

Political Thought in the Dutch Republic

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Political Thought in the Dutch Republic

Three Studies

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Preface

These three studies of political thought in the Dutch Republic have all been previously published but they appear here together for the first time in the English language. I have added an introductory chapter in which I provide some background to this fairly complicated material.

In its original form, Part One ('The course of Dutch political theory in the seventeenth century') was published in 1960 under the title 'Politieke theorie in het zeventiende-eeuwse Nederland' (*Verhandelingen der Koninklijke Nederlandse Akademie van Wetenschappen, Afdeling Letterkunde, Nieuwe Reeks*, LXVII, nr 2 (Amsterdam)). Thanks to a grant from the *Nederlandse Organisatie voor Wetenschappelijk Onderzoek* it was possible for Dr C.R. Emery to translate this treatise into English.

Part Two ('Popular sovereignty at the beginning of the Dutch Ancien Régime') was published in Dutch in 1980 and in an English version in 1981 by Dr C.R. Emery, in *The Low Countries History Yearbook*, xiv (The Hague, 1981), pp. 1-28.

Part Three ('Dutch Republicanism') was published in 1985 in *L'età dei Lumi. Studi storici sul Settecento Europeo in onore dei Franco Venturi* (Naples, 2 vols., 1985), pp. 453-486.

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Introduction

I

When it was suggested that I prepare a second edition of my short study (1960) of Dutch political thought in the seventeenth century I considered the possibility of thoroughly revising the original text. It was an idea that was soon discarded, for over a period of forty years, my outlook, preoccupations and style have changed a great deal. Revision would have amounted to a complete rewriting and it is unlikely that the results would have repaid the effort. Forty years ago I was inspired by the fact that the subject had been largely neglected by historical research and by a belief that I might arrive at new insights into the material. This provided the kind of dynamic which a reworking would now lack. I would probably feel obliged to soften my occasionally rather harsh criticism of various writers and to place less emphasis on the uniqueness of the Dutch experience. In doing so, I might well distort the original argument without being able to present a more satisfactory one. Hence it was decided to translate the book into English as it was and merely correct any mistakes it may have contained.

In the 1960s, as is well known, a number of scholars adopted an approach to intellectual history, and specifically that of political ideas, which was to develop into a 'school'. When I wrote my study in the late 1950s I was unaware of this. Some years later I encountered the products of this 'school' and read with great pleasure such works as John Pocock's *The Machiavellian Moment* (Princeton University Press, 1975) and Quentin Skinner's *The Foundations of Modern Political Thought* (Cambridge University Press, 1978). In two articles that I wrote subsequently I had occasion to discuss some of the themes which had been developed in these masterly works. It was thought useful to reprint them in this volume (Parts II and III) since they touch on problems relating to the subject matter of my study of seventeenth-century political thought.

In his *Liberty before Liberalism* (Cambridge, 1998) Quentin Skinner provides autobiographical information about the approach to the history of political ideas which he developed during his years as a postgraduate student of political science in Cambridge in the 1960s. He was uncomfortable with the pre-

vailing tendency in British and American universities to study the ideas of the great masters as classical texts containing eternally valid truths about political problems and values that had remained fundamentally unchanged throughout history. Skinner decided to concentrate less exclusively on major philosophers, to examine with care and empathy the writings of lesser thinkers and place them firmly and meaningfully in their historical context. The success of his approach (and that of John Pocock, a professional historian and twenty years his senior) is a matter of record. But for historians educated outside the British environment (myself included), though they would not dispute the value and importance of the concrete work produced on this basis, the exhilarating sense of discovery and innovation is more difficult to share.

For in the late 1940s when I became interested in the history of political thought I sought guidance in such works as Friedrich Meinecke's *Die Idee der Staatsräson in der neueren Geschichte* (1924), Pierre Mesnard's *L'essor de la philosophie politique au XVI^e siècle* (1935) and J.W. Allen's *A History of Political Thought in the Sixteenth Century* (1928). To some scholars (though not to me) these works may now appear to be old-fashioned or even obsolete, but at least their authors did not make the mistake of isolating theorists and ideas and lifting them out of their contingent historical environment. So for me a predominantly historical approach to the study of political ideas was more or less self-evident and unsurprising. In the early 1950s I tried in a book on the Fronde, *La Fronde* (Leiden, 1954), not only to write a narrative of events but also to analyse the means by which royalists as well as Frondeurs sought to legitimate their actions. Both groups, it seemed to me, adapted a variety of ancient and modern political ideas to suit their respective aims; aims that in the vagaries of the civil war were inevitably subject to considerable transformation. In other words, I was not so much interested in the great texts themselves such as those of Bodin, Hotman, Loyseau, Le Bret and many others so carefully studied in W.F. Church's *Constitutional Thought in Sixteenth-Century France* (Harvard University Press, 1941), but in the way in which they were exploited for polemical purposes by the combatants in the Fronde. It was to the pamphlet material (the famous *Mazarinades*) that I turned my attention in an effort to discover the kind of political theory which was made digestible for the common man and considered to possess practical value in the bitter contest then raging.

