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Translation on Trial: The Virginia Declaration of Rights (1776) in Sweden

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Summary

Tracing the international career of the 1776 Virginia Declaration of Rights to Sweden via France, this article is a study in the translation of politics and the politics of translation. Specifically, it shows how the Swedish translator, physician and publisher Lorents Münter Philipson (1765–1851) reached for it in 1792 to add to domestic arguments against hereditary office, the purpose of which, the article argues, was to revive and legitimise a more indigenous but by now slumbering rights revolution. The article first outlines the reception of America in Sweden and the ways in which Sweden figured in American debates. It then provides a detailed analysis of the trial that ensued as a response to the Swedish translation of the Virginia Declaration. Having reconstructed the process of transmission and the trial, during which the translator was charged with attacking Sweden's monarchical constitution by means of 'wrongly' translating the term 'magistrate', the article places the translation of the declaration in political context. The contextual analysis shows that translating the declaration at this particular point in time makes most sense against the background of the events unfolding in revolutionary France, which the translator hoped would influence political developments in Sweden and which the authorities sought to suppress.

Keywords: Declaration of Rights; translation; Virginia; the United States (US); French Revolution; Sweden; Philipson.

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1. Introduction

To engage in the translation of social and political concepts entails participating in—and not seldom creating—new realms of meaning and agency that may very well transcend the potentiality of the original context of invention and articulation. The fact that what may be referred to as 'conceptual time' elapses at different speeds in different places suggests that there is no one history of concepts, but always many, some of which are

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closely related across time and space and some of which are not. Writing the history of philosophy, ideas, and concepts, especially histories of big ideas like ‘the rights of man’, must accordingly be pursued in a manner that takes local contexts seriously while relating these to wider realms of transmission and meaning. The transnational appeal of a political text must not ultimately depend on its *universalistic* character but rather on how particular mediators—commentators, publishers, editors—are able to rework ideas, concepts and terms in relation to the debates that they are engaged in at a particular time and to the circumstances under which they work.¹

This article traces the international career of the 1776 Virginia Declaration of Rights to Sweden. Specifically, it shows how the Swedish physician and publisher Lorents Mûnter Philipson (1765–1851) translated it in 1792 to add to domestic arguments against hereditary office. In so doing, he revived and legitimised a more indigenous but by now slumbering rights revolution, the so-called ‘strife of estates’ that had erupted during the last four years of the ‘Age of Liberty’ (1719–1772) and during which commoners had demanded legal and political equality between the four estates.² More specifically the article shows how a seemingly marginal semantic dispute between the Crown and Philipson over the meaning of the term ‘magistrate’ turned political and how the parties hashed it out in Swedish court. At the centre of the dispute were different interpretations of whether the Virginia Declaration’s assertion about the ‘absurdity’ of hereditary office, when uttered on Swedish soil, was compatible with the Swedish Constitution.³ While the Americans were of course free to say whatever they wished about such matters, the prosecution argued, Philipson’s particular choice of Swedish terminology for ‘magistrate’—‘Öfverhetsperson’, which is close to the German ‘obrigkeitliche Person’—extended its range of meaning to include the king. At the heart of the prosecution’s case against Philipson, the article shows, was the assertion that Philipson’s translation of the term ‘magistrate’ into ‘öfverhetsperson’ proved his intent to not merely relay information about American political sentiments, as articulated in their foundational documents, but to stretch the meaning of terms in order to indict Sweden’s monarchical constitution.

The article identifies two contexts of reception and translation that shaped the way in which the controversy played out, one local and one transnational. The *local* context consisted of a persistent debate on equality, in particular the equal right to public office, which extended back to the aforementioned ‘Strife of Estates’ of 1769–1772. The conflict had only been partly resolved by reforms under Gustav III in 1772 and again by the King’s passing of an act of security. These measures stated the principle of merit and civic virtue alone as the basis of holding office and thus curtailed noble privileges to key posts in the civil service, but failed to turn it into a practice.

The *transnational* context of the translation was revolutionary France, which motivated Philipson to translate the Virginia Declaration of Rights into Swedish in 1793, seventeen years after it was written. In light of the developments in France, Swedish critics of hereditary rights recognised the possibility that their own country, whose constitution had once been heralded as the freest in Europe, would end up regressing to a type of political

¹ On the emerging interdisciplinary field of translation studies and the history of concepts and political thought, see *Why Concepts Matter: Translating Social and Political Thought*, edited by Martin Burke and Melvin Richter (Leiden, 2012).

² On the 1769–1772 ‘strife of estates’, see, for example, Peter Hallberg, ‘The Politics of Description: Egalitarianism and Radical Rhetoric in Pre-Revolutionary Europe, Sweden 1769–1772’, *History of Political Thought*, 27 (2006), 291–329; Michael Roberts, *The Age of Liberty: Sweden 1719–1772* (Cambridge, 1986), 176–217.

³ This assertion appeared not in the final but in the more radical draft versions of the Virginia Declaration, see note 7 below.

system that the Americans and the French had abolished. From the point of view of the authorities, the prospect that Sweden would follow in France's footsteps conditioned their indignant response. It is ultimately in this wider context of a transnational republican language of politics that the explosiveness of the Swedish translation of the Virginia Declaration in general and the translation of the term 'magistrate' in particular makes sense. Such a study has not yet been undertaken.⁴

The first part of this article outlines the Swedish context of the reception of the American Revolution and the republican citizen literature that it produced. In an attempt to demonstrate the transatlantic nature of eighteenth-century debates on rights, this part also includes some observations on the role of Swedish political history in *American* rights debates. The second part provides the first detailed account of the freedom of speech trial that accompanied—and furthered—the reception of the 1776 Virginia Declaration in Sweden. This part shows how the declaration passed from Virginia via the work of the French legal scholar Jacques-Vincent Delacroix (1743–1832) into Swedish rights discourse. The third and final part shows how the resurgence of American constitutional writing makes sense against the backdrop of developments in revolutionary France; how it was fitted into transnational debates on 'true nobility' as a key principle of bureaucratic legitimacy; and how the idea of living under an uncorrupted state was articulated in the language of the rights of man. Taken together, the three parts provide a detailed historical account of the translation of politics and the politics of translation, both of which are central to the history of declarations and, more broadly, of the language of rights. The article thus seeks to further our understanding of the transfer of political thought and criticism across borders through translation in the last decade of the eighteenth century.⁵

2. Transatlantic Political Languages: America and Sweden

The first person to offer a definition of the 'rights of man' that had a tangible effect on the political thought and practice of the early-modern Euro-American world was arguably George Mason, the pastoral aristocrat, slave owner, state legislator, and eventual critic of the 1787 Constitution, who drafted America's first state declaration of rights: the Virginia Declaration of Rights of 1776. Perhaps most importantly, the Virginians demonstrated 'that the rights of men [were] a practical possibility rather than merely philosophic speculation'.⁶ The domestic influence of Mason's declaration, which he drafted c. 20–25 May and with some amendments turned into the Committee Draft of 27 May, was considerable.⁷ Benjamin Franklin turned to it when he drafted Pennsylvania's Declaration of Rights (1776) and

⁴ Robert R. Palmer, *The Age of the Democratic Revolution: A Political History of Europe and America, 1760–1800: The Challenge* (Princeton, NJ, 1959) is keen to trace the spread of both the American and state declarations of independence across Europe, but does not mention that the Virginia Declaration was published in Sweden.

⁵ See further Andreas Önerfors, 'Translating Discourses of the Enlightenment: Trans-cultural Language Skills and Cross-references between Swedish and German Educated Journals in the 18th Century', in *Cultural Transfer through Translation: The Circulation of Enlightened Thought in Europe by Means of Translation*, edited by Stefanie Stockhorst (Amsterdam, 2010), 209–29.

⁶ Reinhard Bendix, *Kings or People: Power and the Mandate to Rule* (Berkeley, CA, 1980), 349. Among the civil rights that Mason enumerated were freedom of the press, freedom of conscience, and the guarantee of trial by jury.

⁷ The Virginia Declaration of Rights went through three drafts during the early summer of 1776: Mason's original draft (c. 20–26 May), the Committee draft (27 May), and the final draft (12 June), which appeared three weeks before the adoption of the American Declaration of Independence. While the second draft was published in newspapers throughout the colonies, the third was published only in Virginia. It was accordingly the second draft, which kept much of Mason's original ideas and wording but added a number of articles (Articles 6, 8, 11, 12, 15, and 16), that extended influence on debates.

John Adams used it as a basis for Massachusetts's in 1780. Mason's language was recycled in many other state constitutions—Delaware (1776), Maryland (1776), North Carolina (1776), Vermont (1777), and New Hampshire (1784)—and Thomas Jefferson, a fellow Virginian, shrunk three clauses of the Committee Draft, which in short order had been published in Philadelphia papers, into one single elegant sentence, which became the second paragraph of the American Declaration of Independence (1776). Mason's declaration also served as a source for Madison's drafting of the Bill of Rights that came into being in 1791 through the ratification of the first ten amendments to the Constitution.⁸ As Adams told Jefferson, Virginians seemed to have a knack for drafting declarations of rights.⁹

The Virginia Declaration was firmly planted in the particular economic and political circumstances of that state. Mason himself was a passionately local man and the independence he and his fellow committee members declared was for British Virginians and not for others.¹⁰ Put differently, the rights enumerated in the Virginia Declaration and its local and national successors were firmly embodied in the politics of a specific polity and as such predicated on the status of citizenship as opposed to the status of being a human being in general.¹¹ By choosing the word 'persons' or 'men' rather than 'citizens' and by refraining from imposing a geographical limitation for the rights it enumerated, the Virginia Declaration, like the Bill of Rights that it influenced, nevertheless reflected a universalistic commitment to respect the individual rights of all human beings. In declaring that their rights were ultimately the rights of *all* men, the Virginia draughtsmen set in motion assertions that could be used for different purposes and in other contexts.

