the wake of modernity (and in the wake of Aristotle's failure in his arguments in Book IX) between the individual good and the social/political good. Indeed, in its insistence on the absolute singularity of the encounter with the other, Levinasian ethics would appear to render anathema any reconciliation between the individual and social whole. Yet just such a reconciliation would appear to be the precondition of the kind of emphatic notion of politics that a full-blooded response to the political crises of modernity demands. On the other hand, if an ethics (or ethical framework) can be "founded" on the irreconcilable fracture we have uncovered within Aristotle's text, perhaps a politics--or at least a concept of the political--can similarly be generated by the modern rupture between individual ethics and politics that Aristotle's text also seems to confirm.

Technically this is not the question that Derrida attempts to answer in *Politics of Friendship*; rather, as I suggested at the outset, his focus in that book is on the continuing hold of the metaphor of "fraternity" on the Western tradition of friendship and politics. Nevertheless, *Politics of Friendship* and much of Derrida's work on the political since that book, as well the work of others in (what I am calling) the Levinasian tradition, can be read as an exploration of the possibility of such an "other politics" (Derrida 1997: 24), a politics that would take place in the hiatus between the infinite and singular responsibility of the individual in the face of each and every other individual and the apparent impossibility of reconciling such mutually exclusive ethical singularities into an articulable form of *political* responsibility.

Derrida addresses the consequences of this hiatus for political theorizing most clearly in *Adieu to Emmanuel Levinas*, the work that provides his most extended discussion of the relation of the ethical to the political. There he explains that the ethical imperative simultaneously demands political action and bars the possibility that such action can be dictated by any program, theory or rational schema:

Ethics enjoins a politics and a law: this dependence and the direction of this conditional derivation are as irreversible as they are unconditional. But the political or juridical *content* that is thus assigned remains undetermined, still to be determined beyond knowledge, beyond all presentation, all concepts, all possible intuition, in a singular way, in the speech and the responsibility *taken* by each person, in each situation, and on the basis of an analysis that is each time unique--unique and infinite, unique but *a priori* exposed to substitution, unique and yet general, interminable in spite of the urgency of the decision. (Derrida 1999: 115)

The demand for the political decision--the demand for responsible action in the public and general sphere of the social, as opposed to the responsibility for action in the private sphere of our personal relations--both arises out of and is rendered impossible by the ethical demand, because the ethical exigency of the face-to-face relation to the singular Other also commands attention to the ethical demands of all the *other* singular Others who are excluded from the "original" face-to-face relation.<sup>30</sup>

This is the major theme of Derrida's *Gift of Death*, which, although devoting most of its discussion to the borderline of the ethical and the religious, is also key to understanding the relationship of Levinasian ethics to politics as well. It is not only the Other of the face-to-face relation that calls forth our responsibility: "Every other (one) is every (bit) other [*tout autre est tout autre*], every one else is completely and wholly other" as well. But one cannot simultaneously address oneself singularly and uniquely--the criterion of the ethical in the Levinasian tradition -- to more than one, much less to "every other one." The ethical demand therefore immediately thrusts one into the "space or risk of absolute sacrifice," because "I cannot respond to the call, the request, the obligation, or even the love of another without sacrificing the other other, the other others." (Derrida 1995: 68)

The result, Derrida says, is that "the concepts of responsibility, of decision, or of duty, are condemned a priori to paradox, scandal, and aporia," "paradox, scandal, and aporia" which are "themselves nothing other than sacrifice, the revelation of conceptual thinking at its limit, at its death and finitude." (68) Notice that Derrida does not say here that responsibility, decision or duty are so condemned, but only their "concepts"--it cannot be said often enough that this is not, contrary to a common reception of his work, a philosophy of ethical or political nihilism. Rather, he means that no "concept" of responsibility, decision or duty--and thus, a fortiori, no normative political theory or program--can do justice to "all the other others" because their demands are no less singular and unique than that "original" Other of the ethical relationship. To synchronize their demands (to use the Levinasian term) in the generality of a political program would violate the responsibility to approach each Other as unique and singular. It is because the genuine--which is to say, ethical--political decision occurs at the "limit" of conceptual thinking that it occurs "beyond all presentation, all concepts, all possible intuition"--and therefore, as *The Gift of Death* argues, in the realm of faith instead.

None of which is to say that political decision making can do without programs, calculations, or the other guarantees of universality and generality, and Derrida does not in fact say this--instead, in the passage from *Adieu* quoted above, he says that the political decision must be "unique *and yet general*" (emphasis added). For Derrida there is more in this aporetic formulation than the (modernist or nihilist) conclusion of a simple fracture between the singularity of the ethical and the generality of the political. To paraphrase what he says about the similarly aporetic relationship of the religious to the ethical in *The Gift of Death*, the ethical requirement that the political decision be "unique and yet general" "seems. . . to universalize or disseminate the exception or the extraordinary [that is, the singular intensity of the personal ethical relation] by imposing a supplementary complication upon [political] generality." (79) Thus for Derrida (and for others in this emerging tradition), the relationship between ethical responsibility and the political is emphatic without being normative. It is a purely formal criterion demanding in every concrete situation a political decision that formulates or calculates a program in response to the infinite demand of the Other, without, however, the reassurance of any *prior* determined or calculable program to guide this decision.