In the mid-1950s I decided to explore the possibility of studying Dutch seventeenth-century political theory in more or less the same manner but I soon realized that systematically working through the enormous mass of pamphlet material would probably not yield the insights I was hoping for. So I moved up a level in the intellectual hierarchy and concentrated on academic

discourse and books which, though written by non-academics, were clearly addressed to a well-informed readership. I avoided major writers like Grotius and Spinoza because I thought that they could not be confined within the limits of the Dutch state and civilization and would not help me to discover what political theories the Dutch developed in the seventeenth century to describe, analyse and justify the existence of a republic that in one generation had grown so conspicuously in wealth and power. My theme was the link between theory and practice and the meaning of political philosophy for a new and surprisingly energetic state. Since then the innovative work of the so-called Cambridge School seems to have endorsed this approach and I feel that my publication of 1960 may not yet have become entirely obsolete.

II

In my original preface to the book, dated September 1959, I called it a sketch or even a 'hypothesis' for it had not been my intention to write an exhaustive study but rather to discover a pattern in the assembled materials. At the time there were few preparatory studies available and I was afraid that I could have overlooked authors and books which might have been of vital importance. However, the *Bibliography of Dutch Seventeenth Century Political Thought. An annotated Inventory, 1581-1710* (Amsterdam, 1986), compiled by G.O. van de Klashorst, H.W. Blom and E.O.G. Haitzma Mulier, shows that I need not have worried too much. Their meticulous research has not detected forgotten texts that might have changed my views, though it has usefully enlarged the corpus of relevant publications.

Yet the term 'sketch' remains accurate, not so much because the book is incomplete but because it is essentially a first attempt to survey a wide range of problems and developments each of which requires more rigorous examination than I was able to give them. Even if the book is considered adequate so far as its approach to the history of political ideas is concerned, it can nevertheless not compete with more recent American, British and German work in breadth, sharpness of detail, verbal analysis and style.

One of my conclusions on Dutch political theory was that it was essentially eclectic. But the question I did not put was whether it was substantially more so than political theory in other European countries. Two admittedly crudely formulated assumptions may guide us to some sort of an answer. The first is that political theory is, as history shows, an important but intellectually rather limited subject. Political theory has not developed the refined technical language that allows a discipline to free itself from tradition and to break new

ground in the way that the sciences, epistemology, psychology or economics have been able to do. We still borrow the majority of our political categories from antiquity. Tradition weighs more heavily on political theory than it does on many other scholarly or artistic pursuits. It seems to me that in political theory there are no breaks or revolutions comparable to those which in various ways and at various times have transformed literature, painting, music, philosophy and, of course, the natural sciences. Aristotle, Thomas Aquinas, Hobbes are more relevant to the modern political theorist than Homer or Dante are to today's poets and novelists or Hippocrates and Paracelsus to today's physicians.

The second assumption is that the subject matter studied by the political theorist has in the course of time changed more fundamentally than the human psyche or the brain or nature which the more developed sciences examine. The political world inhabited by Aristotle, Aquinas or Hobbes is so totally different from ours that the conventional vocabulary we use to describe these political universes – monarchy, aristocracy, democracy, power, law, rights, etc. – suggests a continuity not reflected in concrete reality. The consequences of this situation are manifold and in the sixteenth and seventeenth centuries some of them became strikingly apparent. This is the period in which modern political theory took shape and flourished abundantly. Of course, the expansion and increased sophistication of the discipline were the result as well as the cause of changes in the political system itself. The various states of Europe began to develop individual features and to differ more sharply one from another than previously. Political theorists were aware of this but continued to express their ideas in the vocabulary which had been common to all of them from time immemorial. Their ideas, however, were now in many respects so firmly rooted in the specific circumstances of their individual states that, transposed into or adopted by other states, the idiom inevitably conveyed a different sense. Bodin's legislative sovereignty had in France where it was conceived a function for which there was no equivalent in the Holy Roman Empire and yet it was gratefully adopted by German jurists. Hobbes became a European celebrity furiously combated by conservative commentators but often received enthusiastically by others (for example in the Dutch Republic) who used his ideas to promote reforms of which he would never have approved. The lively and immensely productive international debate on the essence of politics conducted in seventeenth-century Europe, although interesting and impressive, often looks like an undisciplined chaos of misunderstandings and misreadings, and this, I believe, was partly caused by the poverty of political language.