The centre for the 'sacralisation' of the American experience in Europe was not surprisingly France, where even conservatives could see in American progress signs that British dominance was on its last legs. More liberal segments of public opinion extolled the colonists' bravery and recast the new political principles as an implicit critique of monarchical absolutism and the culture of privilege. To writers like Turgot, Brissot, Diderot, Mandrillon, and Condorcet, America was, as Diderot put it, 'an asylum from fanaticism and tyranny'.¹² The most conclusive evidence of the Declaration's influence abroad was of course the French Declaration of the Rights of Man and the Citizen (1789), which in turn served as the preamble to the Constitution of 1791.¹³

⁸ Richard E. Labunski, *James Madison and the Struggle for the Bill of Rights* (Oxford, 2006), 8; *The Legacy of George Mason*, edited by Josephine F. Pacheco (Cranbury, NJ, 1983), 20. On the Virginia Declaration's influence, see Philip F. Detweiler, 'The Changing Reputation of the Declaration of Independence: The First Fifty Years', [The William and Mary Quarterly,] 19 (1962), 557–74 (561); David Armitage, *The Declaration of Independence: A Global History* (Cambridge, MA, 2007), 90; John E. Selby, *The Revolution in Virginia, 1775–1783*, second edition (Charlottesville, VA, 2007), 103; Pauline Maier, *Ratification: The People Debate the Constitution, 1787–1788* (New York, NY, 2011), 39; Jack N. Rakove, *Declaring Rights: A Brief History with Documents* (Boston, MA, 1998), 1–2, 77. See further the illustration of the declaration's 'family tree' and the log of state and local declarations of independence in April and June of 1776 in Pauline Maier, *American Scripture: Making the Declaration of Independence* (New York, NY, 1998), 166, 217–23.

⁹ John Adams, *The Works of John Adams* (Boston, MA, 1865), 10 vols (1856–65), II, 512–16. See further Maier, *Ratification*, 39–49; Jeff Broadwater, *George Mason, Forgotten Founder* (Chapel Hill, NC, 2006).

¹⁰ Maier, *Ratification*, 40.

¹¹ Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge, MA, 2010), 13, 25.

¹² Quoted from Bendix, *Kings or People*, 348.

¹³ According to Palmer, *Age of the Democratic Revolution*, 263–65, France was the most eager receptor of documents pertaining to American constitution making. American state constitutions were published in France on at least five occasions between 1776 and 1786. See further Palmer, *Age of the Democratic Revolution*, 487, 518–21; Meier, *American Scripture*, 168; Lynn Hunt, *Inventing Human Rights: A History* (New York, NY, 2007), 127; Helen Hill Miller, *George Mason: Gentleman Revolutionary* (Chapel Hill, NC, 1975), 142; Richard

Hardly a political or intellectual power on par with France, Sweden had in fact been entangled in the history of rights during the seventy years or so *before* the French Revolution. Having renounced royal absolutism in 1719, the country's political system became characterised by near complete parliamentary rule.¹⁴ The meetings of the four estates at triennial Diets meant that, by European standards, an unusually large segment of the population was exposed to electoral and representative politics.¹⁵ As early as the 1740s, some had claimed that the system of representation had to be reformed even further to ensure that elected representatives be bound by the will of their constituents on specific votes, as opposed to letting them rely on their own interpretation of the matter at hand and vote as they found right and proper.¹⁶ In 1765, a reformer boldly suggested that 'no one should [...] be another man's lord, no one another man's thrall; everyone has the same rights; everyone the same precedence'.¹⁷ On a continent predominately under the sway of absolute rulers, Sweden's path earned praise from European philosophers, including Voltaire, Rousseau, the Abbé de Mably, D'Alembert, and Diderot, as well as from Scottish, Italian, and German commentators.¹⁸

Intense attacks on noble privilege in the years 1769–1772 had radicalised Swedish public discourse even further, culminating in demands that all three commoner estates be granted privileges of their own. During the 1771–1772 Diet, commoners and nobles clashed head on. Reaping the benefits of the Ordinance for the Liberty of Printing of 1766, which placed few limitations on free speech and gave private individuals extensive access to public documents, the debates released a flood of radical journals and pamphlets that were answered in turn by defenders of the status quo. As Franco Venturi notes, Sweden was one of the first places where 'the passions and hopes, and the revolts and protests [...] which proved in the end to be incompatible with the political and social realities inherited from traditions of the past' emerged.¹⁹ In 1771 and 1772, writes Michael Roberts, 'it seemed at least possible [...] that Sweden might be on the eve of some such revolution as was to occur in France twenty years later'.²⁰ Swedes during the Age of Liberty, H. A. Barton concludes, were already 'accustomed to very much the same kind of political vocabulary' that developed in revolutionary America.²¹ In the autumn of 1772, these

B. Morris, *The Emerging Nations and the American Revolution* (New York, NY, 1970); Georges Lefebvre, *The Coming of the French Revolution* (Princeton, NJ, 2005), 212.

¹⁴ The king had to rule with the approval of the Council of the Realm, or government, which in turn answered to the Estates of the Realm, consisting of the estates of nobles, clergy, burghers and peasants, each of which were given one vote in legislation.

¹⁵ Roberts, *Age of Liberty*, 71.

¹⁶ The reform was, however, never realised; see Carl Gustaf Malmström, *Sveriges politiska historia från Karl XII:s död till statshöfningen 1772*, second revised edition (Stockholm, 1897), 6 vols (1893–1901), III, 219ff.

¹⁷ Michael F. Metcalf, 'Challenges to Economic Orthodoxy and Parliamentary Sovereignty in 18th Century Sweden', *Legislative Studies Quarterly*, 7 (1982), 251–61 (257).

¹⁸ Roberts, *Age of Liberty*, 59; Franco Venturi, *The End of the Old Regime in Europe, 1768–1776: The First Crisis* (Princeton, NJ, 1989), 279–339; 'Peuple, le', in *Encyclopédie, ou dictionnaire raisonné des sciences, des arts et des métiers*, etc., edited by Denis Diderot and Jean le Rond D'Alembert, University of Chicago ARTFL Encyclopédie Project (Spring 2011 Edition), edited by R. Morrissey, <http://encyclopedia.uchicago.edu/> [accessed 9 September 2014], VI, 21; XII, 476; XV, 624; Mathias Persson, *Det nära främmande: Svensk lärdom och politik i en tysk tidning 1753–1792* (Uppsala, 2009), 19. See further Horst Dippel, *Germany and the American Revolution 1770–1800: A Sociohistorical Investigation of Late Eighteenth-Century Political Thinking* (Wiesbaden, 1978); Andreas Önnersfors, *Svenska Pommern: kulturmöten och identifikation 1720–1815* (Lund, 2003).

¹⁹ Venturi, *The End of the Old Regime*, ix.

²⁰ Michael Roberts, *Essays in Swedish History* (London, 1967), 280.

²¹ H. Arnold Barton, 'Sweden and the American War of Independence', *The William and Mary Quarterly*, 23 (1966), 408–30 (409). In Swedish, the most comprehensive treatment of America in eighteenth-century Swedish literature is still Harald Elovson, *Amerika i svensk litteratur. En studie i komparativ litteraturhistoria* (Lund, 1930).

passions were halted as Gustav III restored the monarchy. Although he instituted a number of social reforms, including the abolition of torture, and provided legal protections for the freedom of religious worship, he did not support the egalitarian ideology of the commoners. He swiftly ended parliamentary sovereignty, curtailed freedom of speech and in effect saved the nobility from what to many seemed like a social revolution in the making. According to the regime's rhetoric of legitimation, free citizens now enjoyed the protection of a Patriot-King ever vigilant to stave off a descent into partisanship and anarchy.