*Politics of Friendship* unfolds this aporetic structure in the context of the history of friendship as "fraternity" and the determinations of democratic politics that have been derived from the fraternal metaphor. The "becoming-political" of friendship--that classical theoretical move, of which the passage between Aristotle's *Ethics* and *Politics* is the privileged example--opens the "question of democracy," Derrida says, and with it the "tragically irreconcilable" conflict between the two poles of democracy-as-friendship: "There is no democracy without respect for irreducible singularity or alterity, but there is no democracy without the 'community of friends'. . . without the calculation of majorities, without identifiable, stabilizable, representable subjects, all equal." And, Derrida adds, "political desire is forever borne by the disjunction of these two laws." (Derrida 1997: 22)

The recurrent mechanism through which this "political desire" has been stabilized in the history of political philosophy has been the fraternal metaphor, a mechanism that we have seen at work in Kronman's derivation of his own concept of "political fraternity" from Aristotle's discussion of friendship. To bend the singularity and alterity of the friend-as-other into the friend-as-brother--which is to say, following the metaphoric chains employed by Aristotle and Kronman, the friend-as-member-of-household (*oikos*), or friend-as-"another self," and thus, ultimately, the friend-as-same--is to violate that ethical desire to respect and love the friend in her singularity and difference. Yet something like that "fraternization" of the other would seem to be unavoidable, to the extent that democratic politics *also* requires "the calculation of majorities, with. . . identifiable, stabilizable, representable subjects, all equal."

In characteristic fashion, Derrida "hyperbolically raises the stakes" of this aporia, enlisting the

Nietzschean conceit of the "friends of solitude. . . friends of an entirely different kind, inaccessible friends, friends who are alone because they are incomparable and without common measure, reciprocity or equality. . . [and] without a familial bond" (Derrida 1997: 35) in order to tilt the "disjunctive" laws of democracy in the direction of the singularity of the ethical relation and away from the fraternal leveling of friendship into "calculable majorities." He wants to call friendship, and thus democracy, "back to non-reciprocity, to dissymmetry or to disproportion, to the impossibility of a return to offered or received hospitality; in short. . . to the precedence of the other" (Derrida 1997: 63), or, as he also puts it, to the "thinking [of] an alterity without hierarchical difference at the root of democracy." (232) Derrida's goal is thus to show us what democracy "should have been [and] immemorially will have been," and therefore at the same time what it *could be*, beyond the principle of fraternization. (63)

It is the category of the "could be"--what Derrida calls the "perhaps" of friendship--that determines the futural orientation of his elusive (and necessarily contentless, for the reasons indicated in the quotation from *Adieu to Emmanuel Levinas* above) ideal of politics, which he calls the "democracy to come" (*la démocratie a venir*). Indeed, it would not be too much to say that for Derrida that political ideal is nothing other than the future itself, or, better, the "futuraity" of the future--the inextinguishable possibility (the "perhaps") of the coming of a political event that is truly new, not predictable or derivable or limited by what has come before. The thought of this event--like the thought of the Levinasian stranger whose coming "disturbs the being at home with oneself [*le chez soi*]" (Levinas 1969: 39)--"conjoins friendship, the future and the *perhaps* to open on to the coming of what comes" (Derrida 1997: 29), since the coming of the friend-as-singular-Other is the privileged exemplar of such an event.

<sup>31</sup>

Riven by the infinite ethical demand for an unrepresentable respect for singularity and the equally unavoidable need to violate that demand for singularity by counting, calculating, planning, programming and so on, "democracy" in the emphatic sense thus always remains "to come." If the fraternal model of politics looks backward to its (always metaphoric) ancestors, "Founding Fathers," or roots in the blood and soil of nationhood, the model that Derrida describes looks forward. Its fundamental temporal categories are the "not yet"--the future it holds out is not a modality of the present but a future that *always* remains "to come" <sup>32</sup>--but, at the same time, also the "perhaps." In the mode of the "not yet," "*la démocratie a venir*" is a spur to ruthless criticism of the really existing, "dominant concept of democracy," with its "homophilic" and "autochthonic" predicates--equality as fraternity, blood and soil, and so on. But in the mode of the "perhaps," it is at the same time the ever-present possibility of interpreting this "dominant concept" differently. Derrida asks whether there is "another thought of calculation and of number, another way of apprehending the universality of the singular, which, without dooming politics to the incalculable, would still justify the old name of democracy?" To which he gives a necessarily tentative answer--one cannot avoid the "perhaps"--by imagining an "abstract and potentially indifferent thought of number and equality. . . [that, despite its risks] perhaps also keeps the power of universalizing, beyond the State and the nation, the account taken of anonymous and irreducible singularities, infinitely different and thereby indifferent to particular differences, to the raging quest for identity corrupting the most indestructible desires of the idiom." (Derrida 1997: 104, 106) In the centrality granted to the inextinguishable possibility of this utopian concept of the political, which conjoins the universality of the Kantian paradigm with the singularity of the ethical relationship, Derrida's is above all a politics and political philosophy of hope and faith.