Seventeenth-century political theorists were less inclined than are some historians today to claim that their discipline had broken up into national or proto-national schools of thought. Although the knowledge of the practice of politics on which their arguments depended may largely have been provided by their experience of institutions, conflicts and customs in their own states, all of them shared the inexhaustible source of material found in the Bible, in classical historiography and in Roman law. Were Hobbes and Locke, Grotius and Spinoza, Althusius and Pufendorf, each of them striving to present generalized systems of political philosophy and public law, conscious of establishing a typically British or Dutch or German tradition? Of course not. In retrospect it may seem to some of us that in fact they did, but this is hindsight and alien to the lively debates in the seventeenth century in which national and international elements intermingled to such an extent that it is virtually impossible to disentangle them. Seen against this background the term eclecticism, used to characterize Dutch political thought, merely means that the Dutch writers of the period took advantage of ideas circulating in Europe and discussed in many countries for their own rather idiosyncratic purposes. As too did English, German, French and other theorists.

Political theory thrives in times of danger and the main danger in the seventeenth century was civil war, the worst kind of war. The goal of seventeenth-century theorists was to strengthen the basis of states that in the previous century had grown considerably in power but were not yet sufficiently stable to control the tensions arising from religious disunity, economic distress or social disturbance. At the same time they looked for instruments which would allow the citizens a sufficient degree of freedom to remove any incentive for rebellion. The search for an equilibrium between 'absolutism' and 'liberalism' was placed high on the theoretical agenda for both had to be expanded. To achieve this they exploited the traditional repertoire as well as intellectual innovations such as Cartesianism and the new natural science. At the end of the century some results were emerging which have stood the test of time and in the eighteenth century were to become standard texts – Locke's philosophy of course taking pride of place. Although Locke turned out to be by far the most successful of these modern 'liberal' writers, he was not the only one to make out an interesting case for such theories and there is, in my opinion, no convincing reason to set him apart as the champion of a typically English tradition. In my survey of Dutch political thought I tried to show that some Dutch authors held views very similar to Locke's but quite independently of him. If these Dutch writers have long languished in obscurity and will undoubtedly continue to do so, it is because they lacked the profundity, the

subtlety, the breadth and the literary skill of Locke and not because the results of their studies were basically different.

III

Eclecticism does not preclude originality. The Dutch theorists produced insights that were not merely lame copies of work done abroad. For their theories to have a modicum of realism they were compelled by the singular structure of their state alone to reinterpret both the conventional and the innovative foreign wisdom they borrowed. The ideas of such fulsomely quoted luminaries as Machiavelli, Bodin, Althusius, Hobbes or Pufendorf needed thorough reworking before they could be fitted into the institutional pattern of the Dutch Republic. So what in fact was this pattern?

The central organ of the Republic was the States General in which seven provinces were represented, the province of Holland with Amsterdam, The Hague and Leiden being by far the most important, economically, politically and culturally. Each of these provinces sent as many representatives to the States General as it wanted or as the limited space of the meeting room in The Hague permitted. But each possessed only one vote and the representatives were bound to vote as instructed by the States of their respective province. In important matters there was in theory no question of outvoting the minority since the unanimity of the seven sovereign provinces was required for decisions binding on all of them. In practice, however, majority decisions were carried out notwithstanding the opposition of one or more of the provinces which were nevertheless often persuaded or forced to give their approval later. The States General met every day, even on Sundays, for a couple of hours. Their importance was considerable. They acted as the representatives of the Union, conducted foreign policy, controlled defence and the federal taxes which were apportioned among the provinces according to a strict scheme. Holland paid almost 60 per cent of them. But although the power of the States General should not be underestimated, it was nevertheless strictly limited. There was no federal court of justice, no federal Church government, no federal internal administration in general. Provincial sovereignty was carefully respected and it was difficult for any of the federal organs drastically to encroach upon provincial rights.