It was in this new context, four years into the rule of a 'Patriot-King' but with vivid memories of the period that preceded it, that the culmination of the American struggle for independence was received in Sweden. Reactions to the colonists' decision to sever their ties to Britain were mixed. Some publications were outright hostile and drew on anti-American opinions in British and German publications. Others showed no particular empathy with Britain but still viewed the revolution as an illegitimate usurpation of power vested in one of the most revered constitutions in Europe. Yet others saw in the American Revolution a sign of the ultimate victory of liberty but used such vague language of praise that any application to Swedish conditions for the most part passed readers by. The poet Bengt Lidner had vigorously defended the American colonists' cause in a short dissertation of 1777, *De jure revolutiones Americanorum*, where he, seeing as he was far away from the theatre of war and could not join the battle in person, vowed to 'fight for the legitimacy of their revolution from the pulpit, not with cannons but with arguments, not with sword but with reason'.²² Seven years later Lidner returned to American affairs, now singing the praises of Washington's snatching 'a bloody sceptre from the tyrant's hand'.²³ Fringe publications of the early 1780s, which were being closely watched by the authorities, decidedly backed the colonists' cause.²⁴

Early in his reign, Gustav III had agreed with the assessment that the American Revolution had indeed benefited the cause of humanity. Just four months after Congress adopted the American Declaration of Independence he said that he, had he not been king, 'would go to America to follow up close every phase in the emergence of this new republic'.²⁵ He had signed a treaty with the independent United States of America on 3 April 1777, thus becoming the first neutral state, alongside Morocco, to recognise its independence. Nevertheless, he viewed the American Revolution as a potentially fatal precedent for similar developments in his own country.²⁶ He had written to his ambassador in Paris that he, as a matter of principle, 'could not admit that it is right to support rebels against their king. The example will find only too many imitators in an age when it is the fashion to overthrow

²² Bengt Lidner, *De jure revolutiones Americanorum* (Greifswald, 1777) in *Poetens monopolium: Lidner 250 år*, edited by Anna Cullhed (Lund, 2009), 359–71 (361). All translations are my own. Lidner relied heavily on Montesquieu's *De l'esprit des loix* (1748) and made ample use of contemporary German writings on the American Revolution. On Lidner's sources and the circumstances of his dissertation, see Anna Cullhed and Krister Östlund, 'Lidners avhandling om den amerikanska revolutionen', in *Poetens monopolium*, edited by Cullhed, 341–57; Önnersfors, *Svenska Pommern*, 150.

²³ Bengt Lidner, *Året M. DCC. LXXXIII* (Stockholm, 1784), quoted from H. Arnold Barton, *Scandinavia in the Revolutionary Era, 1760–1815* (Minneapolis, MN, 1986), 123. See further Elovson, *Amerika i svensk litteratur*, 132ff.

²⁴ Barton, 'Sweden and the American War of Independence', 409–10. See, for example, *Tryckfriheten den Wälsignade* [*The Blessed Liberty of the Press*], 28 April 1783.

²⁵ Quoted from Gunnar von Proschwitz, *Gustaf III – mannen bakom myten: ett självporträtt i brevform* (Stockholm, 1992), 149.

²⁶ Sweden signed a Treaty of Amity and Commerce with America on 3 April 1783; see Barton, 'Sweden and the American War of Independence', 412.

every bulwark of authority'.²⁷ In 1779 Gustav banned the Abbé Raynal's *Histoire philosophique et politique des établissements et de commerce des Européens dans les deux Indes* (1770), a hugely popular work that fed pro-American views to the radical press all over Europe.²⁸ Fourteen short chapters specifically dedicated to the revolution in America had been published, without Raynal's consent, in Stockholm that year.²⁹ The colonists' rebellious stance against George III, the King conceded in a 1782 letter to his ambassador to France, was impossible for him to support. The American issue thus boiled down to a tug of war between the right of monarchs and the force of rebels: 'this is the cause of kings', he concluded, and the only circumstance under which he could support the colonists was if George III 'released them from the oath of allegiance which they have sworn him and [declare] them free and independent'.³⁰ In addition to heeding the demands of his station and the foreign policy objectives of his regime, Gustav had to take into consideration the growing dissent among Finnish noble officers who, since 1781, had started to identify with the American revolutionaries as a way to legitimise their wish to become independent from the Swedish crown.³¹ The officers' reference to their commander as 'a second Washington, the saviour of his oppressed fatherland, and the founder of its freedom and felicity' could not be mistaken.³²

Gustav III's disenchantment with America was reciprocated by the colonists, who during the build-up to independence invoked his 'revolution' of 1772 as a warning for free republics everywhere and for an independent America in particular. The very same year Gustav restored the monarchy, colonists in Boston used the events transpiring in Sweden as a premonition to stay ever vigilant against royal usurpation. In the widespread pamphlet *Votes and Proceedings of the Freeholders and Other Inhabitants of the Town of Boston* (1772), readers were told that recent events in Sweden testified to the dangers of absolutism. 'The Swedes', the pamphlet concluded, 'were once a free, martial and valiant people: Their minds are now so debased that they even rejoice at being subject to the caprice and arbitrary power of a tyrant, and kiss their chains'.³³ Samuel Adams used exactly the same phrases in 'A Letter of Correspondence to the other Towns' (1772).³⁴ In 1774, pastor Samuel Williams looked at Europe and lamented that the flame of freedom 'is going out. Two kingdoms, those of Sweden and Poland, have been betrayed and enslaved in the course of one year'.³⁵ Attempting to put an end to the Americans' 'dream' of reconciling with Britain, Thomas Paine cited Sweden of 1772 as an example

²⁷ Quoted from Barton, 'Sweden and the American War of Independence', 420.

²⁸ The third edition (1780) had already been condemned by French censors.

²⁹ Guillaume T. F. Raynal, *Révolution de L'Amérique* (Stockholm, 1781). The French manuscript apparently came to Stockholm via London, where it was printed as *The Revolution of America* (London, 1781).

³⁰ Quoted from Barton, 'Sweden and the American War of Independence', 420–21. See also Elovson, *Amerika i svensk litteratur*, 92.

³¹ Finland was part of the Swedish realm until 1809, when it became an autonomous part of the Russian empire.

³² Barton, *Scandinavia in the Revolutionary Era*, 123. See also Stig Ramel, *Göran Magnus Sprengtporten: för-rädare och patriot* (Stockholm, 2003), 58.

³³ *The Votes and Proceedings of the Freeholders and Other Inhabitants of the Town of Boston, in Town Meeting Assembled* (1772).

³⁴ Samuel Adams, 'A Letter of Correspondence to the Other Towns [Boston, 1772]', in S. Adams, *The Writings of Samuel Adams*, edited by Harry A. Cushing, 4 vols (1904–08), II, New York, NY. <http://www.gutenberg.org/cache/epub/2092/pg2092.html> (accessed 2 September 2014).

³⁵ Samuel Williams, *A Discourse on the Love of our Country* (Salem, 1774), quoted from Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, MA, 1967), 66 note. Bailyn also cites a footnote in Daniel Dulany's *Considerations on the Propriety of Imposing Taxes in the British Colonies* (1765). The only reference to Sweden I can locate in the *Considerations* is a footnote mentioning Samuel Pufendorf (1632–1694), who for a time worked at the University of Lund and served as *historiographus regni* to Charles XI (1660–1697).

of what all too easily happens when the people petition their king to secure their rights: fatherly protection soon becomes the rationale for absolutism.³⁶ Writing for the *Boston Gazette*, Adams in 1781 returned to the case of Sweden to write about Gustav III's hero, Gustav Vasa (1520–1560), illustrating the ways in which liberators quickly turn against liberty.³⁷ In the singular substantial reference to Sweden in *The Federalist* Alexander Hamilton cited Sweden in the last years of the Age of Liberty as one of 'many mortifying examples of the prevalency of foreign corruption in republican governments'; towing at first the propaganda line of partisanship and corruption promoted by Gustav III, Hamilton eventually concluded, in a distinctly anti-monarchical vein, that although corruption was the principal cause behind Gustav's rise to power, he all too soon 'became one of the most absolute and uncontrolled' monarchs in Europe.³⁸ Responding to Gustav III's refusal to allow Count Axel von Fersen, a prominent Swede who had fought in the American War of Independence under French command, to enrol in the French chapter of the Society of the Cincinnati, George Washington commented on Gustav's seemingly instinctive fear 'at any thing which might have the semblance of republicanism'.³⁹

Gustav III's abandonment, during the course of the 1780s, of the colonists' cause did little to inhibit the public's interest in American developments. Like their counterparts elsewhere in Europe, the Swedish radical papers of the 1790s navigated between a lost world—the age of the Greek city-states and the Roman republic—and the brand new world ushered in by the American and French revolutions. With signal names like *Patrioten* [*The Patriot*, 1792–1794], *Medborgaren* [*The Citizen*, 1788–1790, 1792, 1793], and *Werlds-Borgaren* [*The Cosmopolitan*, 1792], these papers made frequent use of staple republican sources, many of which were used by European and American writers as well. Already at mid-century, Swedish interest in America as an exotic and primitive place—a happy place somewhere between a state of nature and a civil society—had largely given way to a 'civic' interest in their political institutions. America became the reincarnation of a new golden age in the making, a New Jerusalem.⁴⁰ The Swedish periodicals of the early 1790s did acknowledge that American port cities like Boston and Philadelphia displayed the same kind of material overabundance and appetite for luxury and ornamentation as one would find in, say, London or Paris. But the American inland, by contrast, remained unadulterated. There, *Patrioten* reported, travellers would encounter people who barely knew what money was and yet were better dressed and had a taste for heartier food and simpler furniture than many of 'our gilded idols in their grand houses and glittering carriages'.⁴¹

³⁶ Thomas Paine, *Common Sense* (Cambridge, 2011), 44.

³⁷ Samuel Adams, 'Extract of a Letter from the Southward, *Boston Gazette*, 16 April 1781', in *Writings of Samuel Adams*, IV, 212. Gustav Vasa was immortalised in Swedish history for ending Sweden's Union with Denmark and Norway, the so-called Kalmar Union, which lasted from 1389 to 1521 and was felt to oppress the Swedish people. Adams's source was in all likelihood *The History of the Revolutions in Sweden* [*Histoire des révolutions de Suède*, 1695], which formed part of a popular multi-volume work on the political histories of Rome, Portugal, and Sweden by the Abbé Vertot (1655–1735). His volume on Sweden was readily available in private and public libraries and from booksellers in New York, Philadelphia, and Virginia; see Trevor Colbourn, *The Lamp of Experience* (Indianapolis, IN, 1998), Appendix II.