It seems to me that this approach has a great deal to contribute on any number of fronts to the understanding and solutions of our modern political-philosophical predicament. <sup>33</sup> But I believe that its most significant contribution lies in its ability to provide a philosophical defense for political responsibility, political hope and political faith in the face of the privatizing and deracinating tendencies of modernity, without, at the same time, requiring the abandonment of modernity's real political achievements. I have tried to show in my re-reading of Aristotle that, even if the "religiosity" (in the Levinasian and Derridean sense of a "religion without religion" (Derrida 1995: 49)) of that responsibility, hope and faith are not quite the same as the "memorable passion" with which the Greeks and Romans pursued the "claims of public life" in Kronman's nostalgic retelling, they cannot be categorically separated from the passions of classical politics, either. In the same spirit, and the spirit of the "perhaps" of friendship that animates Derrida's book, I would like to conclude with one last potential point of intersection between Kronman and Derrida's thought of democracy.

I have suggested that Derrida's re-reading of the political tradition of friendship restores to the foreground the theme of ethical singularity and responsibility that the fraternal metaphor tends to



dissolve in the identity politics of nation and state. But there is more to the singularity of genuine friendship than the weight of ethical responsibility--there is (or ought to be) love, celebration and pleasure as well. In other words, apart from ethical responsibility, genuine friendship has an integral aesthetic moment as well as an ethical one. In particular, Derrida says, friendship "should always be poetic. . . before being philosophical, friendship concerns the gift of the poem." (Derrida 1997: 166) Much like the impossible yet necessary transition from ethics to politics, poetry engages the generality of linguistic meaning in the singularity of an unparaphrasable and untranslatable linguistic event, and it is this aporetic structure that makes a poem an inexhaustible source of aesthetic pleasure. Similarly, there is no genuine politics--that is, a politics beyond calculation and pre-determined programs--without a corresponding aesthetic moment of joyful engagement with the political act. That this aesthetic moment has its apotheosis in *la joie de la moment* of revolutionary fervor, with all the political and ethical ambiguity that the history of such revolutionary moments manifests, simply confirms the "perhaps" at the heart of the political. Without falling back into a politics of "calculation" (Derrida) or "scientific law reform" (Kronman), there can be no guarantees in politics, only the "political chance and risk of the poem." (Derrida 1997: 166)

Kronman, too, has recently taken up the relationship of poetry to democracy, and has done so in a manner that remarkably confirms the thematics of the political philosophy that I am here attributing to Derrida and to the Levinasian tradition: the political decision as an act of faith and hope, the "revelation of conceptual thinking at its limit," and, above all, the utopian affirmation of the inextinguishable "perhaps" of *la democratie a venir*.

In the essay "Is Poetry Undemocratic?" Kronman considers the hypothesis that there is a conflict between "the feelings and attitudes that poetry encourages, on the one hand, and the moral beliefs that democracy presupposes, on the other." At the heart of this hypothesis, which he attributes to William Hazlitt among others, is the notion that "the poetic imagination. . . is attracted by disproportionate power, by excess, by superiority, by dominion, and control. . . [and that] both the poet and his audience are motivated. . . by this anti-egalitarian, but all too human, love of superior force." To this view of aesthetic pleasure, Kronman opposes the position that makes poetry an ally of democracy, the view that "the pleasure of all beauty, including that of poetry, is the pleasure of a communicable equality, of a power that puts us all on common ground rather than setting us apart" (a proposition for which he cites Kant as philosophical authority). Kronman himself strongly endorses the latter view, and cites Walt Whitman's belief in "a new poetry that will be faithful to the spirit of democracy" for the possibility that poetry and democracy can support each other. (Kronman 1999a: 311, 326-28)

There is a great deal to be said about Kronman's essay, and about its relationship to Derrida's arguments on behalf of democracy in *Politics of Friendship* in particular,<sup>34</sup> but here I simply want to focus on Kronman's conclusion. Having laid out the arguments for both sides of the debate and conceded the force of both, Kronman ultimately concludes that "which of these views one adopts must therefore be, to a large degree, a matter of personal judgment and experience, and also, not insignificantly, of faith." By "faith," Kronman means that the choice between the two views of poetry is not "a choice to be made on the basis of facts alone." Rather, he says, "it must also be made on the basis of dreams, of the things we long for as well as those we believe to be true." That this choice cannot be separated from our dreams--that is, that it cannot be made on the basis of facts which will determine the right answer, that will predetermine, in the mode of calculation or scientific or quasi-scientific investigation, how we should choose--is "not a good thing or a bad thing," but "merely a necessity." (Kronman 1999a: 334)

Of course, if we *could* calculate, investigate or predetermine, we would have no need to resort to the fragile promise of dreams; we would have a theoretical or empirical warrant for our beliefs. But no such warrant is available. "Conceptual thought" (to slip into Derrida's terminology), even taken to its limit, can neither prove nor disprove our desire to believe at once in poetry and democracy--and therefore, by the same token, "no argument alone can block it," Kronman says. Thus, this choice--which is a political choice, a political choice about the nature of democratic politics, as well as about the nature of poetry--is a matter of "faith" and "dreams," and therefore also a matter of "hope." And a matter of political action, indeed, "militant" political action "in the pursuit of this hope" (which of necessity will include calculation, "a range of programs," and so on). In short, our choice is a matter of the future, of the fact that "another possibility"--the inextinguishable "perhaps" of our potential democracy, of the democracy of the future--always remains:

When I recognize that I may--that I must--choose according to my dreams, it is enough that Hazlitt's view of poetry cannot be demonstrated to be right. It is enough that there is another possibility. Is poetry undemocratic? Not necessarily. And if not, then there is room to pursue the dream of a democratic poetry for which no warrant would otherwise exist. There is room to ask a range of questions, and to advocate a range of programs, all in furtherance of this dream. There is room to be hopeful, and militant in the pursuit of this hope. The way is open, and no argument alone can block it. (335)

## Acknowledgments

The kernel of this article was first presented at the Conference on the Role of Advocacy in the Classroom held in Pittsburgh, Pennsylvania, in June 1995. In addition to the organizers of that conference, I thank Randy Auxier, Peter Fitzpatrick, Jay Mootz, Catherine Robertson and Jim Wilson for their helpful criticism. Special thanks go to Alex Pearson for guiding me through Aristotle's Greek, and to the Cleveland-Marsall Fund for support.. All errors, logical and philological, are of course my own.

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## Footnotes

1 See e.g. Kronman, *The Lost Lawyer*, Anthony Kronman, "Living in the Law," 54 *U. Chi. L. Rev.* 835 (1987); Anthony Kronman, "The Fault in Legal Ethics," 100 *Dick. L. Rev.* 489 (1996); Anthony Kronman, "Professionalism," 2 *J. Inst. for Study of Legal Ethics* 89 (1999).

2 Derrida suffers from no lack of citations in American law reviews, but the same cannot be said for the work of Emmanuel Levinas. That disparity is one sign of the near total lack of comprehension on the part of American legal scholars--including those who cite him most--of the profound degree to which Derrida's writings, and his political, ethical and legal writings above all, are indebted to Levinas. (The exception to this rule is Drucilla Cornell, see e.g. Drucilla Cornell, *The Philosophy of the Limit* (Routledge, 1992)). That failure of understanding has crippled Derrida's reception as a political/legal thinker in United States law schools, and is explicable only by the widespread unwillingness among those who cite him (and particularly among those who criticize him most harshly) to bother with actually reading what Derrida writes, since Levinas' thinking has preoccupied him in important essays at every stage of his career and has contributed many of the fundamental categories and much of the philosophical terminology that are now associated with Derrida's name (e.g., the notion of the "trace," see Robert Bernasconi, "The Trace of Levinas in Derrida," in D. Wood & R. Bernasconi, eds., *Derrida and Differance* (1988)). For Derrida's works that directly address Levinas, see "Violence and Metaphysics," in *Writing and Difference* (Alan Bass, trans.) (1978) (originally published as "Violence et Metaphysique," in *L'écriture et la différence* (1967)); "At this very moment in this work here I am," in R. Bernasconi & S. Critchley, eds., *Re-Reading Levinas* (R. Berezdevin, trans.) (1991) (originally published as "En ce moment meme dans cet ouvrage me voici," in *Textes pour Emmanuel Levinas* (1980)); and *Adieu to Emmanuel Levinas* (P.-A. Braut & M. Naas, trans.) (1999) (originally published as *Adieu a Emmanuel Levinas* (1997)). One should also note Derrida's statement in an interview (which would have to be qualified somewhat by reference to his formal essays) that "faced with a thinking like that of Levinas I never have an objection. I am ready to subscribe to everything he says," *Alterites* 74 (1986) (quoted and translated in Simon Critchley, *Ethics-Politics-Subjectivity: Essays on Derrida, Levinas and Contemporary French Thought* 273 (1999)).

3 It is in the nature of such "generative grafts" that they will always already have begun to take place, and this one is no exception. For examples of recent works that bring to bear recognizably Levinasian and/or Derridean insights from within the Anglo-American political philosophical tradition itself, as opposed to using them as external points of critique, see Drucilla Cornell, *At the Heart of Freedom: Feminism, Sex & Equality* (1998), and Robert Bernasconi, "Opening the Future: The Paradox of Promising in the Hobbesian Social Contract," *Philosophy Today* 41:77-86 (1997).

4 Kronman does recognize the insurmountable obstacles to reconstructing the classical notion of objective value and the concomitant "groundlessness" of political and personal choice in the modern era. To that extent, he redefines the aims of practical wisdom and political deliberation away from the determination of such objective values toward the independent value of living at peace--figuratively within oneself, and literally within the political community--with the "incommensurable" personal and political values that we harbor (Kronman 1993: 85, 87).

5 Of course I am disregarding the actual legal authority that might be available to challenge such a provision; the point is to conduct a thought experiment testing the implications of Kronman's neo-Aristotelianism for legal decision-making.

6 Kronman himself seems to acknowledge this in his more recent work. See e.g. Anthony Kronman, "Is Poetry Undemocratic?" 16 *Georgia State L. Rev.* 311, 319 (1999) (mentioning the Kantian proposition that "every person possess a power of self-determination, a capacity for self-direction, an autonomy that entitles him or her to the equal respect of all other persons" and noting that "whether they draw explicitly on Kant or not (and many of course do), all contemporary moral defenses of democracy rely on some version of this idea").