If in practice the Republic possessed a far greater unity than this federal system would seem to allow, it was due to the overwhelming power of the province of Holland. In Holland, as in all the other provinces, it was the States that were supposed to possess sovereignty. The various provincial

States, or representative assemblies, however, were not organized in an identical manner. Holland's system was as follows. The States had nineteen members, each of them having one vote. One vote belonged to the nobility, eighteen votes belonged to the most important towns of the province. In major matters unanimity was required. The States met at least four times a year for a few weeks, up to a total of over 150 days in times of stress. The daily work was done by a standing committee of approximately ten members appointed for a number of years. As the urban delegations to the States were composed of men belonging to the urban regent families, that is, the local patricians of non-noble extraction, it is clear that provincial government was largely in the control of a very small group. The States had few salaried officials. By far the most important among these was the so-called *Raadpensionaris* which literally means 'salaried councillor' but who in English is usually called Grand Pensionary. He was also the salaried councillor of the nobility and in that capacity he acted as chairman of the States of Holland and their committees and as the leader of the Holland deputation to the States General. But although it was out of traditional respect for the nobility that their councillor was charged with these responsibilities, the Grand Pensionary himself was not a nobleman and his often decisive influence was ultimately rooted in his role as spokesman of the urban patriciate to which he belonged.

The position of the stadholder was still more complicated. As he was appointed by the States of the various provinces, his was legally a provincial function dependent on the sovereign will of his principals. Several elements, however, bestowed a far higher status on the incumbent of the office. The dignity derived importance from the fact that in Holland, Zeeland and most of the other provinces only the princes of Orange, heirs to the immensely popular tradition of William the Silent, were appointed as stadholders. Moreover, thanks to his being stadholder in various provinces at the same time, the prince of Orange, though not a member of the States General, naturally participated in the making of federal policies. As he often also held the functions of captain-general and admiral-general of the Union his activities were in fact never confined to merely provincial matters. The stadholdership itself included several truly sovereign rights that had formerly belonged to the stadholders of Burgundian times who often acted as the substitutes, the *locum tenentes*, of the distant sovereign. The stadholders of the Republic possessed the right to elect urban magistrates and appoint several provincial officials. They sometimes exercised the right of granting pardon or remission of penalties, although various Provincial States also claimed and in effect monopolized it. Often the stadholdership was regarded by contemporaries as the monarchical element

in a state with a mixed constitution. Though this was an inaccurate way of describing the structure of the Republic, it had the merit of indicating that, notwithstanding the legal supremacy of the States, the actual exercise of power as well as its rationalization in theory needed the help of other concepts and traditions. From the point of view of society it is clear that the presence of a princely tradition helped to mitigate the absolute character of the ruling oligarchy, though it should be added that the princes of Orange were rarely willing and never able to supplant the Holland plutocracy from whom they and the Republic ultimately received the money they needed and the directives underlying their policies.

During the major part of its history there were two stadholders in the Dutch Republic: one, the Prince of Orange, in Holland and many of the other provinces; the other belonging to the younger branch of the Nassau family, in Friesland and at times also in Groningen. On the death of William II of Orange in 1650, however, the States of Holland did not appoint a successor. Only in 1672, under the worst circumstances imaginable, did his son, William III, obtain the office. Between 1650 and 1672, the so-called 'first stadholderless period', power resided almost exclusively with the urban patriciate under the leadership of the formidable Grand Pensionary of Holland John de Witt. The exceptions were Friesland and Groningen where the Nassau stadholdership was continued. The death of the childless William III in 1702 once again left the office vacant in Holland. Only in 1747 did the States call the Frisian stadholder to The Hague to take up the functions traditionally exercised by the stadholder of Holland. From 1747 to the revolution of 1795 when the old order including the stadholdership was abolished, all the provinces had the same stadholder. The conflicts between stadholder and the States of Holland, especially the bitter and tragic ones of 1650 and 1672, decisively influenced the development of Dutch political thought.

The Republic was small with fewer than two million inhabitants. On the face of it the mechanism of its government was very complicated and indeed it was often excruciatingly difficult for the responsible authorities both to take decisions and to see to it that they were carried out. Yet in the seventeenth century it does not seem to have worked less satisfactorily than the more ambitious systems of government in France or England. On the contrary, it often worked more smoothly and was far less profoundly disturbed by rebellion or revolution. For the theorists, however, the structure of the state was too intricate to lend itself readily to scientific analysis. What sort of state was this confederation of seven provinces each ruled by Estates or States which had originally been merely representative assemblies with the task of advising

the sovereign prince and voting taxes? Now they had risen to the status of sovereign themselves and, particularly in all-powerful Holland, were dominated by urban patricians from non-noble extraction representing towns ruled by the same group. What was the meaning of sovereignty in so minute a commonwealth when there were no less than seven sovereigns and two stadholders with quasi-sovereign prerogatives? And in what sense of the word could the term 'representative' be used to describe the republican system? To say that the Holland nobility and towns were represented in the States is fundamentally meaningless. The members of the States came exclusively from the families ruling the towns. This was a division of labour rather than representation. The Dutch arrangement did not provide for elections but only for certain rules regulating the distribution or rotation of offices among the patricians by a system of co-optation.