³⁸ Alexander Hamilton, James Madison, and John Jay, *The Federalist, with Letters of 'Brutus'* (Cambridge, 2003), no. 22, 104.

³⁹ Quoted from William Doyle, *Aristocracy and Its Enemies in the Age of Revolution* (New York, NY, 2009), 121.

⁴⁰ See Elovson, *Amerika i svensk litteratur*, 10, who contrasts 'exoticism' (and its emphasis on 'savages') with 'civism' (and its emphasis on the 'colonist').

⁴¹ *Patrioten*, 1792, 22/23, 107.

The radical press focused primarily on the new republic's propensity to grow politically and culturally. *Werlds-Borgaren* proclaimed: 'America is the theatre where human nature shall probably reach its latest and most consummate literary, moral and political heights'.⁴² Referring specifically to the rights-based political culture in the New World, *Patrioten* characterised the American judicial system as founded on 'affection and reason'.⁴³ Any such political commentary had to contend with Gustav III's ordinance for the liberty of printing (1774), which contained a number of restrictions on the freedom of information and the right to anonymous publication.⁴⁴ Official anxiety ran especially high with regard to the periodical press.⁴⁵ In 1785, Gustav gave himself the sole right to approve applications to set up printing houses and publish periodicals. Printing privileges could at any time be revoked. In 1790 he prohibited newspapers and journals from writing about the events unfolding in France and in 1792 he went on to abolish the guarantee for freedom of information altogether.

The Crown's first serious attempt to slow down the transmission of the vocabulary of 'the rights of man' occurred in response to the Swedish translation of Thomas Paine's *Rights of Man*, which the *Gazette Nationale de France* reported was quite successful.⁴⁶ The royal attack machine was quickly mobilised to shame translator C. F. Nordenskiöld into silence through a scathing critique of the poor quality of the translation.⁴⁷ In his periodical *The Citizen* (1788–1793), Nordenskiöld too had idolised America as having taught all the world's people that 'all men are born free and equal'. 'The virtuous Americans', he concluded, 'will soon teach all nationalities the meaning of the Majesty of Nations: the Majesty of Man! [...] Philosophers, Friends of Mankind, Citizens, what a magnificent prospect for you'.⁴⁸

The episode with the translation of the *Rights of Man* is indicative of how the Crown actively enlisted loyal writers to blunt the impact of radical republican political thought. A much more aggressive policy gave rise to one of the most publicised free speech trials of the 1790s: the prosecution of Lorents Münter Philipson, the editor of *Patrioten*, for translating and publishing material pertaining to the political philosophy of the American Revolution. The authorities interpreted Philipson's publishing endeavour as a way to advocate the idea that not only hereditary public office but also *hereditary monarchy* was illegitimate and absurd.⁴⁹ In contrast to the situation in America, where royal authority and hereditary

⁴² *Werlds-Borgaren*, 1792, 24/25, 200.

⁴³ *Patrioten*, 1793, 24/25, 302–06 (306).

⁴⁴ An addendum the same year stipulated that the printer was solely responsible for what went through his presses. Shrewdly using the logic of print capitalism to his own advantage, Gustav realised that printers, who relied on being able to print to make a living, would turn every publication decision into a business decision, thus ensuring that libellous writings were never printed in the first place; see Bengt Åhlen, *Ord mot ordningen: farliga skrifter, bokbål och kättarprocesser i svensk censurhistoria* (Stockholm, 1986), 116; Elmar Nyman, *Indragningsmakt och tryckfrihet 1785–1810* (Stockholm, 1963), 29–70.

⁴⁵ Claes-Göran Holmberg, Ingemar Oscarsson, and Per Rydén, *En svensk presshistoria* (Stockholm, 1983), 32.

⁴⁶ *Gazette Nationale de France*, 8 November 1792, in Per-Adolf Lange, 'Tidningen Patrioten 1792. En studie i svensk radikal opinion och publicistik under den franska revolutionens dagar', *Samlaren*, 25 (1944), 203–17 (211 note 1).

⁴⁷ See Jakob Christensson, *Lyckoriket. Studier i svensk upplysning* (Stockholm, 1996), 227–28, 427 note 87. Many other papers commented on Paine's book as well, and at least one of them—*Tryckfriheten den Wälsignade*, 29 October 1792—published parts of it in its own translation; see Alma Söderhjelm, *Sverige och den franska revolutionen*, 2 vols. 1920–24 (Helsingfors, 1924), II, 131.

⁴⁸ Thomas Paine, *Människans Rättigheter* (Stockholm, 1792), quoted from the English translation in Barton, *Scandinavia in the Revolutionary Era*, 23.

⁴⁹ The relevant court protocols are dated 24, 25, 26, and 29 October, 2 and 14 November, and 17, 20, and 21 December 1792, all of which were published in full in *Patrioten*, 7 June 1793. References to the prosecution's argument are to this publication, thus adhering to common practice in existing scholarly commentary on the

office had of course been abolished, the Swedish constitution included provisions for noble and clerical privileges, as well as extensive prerogatives for a hereditary monarchy.

3. The Trial

In November 1793, Philipson was summoned to the Court of Appeals in Stockholm. He had appeared before the Court a few weeks earlier to hear charges that he had violated Swedish laws by translating the English word ‘magistrate’ in a way that undermined the Swedish constitution. Only on the third day of hearings did the prosecutor ask him to produce the document he had translated. Testifying to the transnational circuit of print in the eighteenth century, the work that Philipson brought with him to court was not the original committee draft of the Virginia Declaration that had circulated in the American colonies, but a French translation of it that had appeared in Jacques-Vincent Delacroix’s *Constitutions des principaux États de l’Europe et des États Unis de l’Amérique* (1791).⁵⁰ Delacroix erroneously suggested that the American constitution, like its French counterpart, was preceded by a declaration of rights and that this was the document he was translating from and comparing to the French Declaration of Man and the Citizen.⁵¹ Admittedly he refers at the outset not to the United States of America (*les États-Unis de l’Amérique*) but to the *states* of America (*les États de l’Amérique*), whose constitutions were indeed preceded by such declarations.⁵² Nevertheless, Delacroix failed to mention that he was in fact quoting from the Virginia Declaration and referred instead to the state declaration under review as ‘the Americans’ declaration [*la déclaration des Américains*]’.⁵³ Relying on Delacroix’s translation instead of original documents, Philipson too mistook the Virginian document for an ‘American’ one. This case of textual mistaken identity from 1792 has persisted in scholarship for 220 years, including the most authoritative works of the twentieth century and the biographical entry for Philipson in the National Archives’ *Dictionary of Swedish National Biography* from 2012.⁵⁴

The part of the Virginia Declaration that elicited the Swedish authorities’ charges against Philipson was the passage on political equality (Article 4), which suggested that governance in the New World broke sharply from the culture—and cult—of hereditary

episode; see Nyman, *Indragningsmakt och tryckfrihet*, 82 note 41; Elovson, *Amerika i svensk litteratur*, 164 note 2; Stellan Arvidson, *Thorild och den franska revolutionen* (Stockholm, 1938), 237 note 1; Söderhjelm, *Sverige och den franska revolutionen*, 165–66; Lange, ‘Tidningen Patrioten’, 215. There is no mention of the original protocols in the article on Philipson in the National Archives’ *Dictionary of Swedish National Biography* from 2012; see Christer Sundberg, ‘Lorens Münter Philipson’, in *Svenskt biografiskt lexikon*, <http://www.nad.riksarkivet.se/sbl/Presentation.aspx?id=7265> [accessed 29 November 2014]. My own efforts to locate the original protocols in the National Archives have failed, which, in light of earlier scholars’ reference practices, suggests that they are in fact not available.

⁵⁰ Jacques-Vincent Delacroix, *A Review of the Constitutions of the Principal States of Europe, and of the United States of America*, translated by Elizabeth Ryves (London, 1792).

⁵¹ Delacroix, *Constitutions of the Principal States*, II, 385.

⁵² Delacroix, *Constitutions of the Principal States*, II, 371.

⁵³ Delacroix, *Constitutions of the Principal States*, II, 388.