7 Of course, as noted above, Kronman recognizes that "there are communities so irreversibly corrupt that efforts to sustain them through the cultivation of political fraternity are indefensible, and others so hopelessly divided that all efforts of this kind are bound to fail." He insists, however, that just for this

reason "there is no room in these communities for... the statesman's art," and that therefore revolutions are "the least political of events" in which "deliberation is replaced by strategy and force." (Kronman 1993:107) The example of Mandela also demonstrates that Kronman's hard distinction between revolution and deliberative political reason cannot be maintained. Mandela negotiated a revolutionary change in the constitution of his society by deliberative means (despite the fact that he was confined to a prison cell for much of the negotiations). As for his turn to violence in 1961, anyone who doubts that this too was an act of statesman-like deliberation should review his speech to the Court at the Rivonia treason trial in April 1964 that led to his incarceration. See "Second Court Statement," in Nelson Mandela, *The Struggle is My Life* 161-181 (Pathfinder Press: New York, 1986).

8 See *Nicomachean Ethics*, bk. I, ch. 2, 1094b; bk. VI, ch. 8, 1141b23 (W.D. Ross, trans.) (further references to this translation except where otherwise specified).

9 Because divergent life-interests are forged according to individuals' positions within what Aristotle calls the realm of "necessity"--labor and the "woman's world" of the household--his politics requires a strict division between the political class and the classes whose primary purpose is "the due supply of the means of life": slaves, women, craftsmen, husbandmen, tradesmen and laborers. (*Politics* 1325b37, 1328a22 - 1329a39) As he explains, "leisure is necessary both for the development of virtue and the performance of political duties." (1329a1-2) Hence his exclusion of these classes from citizenship in the state.

10 Plato, *The Republic*, 368c-369b.

11 See e.g. Aristotle, *Politics* 1324a5.

12 Here Kronman tracks Weber's analysis of why the professions can no longer provide the meaningful life they once held out. See Max Weber, "Science as a Vocation," *From Max Weber: Essays in Sociology*, ed. Hans Gerth and C. Wright Mills (New York: Oxford, 1946).

13 "All the communities, then, seem to be parts of the political community; and the particular kinds of friendship will correspond to the particular kinds of community." (1160a 28-30) In particular, the forms of state constitution--monarchy, aristocracy, and timocracy--are said to correspond to different forms of friendship--the friendship of father to children (monarchy), husband to wife (aristocracy), and brother to brother (timocracy) Bk. VIII, chs. 10-11.

14 As noted previously, the essential relationship between friendship and justice, and the manner in which it bridges the good of the individual and the good of the community, is translated by Kronman's notion of "political fraternity." For Kronman as for Aristotle, "friendship" constitutes both the essence of the good for the individual and the essence of the good for the community, and provides the mediating link between the two. See "Aristotle's Idea of Political Fraternity," *supra*.

15 I will follow Aristotle in using the masculine form for the general to maintain the bite of Derrida's critique of Aristotle's "fraternal" conception of politics (as well as to avoid adding any pronominal awkwardness to what is already a technical argument).

16 In brief, Staten argues that there is a continuity between Aristotle's conception of *arete* (conventionally translated as "virtue") as "optimal functioning" of the human organism *qua* human and Nietzsche's Will to Power. Although not identical--Aristotle's notion "posits the repose of completion as its goal," while Nietzsche's more "open-ended" concept looks to the "increase of power through the overcoming of obstacles"--for both philosophers the exercise of these potentials issues in pleasure. Moreover, just as the highest exercise of Aristotle's *arete* takes the form of self-sacrifice, in its most exalted form the Will to Power manifests itself in a creative "overcoming of oneself" and self-immolation. See e.g. Nietzsche, "Thus Spoke Zarathustra" in *The Portable Nietzsche* 177 (ed. and trans. Walter Kauffman) (Viking, 1954) ("I love him who wants to create over and beyond himself and thus perishes"). Thus, Staten argues, in their most radical moments both Aristotle and Nietzsche identify a tendency within the egoistic impulse ("self-love") to overflow itself towards another (a friend, a lover, etc.). It is this tendency, Staten suggests, that points towards a post-Kantian ethics that takes pleasure--in its highest form as "self-sacrifice" or "self-overcoming"--as a fundamental category of the ethical. Staten, *supra*, at 1560-67.

17 "Consciousness" and "self-consciousness" are modern concepts, without simple correlates in ancient Greek. See Charles Kahn, "Sensation and Consciousness in Aristotle's Psychology," in J. Barnes, M. Schofield & R. Sorabji, eds., *Articles on Aristotle*, vol. 4, 1, 22-23 (St. Martin's Press, 1979). In the quoted passage, Aristotle uses the term "*aesthesis*"--"perception"--reflexively, and in this specific context it is translated (e.g., by Hugh Rackham, Loeb *Nichomachean Ethics* 1170b10 (Rackham, trans.) (1990), as well as by Ross, *supra*), as "consciousness."