An issue of major importance both in practical politics and in political philosophy was, of course, religion. In this field too, the Republic developed unfamiliar arrangements not easily explicable within the framework of the time. The Republic was considered to be a Protestant state. The Reformed Church, however, did not become the Established Church as in other Protestant countries since it was not endowed with the right to enforce church attendance and was not represented in the ruling political bodies. It was merely the public Church, the only church allowed to hold public services, financed out of public funds, controlled in some measure by the civil authorities but basically independent. There was in the Republic no equivalent to Gallicanism, Anglicanism, Erastianism or theocracy. Neither was there in the sixteenth century a sustained and coherent effort on the part of the Reformed Church to compel the population to adopt its doctrine as there was in northern Germany and England. Although politically triumphant in Holland from the 1570s onward, the Reformed Church long remained small. Although the Catholic Church lost a large number of its faithful in the late sixteenth century as a result of force or indifference, they did not switch automatically to the Reformed creed but often stood aside, still Christians, but not prepared to submit to ecclesiastical authority or to subscribe to a specific religious dogma. Only during the seventeenth century did the various religious groups in the Republic (apart from Calvinists and Catholics, they were mainly Lutherans and Mennonites) seriously endeavour to find support among uncommitted individuals. This inevitably caused bitter conflicts not only between the various creeds but also between the civil authorities and the church governments. Although the Reformed Church grew considerably and managed in the course of time to persuade a large part of the population in

the maritime provinces to enrol as members, it did not succeed in eliminating its religious rivals and had to endure the spectacle of unprincipled but effective forms of toleration being practised by Protestant urban governors.

The measure of freedom allowed in the seventeenth-century Republic was more generous than elsewhere in Europe at that time. There were no censors; the universities enrolled students without requiring them to mention their religious affiliation (though in most universities the professors were expected to subscribe to the articles of the Dordt Synod of 1619); marriages contracted in Remonstrant, Lutheran, Baptist churches were considered legal; of those consecrated in the Catholic Church the magistrate merely needed to be notified. As for the officials, everyone knew that in the countryside especially, but also even in the towns, Catholics, Remonstrants and Lutherans held positions of importance although it is true that in the course of the seventeenth century the presence of non-Calvinists in the highest ranks of the bureaucracy came to be regarded as too eccentric to continue for long. But strict legal barriers to the participation of non-Calvinists in the government did not exist. The Reformed, Calvinist, public Church, though dominant, never acquired a monopoly.

The Church, however, did not resign itself docilely to being prevented from curbing developments in society and culture which it considered morally and dogmatically unacceptable. The civil rulers knew that and they respected Calvinist warnings about current abuses. They knew that Calvinism constituted a formidable force which it would be extremely risky to alienate. So they tended to give in, and when pressed by the Church to take action against dissident views, books, speeches, services, against the theatre, against Descartes, against Spinoza, against all the innumerable phenomena which shocked the puritan conscience, they issued strongly worded edicts – and there are many of them, enacted by diverse authorities such as the States General, the States of the various provinces and the urban governments. These texts were carefully formulated. They did not normally refer to the religious significance of the forbidden abuses but merely stated that they might stir up unrest or even sedition and should therefore be stopped. When the Church protested against the negligence of the political authorities in enforcing obedience to their own ordinances, they answered that this was highly regrettable but that they did not possess adequate means to enforce them more strictly. They then patiently waited until the Church started another campaign and if this acquired sufficient momentum they issued some new, equally ineffectual edicts.

Of course, the constant Calvinist bombardment of protest against innovation deeply worried political theorists of less orthodox persuasion. They ap-

proved the generally lenient attitude of the urban patricians towards dissenters but felt uneasy about the policy of tergiversation and delay practised by them to counter or at least to temper the vehemence of the Calvinist preachers. They sought other ways to curb the influence of orthodoxy and found in Hobbes's work a welcome alternative to the labyrinthine sophistry of political theory as taught in the universities or German textbooks. It was, some of them thought, on the basis of Hobbesian absolutism that the Dutch rulers should safeguard freedom of expression.