⁵⁴ Sundberg, ‘Lorens Münter Philipson’ states that Philipson in *Patrioten* ‘presented the North American constitution’; Arvidson, *Thorild och den franska revolutionen*, 235, refers to the draft Virginia Declaration of Rights as ‘the declaration of principles that laid the foundation of the American constitution’; Söderhjelm, *Sverige och den franska revolutionen*, 164–65, speaks of it as ‘a translation of the North American constitution’; and Nyman, *Indragningsmakt och tryckfrihet*, 82, states that Philipson had ‘printed an outline of the form of government in North America and cited the following lines [i.e., Art. 4 of the draft Virginia Declaration] from the declaration of principles that served as the foundation of its constitution’. See also Lange, ‘Tidningen Patrioten’, 215. However, Elovson, *Amerika i svensk litteratur*, 140 note 3, 165 note 55, is an exception in having noticed Delacroix’s and Philipson’s error, but the author does not pursue this point beyond mentioning it in two footnotes.

rights and privileges of the old. Throughout the 1780s European rulers had introduced various creative constitutional solutions that introduced some measure of extending equal rights while maintaining noble privileges, an institution that for centuries had itself been viewed as part of nature's or God's design.⁵⁵ Only with the French Declaration of 1789 and its unequivocal abolishment of nobility did Europeans receive something akin to the egalitarian precepts of the American declarations.⁵⁶ Already at an early stage in the drafting process George Mason had identified the denial of hereditary privileges as one of the ten points he believed constituted 'the basis and foundation of government'.⁵⁷ In the Committee draft of the declaration, the article on political equality read:

That no Man, or Set of Men are entitled to exclusive or separate Emoluments or Privileges from the Community, but in Consideration of public Services; which not being descendible, or hereditary, the Idea of a Man born a Magistrate, a Legislator, or a Judge is unnatural and absurd.⁵⁸

The difference of tone between the Committee draft and the final formulation of this particular article was not insignificant. Both documents stated the principle of equality as referring to the absence of hereditary privileges to political office, but whereas the final declaration left it at that, the draft that Delacroix translated into French—occasionally taking great liberties with the translation and incorporating wordings from other state declarations—was crowned with the concluding opinion, just quoted, that the idea of inheriting a public office was 'unnatural and absurd'.⁵⁹ This rhetorical flourish was in effect a negative formulation of the famous positive principle 'that all Men are born equally free and independent, and have certain inherent natural Rights'.⁶⁰

⁵⁵ The annotated reprints of various legal and constitutional documents between 1782 and 1791 in Palmer, *Age of the Democratic Revolution*, 508–17 are illustrative of this point.

⁵⁶ Paul Downes, *Democracy, Revolution, and Monarchism in Early American Literature* (Cambridge, 2002), 5.

⁵⁷ Selby, *The Revolution in Virginia*, 101.

⁵⁸ George Mason, 'The Virginia Declaration of Rights (Committee draft)', http://www.gunstonhall.org/georgemason/human_rights/vdr_first_draft.html [accessed 14 September 2014]. The French translation, which was of the draft, reads: 'Aucun homme ni aucune classe d'hommes ne peut avoir droit à des émolumens, ni à des privilèges particuliers & exclusives, que pour des services rendus au public; & un tel droit ne pouvant être héréditaire, l'idée d'un homme né magistrat, législateur ou juge, est absurde'; see Delacroix, *Constitutions des principaux*, II, 344, emphasis added. Philipson's Swedish translation, also of the draft declaration, reads: 'Ingen människa och ingen class af människor kan äga rättighet till fördelar, icke eller til enskilde och uteslutande Privilegier, utan för gjorda tjänster åt det allmänna; och då en sådan rättighet icke kan wara ärftelig, så är begreppet at födas Öfwerhets-person, Lagstiftare eller Domare en orimlighet'; see *Patrioten*, 1792, 22/23, 106.

⁵⁹ Mason, 'Virginia Declaration (Committee draft)'. The committee draft of 27 May retained Mason's original potent formulation that hereditary office was 'unnatural and absurd' (Art. 4), while the final draft of 12 June deleted these words and redrafted it to read that 'no man, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services, which, not being descendible, neither ought the offices of magistrate, legislator, or judge be hereditary'. The Virginia Declaration of Rights (Final draft), http://www.gunstonhall.org/georgemason/human_rights/vdr_final.html (accessed on 22 July 2015). As for other state declarations, the Massachusetts Declaration of Rights (1780) kept Mason's initial wording (Art. 6), but reversed the order of the two words, while the Maryland Declaration of Rights (1776) settled for the formulation that 'no title of nobility or hereditary honors ought to be granted in this State' (Art. 40). Constitution of Maryland, <http://msa.maryland.gov/msa/mdmanual/43const/html/00dec.html> (accessed on 22 July 2015). The North Carolina Declaration (1776) similarly stated that 'no hereditary emoluments, privileges or honors ought to be granted or conferred in this State' (Art. 22) <http://www.nhinet.org/ccs/docs/nc-1776.htm> (accessed on 22 July 2015) and the New Hampshire Declaration (1784) said that 'no office or place whatsoever in government, shall be hereditary', adding that 'the abilities and integrity' required for public office are not 'transmissible to posterity and relations' (Art. 9) <https://www.nh.gov/constitution/billofrights.html> (accessed on 22 July 2015). The declarations of Delaware, Pennsylvania, and Vermont made no mention of hereditary privileges or offices at all.

⁶⁰ Mason, 'Virginia Declaration (Committee draft)'.

Delacroix offered his abridged account of American colonial history, in combination with an article-by-article comparison between the Virginia Declaration and the French Declaration as a lesson to French legislators. According to Delacroix, Mason's statement on political equality was clearly applicable not only to republican forms of government but also to places 'where the crown is elective'.⁶¹ Delacroix then made a curious turn in the sense that he accepted the legitimacy of hereditary monarchy: 'To receive a monarch from the hands of nature is sufficient: all other administrators should be chosen from those citizens distinguished by public virtue; and be raised by the voice of the people to the right of governing them'.⁶² The gist of the Virginia Declaration's statement was that *no* public offices—be they 'magistrates, intendants, ministers, [or] generals [*des magistrates, des intendants, des ministres, des généraux*]—should be hereditary but based solely on merit and controlled by mechanisms of transparency and accountability.

By translating and publishing Delacroix's translation of Mason's words about hereditary privilege as 'unnatural' and 'absurd' into Swedish, the prosecution argued, Philipson had, 'under the heading of those principles which in the United States in North America should serve as the foundation for their republican form of government' mounted an attack on key provisions in the *Swedish* constitution, which asserted hereditary noble privileges and hereditary monarchy as rights. In strictly legal terms, the prosecution argued that Philipson, having cast a 'licentious shadow on, among us, well-established and most sacred rights', had acted in violation of the Ordinance of the Liberty of Printing and the fifth article of the sixth chapter (on 'Mutiny and rebellion') in the Penal Code.⁶³ Gustav III's Act of Union and Security (1789) had not been vague on this point: Article 1 stated that 'the king is hereditary' and Article 4 that 'the high dignities and principal offices of the kingdom, and employments at court, are exclusively reserved for the equestrian order and the nobility'.⁶⁴ In reality, recruitment to the civil service, also at lower levels, remained skewed in favour of the nobility, which is why the Americans' meritocratic principles got a foothold in Swedish rights debates. Indeed, one of the main features of Gustavian rule was the active policy of putting a premium on blood relations and rewarding supporters by systematically using offices as currency in an elaborate economy of favouritism and rewards.⁶⁵

The prosecution's sole attention revolved around the meaning of the word 'magistrate' in Philipson's Swedish translation, which rendered Delacroix's French term *magistrat* as 'Öfwerhetsperson'. It was this word that indicated which offices were unnatural and absurd. The general term that Delacroix used for the kinds of offices he mentions was 'administrators [*administrateurs*].⁶⁶ In normal usage, the prosecution argued, the

⁶¹ Delacroix, *Constitutions of the Principal States*, II, 347.

⁶² Delacroix, *Constitutions of the Principal States*, II, 390.

⁶³ See *Patrioten*, 1793, 24/25, 260; Nyman, *Indragningsmakt och tryckfrihet*, 82. According to Ch. 6, Art. 5 of the Penal Code that formed part of the then current Statute Book of Sweden (1734), '[h]e who, in bad faith, writes or disseminates in the land untruths and false rumours that concern the security of the Realm, or who thereby cause general noise and alarm, shall [lose their life, or] be punished by exile, lashing, or internment, according to the crime committed'.

⁶⁴ The Act of Union and Security (1789), quoted from the English translation in Palmer, *Age of the Democratic Revolution*, 512. At the time of its introduction in parliament, the act was welcomed by the three commoner estates and passed without the consent of the estate of the nobility, which objected to its emphasis on equality. Already in 1772, and as a sign of their newfound strength, commoners had managed to change the wording of Gustav III's Accession Charter of 1772 so that it read that merit was the sole qualification for public office.

⁶⁵ See Maria Cavallin, *I kungens och folkets tjänst. Synen på den svenske ämbetsmannen 1750–1780* (Göteborg, 2003).

⁶⁶ Delacroix, *Constitutions of the Principal States*, II, 347 and 390.

Swedish term ‘Öfwerhetsperson’ referred only to kings and their families. Using it in the context of the Virginia Declaration hence changed the original meaning of Article 4 to suggest that hereditary monarchy too was ‘unnatural and absurd’. A correct translation of ‘magistrates’, the prosecution argued, would have been ‘embetsmän’, whose appointment to office, the Act of Security and Union had stated, was indeed open to all and based on merit, not birth. According to the prosecution Philipson had made an ‘incorrect translation [*origtig öfwersättning*]’ and thereby applied a specific term pertaining to America’s form of government to refer to ‘magistrates in general [*Öfwerhets-personer i allmänhet*]’, a meaning that had never been intended by the Americans.⁶⁷ Since the American republic did not have a king at the helm of government, the argument went, they could hardly have meant to discuss the rights and obligations of such an authority. Put another way, Philipson had wilfully taken an American term out of context and, through a tendentious translation, supplanted a neutral political term (*embetsman*) with an ideologically charged one (*Öfwerhetsperson*). He had accordingly not, as he claimed, put forth a specifically American principle. Instead he had universalised as part of an attack on all things hereditary. Philipson’s choice of terms, the prosecution charged, was deliberately designed to make the mind wander from one continent to another and from one political philosophy and system of government to another. Put simply: the doctor was spreading American republicanism on Swedish monarchical soil.