18 This follows less from the empirical observation that "all men desire it" than from the fact that life as lived activity is "determinate"--as the *energeia* which brings man's *dynamis* concretely and fully to fruition, life is good in the metaphysical sense. "[Life] is determinate and the determinate is of the nature of the good," as Aristotle puts it. Bk. IX, ch. 9 at 1170a20. See *Metaphysics*, Book Theta (ix) chs. 8-9, for Aristotle's explanation of why determinate actuality is always (at least potentially) better than its (necessarily indeterminate) potentiality, which contains within itself indiscriminately the possibility of contrary good or bad incarnations. The metaphysical underpinning matters in this context because the metaphysical superiority of life *qua fully realized* human potential is what distinguishes the intrinsic good of the good man's life from the mere desirability or pleasantness of the bad man's life. "We must not apply this [i.e., the argument regarding the intrinsic good of life] to a wicked and corrupt life nor to a life spent in pain; for such a life is indeterminate, as are its attributes." *Nichomachean Ethics*, Bk. IX, ch. 9 at 1170a23. The good person brings to determinate actuality the best of human potentiality, the virtues, whereas the wicked or corrupt person either does not bring to fruition her human potential, and therefore leaves it "indeterminate," or brings it to fruition in a perverted and imperfect form.

19 This qualification of the desirability of the friend's life is not accidental, since it is repeated immediately thereafter: "If then to the supremely happy man existence is desirable in itself, being good and pleasant essentially, and if his friend's existence is almost equally [*paraplesion*] desirable to him, it follows that a friend is one of the things to be desired." Loeb, *Nichomachean Ethics*, at 565 (trans. Hugh Rackham) (1990). (1170b14-17) This interpretation sounds with the senses of the word provided in the Scott-Lidell Lexicon, all of which connote "near," but not identical, resemblance or equality. *Scott-Lidell Greek-English Lexicon* (9th ed.) (1940), at 1321 (*paraplesios*).

20 Interestingly, according to one Aristotle scholar this is the only passage in Aristotle's corpus in which he brings together "second order perceptual awareness and awareness of self *qua* such," and thus the only passage in which one is arguably licensed to use the otherwise anachronistic terminology of "self-consciousness" in connection with his argument. Suzanne Stern-Gillet, *Aristotle's Philosophy of Friendship* 21 (SUNY Press, 1995). It is significant for my claims here that this unique occurrence takes place precisely at the point in Aristotle's text where the relation of individuality to sociality is most at issue.

21 Many commentators have puzzled over the dense passage in Book IX, chapter 9. Without entering into a full discussion, the commentary is generally characterized by the sense that Aristotle never justifies his key claim that "as the virtuous man is to himself, he is to his friend also (for his friend is another self)" See e.g. Stern-Gillet, *Aristotle's Philosophy of Friendship* at 140 ("invoked as a *deus ex machina*"); John Cooper, "Aristotle on Friendship," in A. Rorty, ed., *Essays on Aristotle's Ethics* 318-9 (Cal. U. Press, 1980) (claiming that Aristotle's argument for "second selfhood" is circular); W.F.R. Hardie, *Aristotle's Ethical Theory* 332 (Clarendon Press, 1968) ("The weak link in the argument of the chapter lies in the claim that a friend is an *alter ego* in the sense that we can be aware of his thoughts as we can be aware of our own"). To that extent they are consistent with my own reading, although I go further in connecting this flaw with the earlier claim that the good man is willing to sacrifice himself for the friend.

22 Also translated as "more fundamental," Rackham, Loeb *Nichomachean Ethics*, and "more scientific," Cooper, *supra*, at 318.

23 "The I is not a contingent formation by which the same and the other, as logical determinations of being, can in addition be reflected *within a thought*. It is in order that alterity be produced *in being* that 'thought' is needed and that an I is needed." (Levinas 1969: 39 (emphasis original))

24 The relation of Levinas' ethics to the Biblical tradition is complex. The language of religion--prophetic Judaism in particular--is central to his philosophy (he was a Talmudist of note as well as a philosopher).

Expressions such as "God," the "religiosity of the self," etc., do not, however, refer to the doctrines of Judaism or any other positive religion, nor generally to deism of any kind. Rather, in Derrida's apt if somewhat cryptic phrase, Levinas' is "a *thinking* that 'repeats' the possibility of religion without religion." (Derrida, 1995:49) In Levinas' usage, concepts, terms and stories drawn from the Judaeo-Christian tradition stand service as the best means available for expressing a notion that is philosophical rather than religious in the strict sense, the notion of "infinity." The "infinite" is the moment of transcendence that disrupts from within the totalities advanced by philosophy, whether Being (Heidegger), history (Hegel), or consciousness (Husserl). In this it resembles the doctrine of an infinite God, whose divine "existence" is categorically distinct from the profane existence and temporality of human history, i.e., who is preeminently "otherwise than being." Thus, "the God of the Bible signifies the beyond being, transcendence." But--and this is the key moment in his reconceptualization of subjectivity as dependent in an ordinary way on the relation to otherness--it is just the self-transcending idea of an infinite God (self-transcending because uncontainable by any idea) that disrupts the possibility of a self-enclosed consciousness, a consciousness essentially unaffected by anything external to it.