IV

The bibliographical and historiographical foundation of a book first published in 1960 has obviously become obsolete forty years later. But adding footnotes with new titles to a substantially unrevised text would not make any sense. The following introduction to more recent material may serve as a substitute even though it is by no means intended to provide a complete bibliography and the commentary has been kept as brief as possible.

The pattern of the international landscape through which Dutch intellectuals enjoyed wandering has been drawn more finely and more comprehensively in a number of studies of the English and German texts that were of particular importance to Dutch authors. In the last decade the study of Hobbes has become so intensive and detailed that anyone now examining the reception of his ideas in Holland will probably observe more facets than I did and employ more refined methods to assess his impact on writers such as De la Court and Spinoza. In his *Reason and Rhetoric in the Philosophy of Hobbes* (Cambridge, 1996) Quentin Skinner has enlarged the perspective in a way that enables us to probe more deeply into the motives (and the stylistic modes of formulating them) of his admirers as well as his detractors.

In my survey of seventeenth-century political thought no clear distinction was made between public law (*ius publicum*) and what might be called an incipient political science. For my purpose it was unnecessary and the disciplines were then less sharply defined than they are now. To understand this one must turn to the history of university teaching, a complex subject which Michael Stolleis has studied in his monumental *Geschichte des öffentlichen Rechts in Deutschland*, vol. 1, *Reichspublicistik und Polizeywissenschaft 1600-1800* (München, 1988). Stolleis surveys the overwhelming mass of material produced by countless seventeenth- and eighteenth-century German jurists, analyses it and indicates its value. As Dutch universities often appointed German professors, and German writings in Latin were known and referred to in the Republic,

Stolleis's great work is enormously helpful to the student of Dutch political thought.

Part II of this book devotes some attention to the efforts of Dutch writers in the late sixteenth century to justify the Revolt. Since 1980 when the essay first appeared a number of historians have studied the subject both more comprehensively and more closely. In 1990 Catherine Secretan published in Paris *Les privilèges berceau de la liberté. La Révolte des Pays-Bas: aux sources de la pensée politique moderne (1566-1619)*, one of the rare books by a French author based on original Dutch texts. The largest contribution has been made by Martin van Gelderen in his monograph *The Political Thought of the Dutch Revolt, 1550-1590* (Cambridge, 1992) and, through the same publisher, *The Dutch Revolt* (1993) which prints in English translation five little-known contemporary pamphlets. Van Gelderen attempts to present Dutch political thought during this period as a fairly coherent whole established on firm principles and systematic argumentation. This was not the view I put forward in the introduction to *Texts concerning the Revolt of the Netherlands* edited in translation by A.F. Mellink and myself (Cambridge, 1974). I laid more emphasis on contingency, contradiction and *ex tempore* reasoning and less on the basic assumptions taken for granted by the majority of the writers opposed to Spanish dominion. I underlined the idiosyncratic character of Dutch thought shaped by the exceptional circumstances under which it developed rather than its general and unspecific constitutional background. Van Gelderen's edition of five texts is undoubtedly useful and it contains learned comments on recent scholarship. However it was not intended to be a substitute for the edition of texts by Mellink and me which is far more comprehensive and includes more material from the vast corpus of pamphlets as well as the major official documents.

An aspect of particular concern for Van Gelderen is the republicanism apparent in some of the writings. The emergence of republican ideas is indeed a highly interesting development in the history of the Revolt even though it was short-lived and had no lasting effect. Once the Dutch provinces had taken shape as an independent state in the late 1580s and this turned out to be a genuine republic, commentators no longer touched on the subject with any regularity. When obliged to give a name to the new state leading authorities hardly ever used an equivalent of 'the Dutch Republic'. During the seventeenth century, treaties were concluded by the States General of the 'Vereenighde Nederlantsche Provinciën', or the 'Geunieerde Provinciën', or the 'Vrije Vereenigde Nederlanden' (respectively, 'the United Dutch Provinces', 'the United Provinces', 'the free United Netherlands') etc. In the text proper of the treaties the Republic was often called 'this State', 'the State of these

countries', or even simply 'the State'. Only in treaties with other republics which recognized themselves as such like Venice or Cromwellian England was the word also used to indicate the Dutch state.