Defending himself against these charges, Philipson appeared in court with a simple two-part answer: (1) he had merely reported on American affairs and (2) his translation conformed to normal usage. As Philipson argued, he was merely acting ‘as a political historian and a translator of a free and independent people’s innocent concepts’; he claimed: ‘[there is] no Swedish law, nor can one ever exist under an enlightened government [. . .] that prohibits me from being a political historian, or in speeches or writings merely relay[ing] pure facts and other countries’ laws and constitutions’.⁶⁸ And since he had only relayed the Americans’ ‘simple idea of the non-hereditary nature of public offices in their states’ he had not committed an offense.⁶⁹ The only issue that the court would reasonably have to determine, Philipson insisted, was if his translation was correct or not. Accordingly, the dispute concerned ‘only a translation’ and it had to be established if it had ‘been executed with due diligence’.⁷⁰ Although the prosecutor’s speech distinguished between two forms of political criticism—direct criticism which attacked the political system of a country and indirect criticism which did so by printing other peoples’ views or describing other nations’ political systems—he eventually accepted Philipson’s argument that the political and legal dispute did boil down to linguistics.

The fact that English was still a small language in Europe in general and not at all a language of political theory and commentary in Sweden compelled Philipson to turn to other languages that were—Latin, German, and French—to prove his case.⁷¹ To begin with, he argued, both ancient and modern lexicographers unequivocally supported his use of terms. The Romans used the word ‘magistratus’ to denote those who presided, who were in turn distinguished between ‘Reges’ and ‘Consules’, both of which were

⁶⁷*Patrioten*, 1792, 22/23, 106.

⁶⁸*Patrioten*, 1792, 22/23, 109.

⁶⁹*Patrioten*, 1792, 22/23, 111.

⁷⁰*Patrioten*, 1792, 22/23, 111.

⁷¹ The 1726 translation of Locke’s *Two Treatises* is a notable exception, but even it was heavily Latinised; see Sami-Juhani Savonius, ‘The Swedish Translation of John Locke’s “Second Treatise”’, 1726’, *Locke Studies*, 1 (2001), 191–220. For the emergence of a Swedish language of politics and its relationship to other languages, see Bo Lindberg, *Den antika skevheten. Politiska ord och begrepp i det tidig-moderna Sverige* (Stockholm, 2006).

differentiated from ‘Senatus’. Not only the *Basilii fabri thesaurus eruditionis scholasticae* but also the *Lexicon latino-svecanum* translated the Latin term into ‘Öfwerhets-Ämbete’ or ‘Öfwerhets-person’. So did contemporary German and French dictionaries. ‘That magistrat is the same as the Latin word *magistratus*’, Philipson continued, was evident from authoritative French-German-Latin dictionaries like *Le grand dictionnaire royal* and the *Nouveau dictionnaire du voyageur*, as well as the French-Swedish *Lexicon* by Levin Möller, which was ‘read in almost all Swedish schools’.⁷² This lexicographical evidence was indeed indisputable: both of the great dictionaries rendered the Latin ‘magistratus’ into ‘magistrat’ and ‘obrigkeit’ in German.⁷³ Philipson also referred the prosecution to the *Vollständiges Deutsches und Französisches Vörterbuch*, which likewise gave terms for German — ‘Obrigkeit’ and ‘obrigkeitliche person’ — that correlated with the Swedish term’s vertical connotations of ‘over [öfwer]’. The meaning of the term ‘magistrate’, Philipson concluded, was quite general in signification and included both those whose prerogative it was to execute the laws of the land and those who took part in any detail of governance in general. The terminology was hence in agreement not only with American constitutional vocabulary — the Virginia Declaration mentioned ‘magistrates, legislators, and judges’ — but also with normal usage in Swedish. And to the extent that uneducated segments of the general public may interpret terms differently, Philipson argued that he, a mere publisher of a periodical, could hardly be held accountable for gaps in popular enlightenment.⁷⁴

Had the court not been satisfied with the defendant’s selection of dictionaries and for example turned to the *Encyclopédie*, they would have learned that the term was in fact used in two different senses in French. In its *legal* sense, ‘magistrate’ was a technical term whose history included such legislators as Moses, the Council of 500 in Classical Athens, and the Roman Senate. Presently it denoted, in words very similar to those used by Philipson, ‘all those who exercise some aspect of public power’.⁷⁵ In its *political* sense, the range of reference was indeed broad, and it did not exclude kings. The very first sentence in Diderot’s entry for ‘magistrat’ stated: ‘this term presents a great idea; it refers to all those who, through the exercise of legitimate authority, are the protectors and guarantors of the public good; and in this sense *it applies also to kings*’. According to Diderot, the term was closely related to social contract theory. The first legislator that brought a society from a state of nature was that society’s first ‘magistrate’, which meant that the term’s meaning varied depending on ‘the times, mores and different forms of government’. Accordingly, ‘magistrate’ was a general term whose synonyms included ‘empereur, consul, dictateur, roi’.⁷⁶ David Hume used the term to denote government administrators in general, saying in his essay ‘Of the Origin of Government’ that

men must [...] institute some persons, under the appellation of magistrates, whose peculiar office it is, to point out the decrees of equity, to punish transgressors, to correct fraud and violence, and to oblige men, however reluctant, to consult their own real and permanent interests.⁷⁷

⁷² Werlds-Borgaren, 1792, 24/25, 200.

⁷³ *Nouveau dictionnaire du voyageur* (Frankfurt, 1744), 658; *Le grand dictionnaire royal* (Cologne, 1740), 569.

⁷⁴ Werlds-Borgaren, 1792, 24/25, 209.

⁷⁵ ‘magistrat, jurispru.’, in *Encyclopédie*, IX, 857.

⁷⁶ ‘magistrat, politique’, in *Encyclopédie*, IX, 855.

⁷⁷ David Hume, ‘Of the Origin of Government’, in Hume, *Political Writings*, edited by Knud Haakonssen (Cambridge, 1994), 20–23 (21).

He employed the term ‘first magistrate’ or ‘chief magistrate’ when he referred to monarchs, ‘call him doge, prince, or king’.⁷⁸ In America, Jefferson used precisely the term ‘chief magistrate’ to denote George III, both in his instructions to the Virginia Delegation of the Continental Congress and in his draft of the American Declaration of Independence.⁷⁹ Jefferson used it again in 1791 in reference to the President of the United States, and Washington used it to refer to himself in his second inaugural address (1793), saying that he had once again been ‘called upon by the voice of [his] country to execute the functions of its Chief Magistrate’.⁸⁰ Fully in line with English usage since the late fourteenth century, the same term was accordingly used to denote the holder of the highest office of the land, be it in a monarchy *or* a republic.⁸¹

The Roman trajectory was however far more complex than Philipson let on. One of the two kinds of civil offices in Rome—the *magistratus extraordinarii*—denoted temporarily elected dictators. The category of *consules*, to which Philipson referred in his etymology, belonged to the *maiores*, a subcategory of the *magistratus ordinarii*. A related terminology distinguished between offices that were filled with patricians (*magistratus patricii*) and those that were filled from the ranks of the plebs (*magistratus plebeii*).⁸² Neither Philipson nor the prosecution mentioned that the literal Swedish term for magistrate (‘magistrat’) had in fact been in use in Swedish since at least the first half of the seventeenth century. One of these early seventeenth-century sources used Philipson’s chosen term of translation—‘Öfwerhetsperson’—as the Swedish equivalent not of administrators in general but as the preferred term for the Latin *omnes Magistratus*, that is precisely in the sense of ‘Chief Magistrate’, which in the context of a monarchical system clearly denoted the king.⁸³

Apparently satisfied with Philipson’s cursory—and at times tendentious—lesson in the translation of political terms and not picking up on the full range of classical and eighteenth-century meanings of the term magistrate, the court finally ruled that Philipson’s translation of the words ‘born magistrate’ had been translated neither incorrectly nor in a manner contrary to their meaning in the original American text. The defendant had accordingly not taken aim at the Swedish form of government.⁸⁴ Since the court could not prove any criminal intent, Philipson was acquitted with a warning, which was subsequently revoked. The legal process against Philipson was a highly publicised event, which in and of itself attracted far more attention to the principles of American republicanism than the translated text itself could ever have done. The country’s Freedom of Information Act permitted Philipson to print and distribute the hearings to a wider audience. Naturally, he used his own paper for this purpose and reprinted the complete court protocols in six consecutive issues

⁷⁸ Hume, ‘That Politics may be Reduced to a Science’, in Hume, *Political Writings*, 4–15 (6). See however Hume, ‘Of the Liberty of the Press’, in Hume, *Political Writings*, 1–3 (2), where the government of an absolute monarchy, such as France, and that of a republic, such as Holland, are both generally referred to as magistrates, and the character of the former is qualified as being of a kind that is invested with ‘eminent’ powers.

⁷⁹ In the instructions, Jefferson wrote that a free people derive their rights ‘from the laws of nature, and not as the gift of their chief magistrate’. The passage containing the term was however excised by Congress; see Maier, *American Scripture*, 240.

⁸⁰ *The Compact Edition of the Oxford English Dictionary*, 2 vols. (Oxford, 1979), I, 1692.

⁸¹ *Oxford English Dictionary*, I, 1692.

⁸² Charlton T. Lewis and Charles Short, *A Latin Dictionary; Founded on Andrews’ Edition of Freund’s Latin Dictionary*, revised edition (Oxford, 1933), 1097.