The production of the infinite entity is inseparable from the idea of infinity, for it is precisely in the disproportion between the idea of infinity and the infinity of which it is the idea that this exceeding of limits is produced. The idea of infinity is the mode of being, the *infinition*, of infinity. Infinity does not first exist, and *then* reveal itself. Its infinition is produced as revelation, as a positing of its idea in *me*. (1969:26)

To put the point in Husserlian terms, not all objects of consciousness are intentional. At least one (God) is at base *unintentional*--which means that with respect to it consciousness is entirely passive, and indeed only becomes conscious by virtue of something outside itself. See Emmanuel Levinas, *Of God Who Comes to Mind* xii-xiii (Stanford U. Press, 1998). God (in the specified sense of the movement of an infinite transcendence) is thus the signifier of the fact that there is a relation to otherness that is not dependent on a prior relation-to-self and that gives rise to a consciousness-of-otherness that is not dependent on a prior consciousness-of-self. The relation-to-otherness precedes the relation-to-self--God (in the non-deistic sense that Levinas employs) gives rise to the (conscious) *me*; the (self-conscious) "I" does not give rise to *it* (or Him or Her, as the case may be). Levinas cites in this context Descartes' remark in his Third Meditation that ""in some way I have in me the notion of the infinite earlier than the finite--to wit, the notion of God before that of myself."" Emmanuel Levinas, "God in Philosophy," in *The Levinas Reader* 168, 174 (1989) (ed. Sean Hand; trans. Richard Cohen and Alphonso Lingis).

The experience that calls forth the infinite in the self is not theological, however, but ethical, the encounter with the personal Other (*l'autrui*) who approaches in the face-to-face relationship: "it is only in the infinite relation with the other that God passes (*se passe*), that traces of God are to be found." Emmanuel Levinas and Richard Kearney, "Dialogue with Emmanuel Levinas," in *Face to Face With Levinas* 31 (1986) (ed. Richard Kearney); see also *Totality and Infinity*, at 293 ("the Other, in his signification prior to my initiative, resembles God") But if the consciousness of the conscious "I" is dependent on a prior relationship to the Other, then the "I" before all else (indeed before its own being) signifies an indebtedness to the Other--"the word *I* means *here I am*, answering for everything and for everyone." (1981: 114)

25 Emmanuel Levinas and Richard Kearney, "Dialogue with Emmanuel Levinas," in *Face to Face With Levinas* 21 (1986) (ed. Richard Kearney). In specifically Kantian terminology: "Ethics as substitution for the other, giving without reserve, breaks up the unity of transcendental apperception, that condition for all being and all experience. . . It constitutes, prior to the unity of apperception, the psyche of the soul." Emmanuel Levinas, "God in Philosophy," in *The Levinas Reader* 184 (1989) (ed. Sean Hand; trans. Richard Cohen and Alphonso Lingis).

26 Levinas likes to quote *The Brothers Karamazov* on this point: "Each of us is guilty before everyone, for everyone and for each one, and I more than the others." "God and Philosophy" in *The Levinas Reader*, at 182. See also e.g. 1981:115 ("[the ego] signifies a uniqueness, under assignation, of responsibility, and because of this assignation not finding any rest in itself").

27 In this sense it complicates Kierkegaard's privileging of religious over ethical experience, see Soren Kierkegaard, *Fear and Trembling*. This is one of the points of Derrida's *The Gift of Death*, in which he sets out an account of the role of absolute faith--in the nondogmatic and nondoctrinal sense of the term

that he associates with Levinas--in ethical responsibility. Notably, Derrida's analysis also intertwines these themes with the theme of sacrifice of the self and of the other (represented by the story of Abraham and Isaac). For Derrida one moral of the story of Abraham and Isaac is the "secret truth of faith as absolute responsibility and as absolute passion," a secret that, despite the singularity of its provenance (in Abraham's unique encounter with God, etc.), nevertheless "impos[es] a supplementary complication [of religious passion, etc.] on ethical generality." *Id.*, at 80, 79. My parallel point would be that the "absolute responsibility" of Levinasian ethics can productively be read as imposing a "supplementary complication" on the universality of Kantian morality. I expand on this further below.

28 I use the term "Levinasian" in this context advisedly. Levinas has his own accounts of the relation of ethics to politics, which I am not addressing. Here I am using Levinas' ethical thought as a heuristic for further reflections on politics that derive more from Derrida's appropriation of Levinas' themes than from Levinas' texts on politics themselves. For a critical accounting of Derrida's appropriation of Levinas in this regard, see Robert Bernasconi, "Different Styles of Eschatology: Derrida's Take on Levinas' Political Messianism," *Research in Phenomenology* 28:3-19 (1998).

29 Kronman doubts this possibility, as the following passage, in which the themes of ethical meaning, identity, relations to others and religion are intertwined, demonstrates:

The institutions of public life once had the power to convey a sense of purpose to the human beings who lived according to their routines. In doing so, one's life took on meaning. One acquired an identity, a place in the world, and with that the strength to meet life's suffering and the senselessness of death. But that is no longer true. All that gave the public world its meaning-giving power--the gods that inhabited it, the ancient traditions that sustained it, the prophecies that from time to time inflamed it--has vanished. Today as in the past, of course, human beings need to believe that their lives are worth living. But for us disenchanted moderns, this need can be met only in the realm of personal relations, of brotherly and erotic love, in the sphere of private life. It is to this sphere that the gods have retreated and here that each of us must now search for his or her salvation, for a sense of meaningful location in the world, in short, for an identity. (Kronman 1993: 369)