References to republicanism in sixteenth-century pamphlets and the fading away of republican thought in the early seventeenth century have been examined by Nicolette Mout in her carefully documented 'Ideales Muster oder erfundene Eigenart. Republikanische Theorien während des niederländischen Aufstands' in H.G. Koenigsberger ed., *Republiken und Republikanismus im Europa der frühen Neuzeit* (München, 1988) pp. 170-194.

Some of the writings of Gerhard Oestreich on the work and influence of Justus Lipsius appeared in English translation in *Neostoicism and the Early Modern State* (eds. Brigitta Oestreich and H.G. Koenigsberger, Cambridge, 1982). Oestreich regarded Lipsius as the initiator of a so-called 'Netherlands Movement', which spread from Leiden and Louvain where he taught to major academic and political centres in Europe and, thanks to its practical usefulness, furthered the growth of the absolute state. In 1989 Nicolette Mout edited Oestreich's first substantial study on the subject, his previously unpublished Habilitationsschrift of 1954, *Antiker Geist und moderner Staat bei Justus Lipsius* (Göttingen, 1989). In her comprehensive introduction she clarifies Oestreich's position in the historiographical debate and indicates some problems relating to his interpretation.

The number of recent books and articles concerning the seventeenth century is relatively small. I have already mentioned the *Bibliography of Dutch Seventeenth Century Political Thought*. On the early seventeenth century there is little to draw attention to apart from H. Wansink's *Politieke wetenschappen aan de Leidse Universiteit, 1575 - c.1650* (Utrecht, 1981) which studies broadly the same material as I did in Part I of this book but more systematically and in greater detail, though without coming to any startlingly new conclusions. He did, however, include useful information about the teaching programmes and the size as well as the origin of the cosmopolitan student population. The book gives a vivid picture of the form and content of 'political science' as taught at Leiden University in that period.

The second half of the century has attracted more attention. In his learned and enlightening *The Myth of Venice and Dutch Republican Thought in the Seventeenth Century* (Assen, 1980), E.O.G. Haitsma Mulier looks at how the brothers De la Court and Spinoza underpinned their rather theoretical proposals for the reorganization of Dutch institutions by referring to concrete and laudable practices of the Venetian model. Since then Haitsma Mulier has contributed equally valuable articles in English to various collective works, among others

'The language of seventeenth-century republicanism in the United Provinces: Dutch or European?' in A. Pagden ed., *The Language of Political Theory in Early-Modern Europe* (Cambridge, 1987), p. 179-195, and 'A controversial republican: Dutch views on Machiavelli in the seventeenth and eighteenth centuries' in G. Bock *et alii*, eds., *Machiavelli and Republicanism* (Cambridge, 1989), pp. 247-263.

Research on the brothers De la Court has continued but it has not yet produced the closely-reasoned full monograph which these remarkable men certainly deserve. It will admittedly be a difficult task to write a coherent study of authors so lively, even volatile, yet so serious, so unsystematic and contradictory yet far from frivolous, so cynical yet so generous, so unscholarly yet so well informed about the latest intellectual developments. But the historian courageous enough to take on such a project is now in a better position than I was in 1960. Thanks to the approaches opened up by Pocock, Skinner and others like them, thanks also to their interest in matters of style, language, rhetoric, he or she will be able to put a whole set of new questions on the agenda. For why should methods which have proved their value in the case of Hobbes fail when applied to lesser publicists such as Johan and Pieter De la Court? Furthermore, there are now two books which contain useful introductory material: H.W. Blom and L.W. Wildenberg, eds., *Pieter de la Court in zijn tijd. Aspecten van een veelzijdig publicist (1618-1685)* (Amsterdam, 1986) and L.W. Wildenberg, *Johan en Pieter de la Court (1622-1660 en 1618-1685). Bibliografie en receptiegeschiedenis* (Amsterdam, 1986).

This is not the place to consider recent literature on Grotius and Spinoza whose work is being subjected to constant examination all over the world. However, it may be useful to mention the enlightening chapter which Pauline C. Westerman devoted to Grotius's philosophy of natural law in her *The Disintegration of Natural Law Theory. Aquinas to Finner* (Leiden, 1997), a book that also contains a fine analysis of Pufendorf's views which greatly influenced a number of Dutch writers.