⁸³ *Svenska Akademiens ordbok*, with reference to Ericus Benedicti Schroderus, *Osiander, L, then christelige kyrkioner historia*, Övers. 1–3, 3 vols. (Stockholm, 1635), <http://g3.spraakdata.gu.se/saob/> [accessed 14 September 2014].

⁸⁴ *Werlds-Borgaren*, 1792, 24/25, 210.

in June of 1793. This fact alone goes a long way to explaining the Crown's reluctance to attempt to use the legal system to silence critics.

4. Revolutionary France, Swedish Bureaucracy and the Idea of 'True Nobility'

The trial played itself out at a particularly turbulent time in European political history, which explains both Philipson's timing of the translation, seventeen years after the Virginia Declaration was written, and the seriousness with which the authorities prosecuted the case. At the time when the translation appeared, in 1792, only two years had passed since noble status had been swiftly abolished in France, a move that William Doyle characterises as 'one of the most ambitious measures ever undertaken by the French revolutionaries' and in effect 'a renunciation of centuries of history'.⁸⁵ Swedish critics of nobility were intent on joining the forces of the future. The fact that Swedish debates during the 'Strife of Estates', as well as reforms under Gustav III, first in 1772 and again in 1789, both of which increased royal power at the expense of aristocratic power in parliament, had been invoked during the assault on noble privileges in France gave further impetus to their cause. C. F. Nordenskiöld, the Swedish translator of Thomas Paine's *Rights of Man*, captured this sentiment well. Responding to a critical review he stated that he found it truly astonishing to live in a country where anyone would have the gall to 'appear before the Swedish public and publicize his enmity towards the rights of man'.⁸⁶

In France, the nobility had of course suffered substantial political and material losses since June 1789. During a debate, held in the National Assembly on 19 June 1790 on the proper way to celebrate the first anniversary of the storming of the Bastille, the sense in which hereditary nobility was incompatible with the notions articulated in the Declaration of the Rights of Man and the Citizen that 'men are born and remain free and equal in rights' and that 'social distinctions may be based only on considerations of the common good' was articulated energetically.⁸⁷ Virtually without opposition, the debate ended with a decree that abolished titles of nobility, thus institutionalising the principle, in the words of one deputy, that 'there is no political equality, there is not emulation for virtue where citizens have a dignity other than that which is attached to functions entrusted to them or other glory than that which they owe to their action'.⁸⁸ While vocal members of nobility eventually came to see the decree as 'nothing less than an attempt to change biology', its supporters saw it as a measure with which 'to demolish absurd but pernicious myths, a vindication of true biology'; and thus, Doyle concludes, 'the attempt to destroy nobility was [...] one of the most ambitious measures ever undertaken by the French Revolutionaries'.⁸⁹

With regard to the French Assembly's 19 June decree specifically, Doyle shows how it attracted a wide—and directly involved—international audience. Among the foreign deputations present and commanded by the notorious cosmopolitan Jean-Baptiste 'Anacharsis' Cloots, a Prussian and self-proclaimed 'Orator of the Human Race', the official record lists

⁸⁵ Doyle, *Aristocracy and Its Enemies*, 6–7.

⁸⁶ *Medborgaren*, 1792, 27; reply to *Stockholmsposten*, 1792, 279. Parts one and two were originally printed in London by J. S. Jordan in 1791 and 1792 respectively. Part one was translated by Nordenskiöld as *Menniskans Rättigheter* (Stockholm, 1792). On Nordenskiöld's translation of Paine and his involvement in the 1793 translation of John Locke's *A Letter Concerning Toleration* (1689), see Christensson, *Lyckoriket*, 171–247.

⁸⁷ Quoted from Samuel E. Finer, *The History of Government from the Earliest Times*, 3 vols. (Oxford, 1999), III, 1538.

⁸⁸ Quoted from Doyle, *Aristocracy and Its Enemies*, 3.

⁸⁹ Doyle, *Aristocracy and Its Enemies*, 6.

‘English, Prussians, Sicilians, Dutch, Russians, Poles, Germans, Swedes, Italians, Spaniards, Brabanters, Liegeois, Avignonese, Swiss, Genevans, Indians, Arabs, Chaldeans, etc.’.⁹⁰ Thomas Paine, who alongside Cloots—and also Washington, Hamilton, and Madison—was made an honorary French citizen on account of his fight against tyranny, famously stated that the French Revolution, in order to advance ‘the cause of mankind’ had to be extended ‘far beyond the boundaries of her own dominions’.⁹¹ A Swedish translation of Paine’s *Address to the People of France* (25 June 1792) appeared in Philipson’s paper shortly thereafter. Cloots shared Paine’s sentiments and advocated for a policy of foreign annexation in order to establish a ‘universal republic’ or ‘republic of mankind’. In combination with pro-revolutionary sentiments in the popular press and the existence of Jacobin clubs in their own countries—four clubs were reportedly active in Stockholm in 1792—such talk gave European elites and governments reason to be edgy.⁹² In a formulation that must have sent chills down the spines of rulers far beyond his native land, Cloots brazenly stated: ‘I am from Prussia, a future department of the French Republic’.⁹³

Six months after the French Assembly’s 19 June decree, the theme of true nobility in fact resurfaced in Swedish political discourse through a highly publicised response to current developments in France, given by Christoffer Bogislaus Zibet (1740–1809) on the occasion of his election to the Swedish Academy. Phrased as an attack on the entire social philosophy of the Enlightenment and a defence of noble privileges as part of nature’s order, the speech was reprinted in 1791 alongside a fawning review by one of the King’s most loyal pens.⁹⁴ Taking aim at French developments in general and applying a domino theory of the French Revolution in particular, the Swedish academician Zibet strongly denounced the ‘newer philosophy that like a destructive volcano ravages revered traditions wherever it is allowed to be unleashed and which sends a warning to all countries around the world’, including ‘more remote countries’ like Sweden.⁹⁵ Referring to Plato’s teachings in the *Republic*, Zibet summarised the conflict between the new and old regimes as one between philosophers and legislators. Whereas the former deployed abstract reason to ‘pile up the rights of Man [*upstapla Människans rättigheter*]’ the latter called on the wisdom of experience to recognise the need to curtail them for the sake of peace and stability. The very concept of the rights of man, Zibet argued, relied on a social phantom. A condition of perfect equality among men had never existed and would never be realised on earth. Even a cursory examination of ancient and contemporary history, he continued, showed without fail that every civilised society requires for its proper functioning a division of men into higher and lower classes, where the latter naturally obey the commands of the former. The proper division of society was however more than a matter of political organisation; it depended on the active cultivation of the different ways of thinking, different mentalities, and different kinds of knowledge that were required for carrying out different functions. The age-old society of estates, according to which

⁹⁰ Quoted from Doyle, *Aristocracy and Its Enemies*, 3.

⁹¹ Thomas Paine, *Address to the People of France*, in Paine, *The Complete Writings of Thomas Paine*, edited by Philip S. Foner (New York, NY, 1945), 2 vols., II, 538–40 (538, 540); *Patrioten*, 1792, 13/14. See further Gustaf Ljunggren, *Svenska vitterheten under Gustav IV Adolfs minderårighet, 1792–1796* (Lund, 1877), 42; Elovson, *Amerika i svensk litteratur*, 167–68.

⁹² On Stockholm’s Jacobin clubs, see, for example, Alma Söderhjelm, *Kulturförhållanden under franska revolutionen* (Helsinki, 1903).

⁹³ Quoted from Julia Kristeva, *Strangers to Ourselves* (New York, NY, 1991), 162.

⁹⁴ The speech, which was held on 20 December 1790, was reprinted in 1791 and reviewed by Johan Henric Kellgren in *Stockholmsposten* (29 August, 1791). Philipson’s reply was published in the same paper on 24 April 1792.

⁹⁵ Christopher Bogislaus Zibet, *Inträdes-tal, hållit uti Svenska Akademien den X December MDCCXC* (Stockholm, 1791), 18–20.

political rights were corporate and not individual, Zibet argued, provided the best model throughout human history for achieving this goal. Conceding that differences between estates may indeed be a breach of the law of nature, he claimed that such a breach was nevertheless an absolute necessity in civil law and thus for life in civil society.

The preoccupation among commentators throughout the Euro-American world with hereditary nobility applied to Sweden as well, and it was greatly helped by a more liberal ordinance for the liberty of printing that had been passed on 11 April 1792 by the regime that, due to the heir's minority, was established under G. A. Reuterholm after Gustav III's assassination earlier that year. One of its most notable accomplishments was to revoke the previous regime's prohibition of 1790 to publish anything pertaining to France.⁹⁶ Gustav III's men were not surprisingly critical of the ordinance, as were the representatives of foreign powers in Stockholm, including the Russian, Imperial, Spanish, and Prussian ambassadors.⁹⁷ Even principled supporters of the new ordinance were wary of some aspects, especially the vagueness with which it was worded in general and the fact that it did not spell out what was legal and what was not, nor what punishments could be exacted.⁹⁸ Nonetheless, the ordinance was embraced by radical writers and publishers and was also translated into French.⁹⁹ The press was bursting with celebrations of the ordinance and the man behind it. During the latter part of 1792 through 1793 no less than seventeen new publications saw the light of day, one of which was Philipson's *Patrioten*. More than a few made revolutionary France the focus of their publications.¹⁰⁰ The French Revolution was good business for printers, and soon became a headache for the new regime.