As I tried to show above, Kronman's doubt is a function of his traditionalist reading of Aristotle and not Aristotle's text itself. What if the gods have actually always resided first and foremost "in the realm of personal relations," as Levinas would have it, and only secondarily and derivatively in "the institutions of public life"? Aristotle himself seems to suggest as much by locating friendship above justice in his ethical scheme. (1155a24-28) Perhaps "the institutions of public life" only appeared to have primary meaning-giving powers in an earlier age because participation in these institutions was limited to those among whom brotherly love and fraternal concord was easiest to achieve, i.e., those of the same gender, race and life-background. And what if one's identity was not given its meaning by one's location, one's "place in the world"--where one stands, one's status--but instead this meaning was called forth in the first instance by a desire for "personal relations," a desire that cannot be reduced to a desire for a "place" or even for an "identity"? As Levinas puts it, the Other of metaphysical desire is a "stranger," a stranger who, far from confirming my "place in the world," displaces me from my place--whose coming "disturbs the being at home with oneself [*le chez soi*]." (1969:39) Again, how else are we to interpret Aristotle's insistence that the highest form of nobility is to give up one's place and one's identity by dying for another, if (as we saw above) the meaning of this self-sacrifice and substitution cannot be folded back into a form of *self-love*?

30 "Originality" here is something of a misnomer since, as many commentators have emphasized, the problem of "all the other Others" is present in the binary face-to-face relation from the outset. See e.g. Robert Bernasconi, "The Third Party. Levinas on the Intersection of the Ethical and the Political," *Journal of the British Society for Phenomenology* 30:1, 76-87 (January 1999).

31 Of course the thought of the friend-as-stranger also invites translation into a politics that breaks down nationalist, statist and other identity-based barriers. See e.g. Simon Critchley, *Ethics - Politics - Subjectivity* 280-281 (Verso, 1999) ("It is therefore a matter of thinking the ethical imperative of *la democratie a venir* together with a form or forms of democratic action that move outside, beyond and against the state, as the *national* form of democratic government or indeed as against any restriction of democracy to territory.").

32 Thus, since Derrida quotes Michelet on women's relationship to the French Revolution, "She can

spell the sacred word of the new age, *Brotherhood*, but cannot yet read it'." (Derrida 1997: 238) It is tempting to say (although Derrida does not say it) that what Derrida describes is not politics as fraternity, but politics as sorority.

33 See e.g. Robert Bernasconi, "The Ethics of Suspicion," *Research in Phenomenology* 1990:3, 17 n.8: "It seems that only a responsibility as far-reaching as [that required by Levinas' ethics], the responsibility of the innocent, of those who have done nothing, would be sufficient to break through the all pervasive individualism of modernity to the point that institutional injustice, whether based on race, caste, class or the division of the world into rich and poor countries, might cease to appear as simply given."

34 By way of example, Kronman places Nietzsche squarely on Hazlitt's side of the debate, claiming that Nietzsche identified art with "the aristocratic 'pathos of distance' that separates the powerful from the weak." "Is Poetry Undemocratic?" at 333. Derrida, however, suggests that Nietzsche's disgust with "democratic taste" is *not* anti-democratic, but "responds in the name of a hyperbole of democracy or modernity to come, before it, prior to its coming--a hyperbole for which this 'taste' and 'ideas' would be, in this Europe and this America then named by Nietzsche, but the mediocre caricatures, the talkative good conscience, the perversion and the prejudice--the 'misuse of the term' *democracy*" (Derrida 1997: 38 (*quoting* Nietzsche)) From the other side, Kronman overlooks the strongly Nietzschean strains in both Whitman's poetry and his prose. Thus, although Kronman cites Whitman for the general proposition that poetry "puts us all on common ground, rather than setting us apart," "Is Poetry Undemocratic?" at 327, for Whitman the source of that "commonality"--if that is in fact the right word for the quality of democracy that Whitman is emphasizing--is rather a "hyperbole" of individuality and singularity that is quite reminiscent of Nietzsche: "the perfect uncontamination and solitariness of individuality," as Kronman quotes Whitman ("Is Poetry Undemocratic?," at 329), to which one should compare Nietzsche's identification of the "born, sworn, jealous friends of solitude, of our own deepest, most midnight, most midday solitude" as the antidote to the "levellers" who "misuse" the name of democratic "free spirit." (Nietzsche, *Beyond Good and Evil*, 2, P44 (*translated and quoted in* Derrida 39-40, 41) Kronman concedes that what he calls the "anti-democratic" view of poetry could be interpreted as "affirming its anti-democratic tendencies as a needed antidote to the flattening of experience and judgment characteristic of modern democratic life," but ultimately rejects that interpretation as inconsistent with his commitment to democracy. "Is Poetry Undemocratic," at 334 n.70. Like Derrida's "democratic" interpretation of Nietzsche's critique of the democratic spirit (and like, I believe, Whitman's own poetic politics of democratic singularity), my point in this paper has been to suggest that an ethical insistence on singularity and exemplarity is not only consistent with democracy, but is its best hope for contesting that "flattening of experience and judgment characteristic of modern democratic life" that is Kronman's concern as well in the other works of his that I discuss.