In an anonymous pamphlet dated the very same month the new ordinance appeared, Philipson refuted Zibet's critique of 'the rights of man' and his apology for hereditary rights point by point.¹⁰¹ His starting point was that all men are born equal and that they must be treated as such in *all* contexts. The right of the individual to develop freely, he wrote, 'is the law of nature, and is a basic right' that does not depend on 'any compact between people' and that 'cannot be undone through any true legislation'.¹⁰² All 'chimerical differences of estate' ought to be abolished.¹⁰³ A government that handed out offices to individuals on the basis of what some relative or other hand done in the past violated both natural law and common sense. What Paine had said about kings was equally true of all public servants in a free state: even though a particular individual might himself 'deserve *some* decent degree of honors of his contemporaries, yet his descendants might be far too unworthy to inherit them'.¹⁰⁴ Who in their right mind, Paine asked, would agree with the notion 'that your children and your children's children shall reign over *ours* for ever'?¹⁰⁵ As Paine had concluded in the simplest possible formulation: 'Virtue is not hereditary'.¹⁰⁶

⁹⁶ Unlike the king and his closest advisers, Reuterholm was an outspoken supporter of the French Revolution and had even spent time in Paris discussing with revolutionaries and listening to debates in the Assembly before arriving in Stockholm for his new appointment; see Söderhjelm, *Sverige och den franska revolutionen*, 118.

⁹⁷ Lange, 'Tidningen Patrioten', 205.

⁹⁸ Söderhjelm, *Sverige och den franska revolutionen*, 126.

⁹⁹ Söderhjelm, *Sverige och den franska revolutionen*, 126.

¹⁰⁰ Söderhjelm, *Sverige och den franska revolutionen*, 121–25; Lange, 'Tidningen Patrioten', 205.

¹⁰¹ [Lorents Münter Philipson], *Bevis at det så kallade bevis för ärfeligt adelskap är intet bevis* [*Proof, that the So-called Proof of Hereditary Nobility is not a Proof*] (Stockholm, 1792).

¹⁰² [Philipson], *Bevis*, 26.

¹⁰³ [Philipson], *Bevis*, 26.

¹⁰⁴ Paine, *Common Sense*, 23–24.

¹⁰⁵ Paine, *Common Sense*, 24.

¹⁰⁶ Paine, *Common Sense*, 44.

The very idea of deference to nobility, or the notion that a 'Turkish obedience' should reign over the affairs of state like the 'Catholic faith' does over the affairs of a congregation, Philipson dismissed as mere noise produced by prejudice and 'aristocratic savagery'.¹⁰⁷ He who is prepared to 'publicly state the necessity to encroach the eternally sacred rights of man', he concluded, 'must not know his own true dignity' and 'must in his aristocratic delirium think himself perched on the throne of Fetz-Marocco, surrounded by fools and the most denigrate of slaves'.¹⁰⁸ Or, put in a direct and caustic question to Zibet: 'Do you, Sir, actually believe that these great names in older and newer history, these unchanging names – Washington, Franklin, Rousseau, Raynal, &c., &c. – are less honourable and immortal than of ***, von"', &c. &c. &c.?'.¹⁰⁹ This notion was further extended and elaborated in Philipson's 'Bref från en resande i Norra America til en Wän i Stockholm, 1789 [Letter from a Traveller in Northern America to a Friend in Stockholm, 1789]', which accompanied his translation of the Virginia Declaration. In a register similar to the one voiced in the French Assembly in the summer of 1790, he concluded, that 'in good and Free Societies all possess equal rights as far as genealogy alone is concerned, and it is thus that the ignorant lust for dignity and titles disappear'. Rewards are given solely according to merit and as a means of providing inspiring examples for others. 'As far as badges of orders are concerned, we consider them too childish and shallow (superficial), to have any effect on enlightened Citizens'.¹¹⁰

The specific local context of Philipson's appropriation of the Virginia Declaration was an ongoing debate on what constituted the proper function and legitimacy of public office in the new situation that had emerged as a consequence of the assassination of Gustav III. During his reign, the king had effectively impeded a movement that, since the early 1760s, blamed national misfortunes on pernicious civil servants, a common subtext of which was to equate bad civil servants with *noble* civil servants. According to these critics, civil servants ought to be responsible to the people (or 'the public') alone, as opposed to being responsible to the king, to their estate or to themselves as a state within the state. To use Weberian terms, the king explicitly challenged a sustained campaign among commoners to replace a 'traditional' bureaucracy with a 'modern' bureaucracy through his policy of 'retraditionalisation'. Contrary to making merit and virtue the *de facto* principles for appointment to public office, Gustav III reverted to the culture of favouritism.¹¹¹ He had frequently intervened in the business of recruitment; relied heavily on the cadre of nobles as the main pool of recruitment to high offices; handed out offices as rewards for loyalty to the Crown; and created entirely new offices directly under his control. For all its liberality with regard to freedom of speech, including the right to publish on matters pertaining to the French Revolution, Swedish radicals were clearly not satisfied with the Reuterholm regime's tendency to continue Gustavian policy in the realm of bureaucratic recruitment.¹¹²

In this situation, Philipson's assault on hereditary privileges was hardly surprising. Virtually all of the papers that took an interest in the French Revolution did so to the extent that it could speak to domestic conditions in general and to the question of hereditary nobility in

¹⁰⁷[Philipson], *Bevis*, 26.

¹⁰⁸[Philipson], *Bevis*, 28.

¹⁰⁹[Philipson], *Bevis*, 51.

¹¹⁰*Patrioten*, 1792, 22/23, 90.

¹¹¹Cavallin, *I kungens och folkets tjänst*, 107–08.

¹¹²Lange, 'Tidningen Patrioten', 216–17; Söderhjelm, *Sverige och den franska revolutionen*, 205, 219f.

particular.¹¹³ Philipson did, however, make new inroads to the question of what constitutes the legitimacy of civil servants—and thus of administrative government as a whole—by phrasing the demands of a legitimate bureaucracy in the language of rights:

The value of a human being does not rest in her genealogy, not in her name but in her competence, which can only be ascertained by judging her accomplishment, which ought to be the only ground for advancement in society.¹¹⁴

Taken together, the pamphlet and the translation enabled him to mount a powerful argument in the transnational language of the rights of man: honesty and virtue was the only mark of distinction in a modern and free society.

Such rights were accordingly not only asserted solely in the context of the equal right to representation in legislative assemblies, but also in reference to equal right to employment in the civil service and, perhaps most importantly, to the right of the people, as the *true* masters of civil servants, to have their interests represented in the regular business of government. The draft of the Virginia Declaration had clearly stated: ‘That Power is, by God and Nature, vested in, and consequently derived from the People; that Magistrates are their Trustees and Servants, and at all times amenable to them’. It was then alloyed to the theme of true nobility by noting that the sole ground for any privileges whatsoever was ‘consideration of public services’, a formulation that was also kept intact in the final draft. Public office was the reward for contributions to the common good.¹¹⁵ By the same token, once a magistrate failed to advance the common good or—worse—abandoned this pursuit entirely and used it as a façade for enriching himself, his tenure ought to be terminated. Civil servants ought to be held answerable, for the performance of their public duties, to those whose well-being they were ultimately charged to guard and advance and whose accounting alone bestowed upon the bureaucracy its legitimacy as an impartial and meritocratic organisation: the people.

In making the link between corruption and the rights of man, Philipson ultimately advocated the people’s right to live under a government free from corruption. Public accountability thus became a foundational principle for the organisation of a bureaucracy in a free state. In Philipson’s hands the Virginia Declaration ventured beyond the more familiar terrain of rights to representation in law-making bodies by applying it to the principle of ‘true nobility’ as the sole qualification for any state office. In spite of the separation of an ocean, different forms of government, diverging traditions and chronologies, that principle sounded a note that rang as true in Stockholm in 1793 as it had done in Paris in 1789 and in Williamsburg in 1776.

5. Conclusion

Philipson’s decision to bring a stack of foreign language dictionaries to court was meant to show that his translation of the Virginia Declaration was motivated *not* by Swedish local concerns but by the impartial conveyance of information about one people’s local concerns to a different local audience, and this illustrates the transnational character of eighteenth-century rights discourse. As this study has shown, while the term ‘magistrate’ was articulated as a descriptive or technical term in its original context of reception—America in

¹¹³ Lange, ‘Tidningen Patriotén’, 209; Söderhjelm, *Sverige och den franska revolutionen*, 128–30, 138, 157–58.

¹¹⁴ [Philipson], *Bevis*, 26. In the Swedish language, ‘human being’ is a feminine noun.

¹¹⁵ Mason, ‘Virginia Declaration (Committee draft)’.

1776—it turned potentially subversive when it entered into the lexicon of political debate in a new context—Sweden in 1792—and set in motion a procedure to put a translation on trial. Mason’s draft of the Virginia Declaration was mobilised and transplanted by Philipson to re-describe, by means of an American(ised) vocabulary of rights, and in response to French developments, to restructure and amplify an ongoing campaign among Swedish radicals against hereditary privileges and the monarchical-aristocratic culture that relied on their continued existence for its exercise of public authority. Of particular importance was the way in which the language of ‘the rights of man’ could be used to advance the idea of ‘true nobility’ as it pertained to public office. The translator’s appropriation of the Virginia Declaration is, in conclusion, best understood as taking place where local and transnational contexts of political translation overlap.

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