In 1995, H.W. Blom wrote his *Morality and Causality in Politics. The Rise of Naturalism in Dutch Seventeenth-Century Political Thought*. Though neatly printed, this book is not yet in commercial circulation. Some of Blom's views are to be found in his 'Spinoza's moral and political philosophy' in G.H.R. Parkinson, ed., *The Renaissance and Seventeenth-century Rationalism* (London, 1993), pp. 313-348. While taking Part 1 of this book more or less as his starting point, Blom proposed some new and extremely interesting ideas which differ from those suggested by me. The book deserves careful consideration. It culminates in an original assessment of Spinoza as the proponent of a radical and consistent

version of the seventeenth-century naturalism, which Blom tries to show had been prominent in Dutch political theory since Burgersdijk and Van Velthuysen, both of whom he judges to have been more innovative and consistent than I believed in 1960. (In the introduction to her translation of Velthuysen's *Epistolica dissertatio* of 1651 Catherine Secretan, too, underlines Van Velthuysen's importance: *Les principes du juste et du convenable*, Caen, 1995). It is to be hoped that Blom's contribution will revitalize discussion of some of the central issues of seventeenth-century political philosophy.

In Blom's view, it was Spinoza who functioned as the logical terminus of his argumentation. In mine it was Ulric Huber, as I explain in Part 1 of this book. Huber has since then become one of the main objects of research by T.J. Veen who has written a book and a considerable number of articles about him. Veen has been particularly interested in Huber's efforts to establish a clear distinction between political and juridical matters, between traditional *politica* and the *ius publicum universale* which he claimed to have established as a new scholarly discipline. From his fine corpus of learned studies the following titles, nearly all in Dutch, deserve special attention. Pride of place goes to the large volume *Recht en nut. Studiën over en naar aanleiding van Ulrik Huber (1636-1694)* (Zwolle, 1970), with a generous summary in German. The book provides much useful information, biographical, bibliographical and intellectual, and is of course much fuller than the concise synthesis of Huber's ideas that I produced in Part 1 of this volume. As in other work by him, Veen criticizes, probably rightly, some of my assertions without fundamentally overturning my general interpretation of Huber's arguments.

In 1978 Veen edited the 'Oratio Tertia' of 1682 in which Huber clearly expounded his principles. The editor introduced the text and provided (with others) a fluent Dutch translation of *Ulrici Huberi Oratio [III] quâ disseritur, quamobrem Ius Publicum olim Academiâ nostra professione publicâ non sit honoratum* (Zwolle, 1978). Further explorations by Veen on this subject matter are to be found in his 'Ius publicum universale pari fere passu cum politica ambulat' (C.W. Maris *et alii*, cds., *Recht, rechtvaardigheid en doelmatigheid*, Assen, 1990, pp. 59-89) and in English 'Interpretation of Inst. 1, 2, 6, D. 1, 3, 31: Huber's historical, juridical and politico-theoretical reflexions on the *Lex Regia*', *Tijdschrift voor Rechtsgeschiedenis* [*The Legal History Review*], LIII (1985) pp. 357-377.

There is no need to provide detailed information about Dutch eighteenth-century political thought in this book. It is enough to mention that a great deal of promising research into the reaction of Dutch theorists facing the upheavals of the last decades of that period is now being done in a collective effort and broad international setting. The publications now under way may

help us to understand better the seventeenth-century heritage from which the eighteenth century either borrowed freely or which it rejected.

Part I

The Course of
Dutch Political Theory
in the Seventeenth Century

1 The Tradition

The difficulties facing Dutch theorists

The Dutch State arose from a denial and it was only after much hesitation that the Netherlands came to accept that their rebellion against a sovereign whom they regarded as alien had in fact given rise to an independent republic. Only after surviving the violent crisis of the 1580s was this independence perceived as a real advantage and a reason for pride and self-confidence. As the seventeenth century dawned, the newly-formed state was finally secure and there were few northern Netherlands who now doubted that it was a durable creation which could face the future with confidence. It had its own life, its own goals and its own unique structure. It possessed political institutions and rules, a language, a literature, universities and a national church. Each one of these features set this community, this alliance of provinces, apart from the rest of Europe.

It is important to understand how the inhabitants of the new state evaluated their political structures. Could they explain and justify the unique political construction that controlled their communal life by a theory which would place it in context and relate it to other political structures? Could they define exactly what their state was and how it ought to develop? The Dutch theorists of the seventeenth century who were confronted with the realities of a new political society had many questions to answer and we shall attempt to follow the development of their ideas. It will become apparent that the many writers, teachers and commentators on *politica* who worked in the seventeenth-century Netherlands needed a great deal of time to produce an acceptable rationalization of the political reality surrounding them. This is not surprising for the situation was unusually difficult. The political form of the Netherlands had something uncertain, something hesitant about it. It was not possible to predict in what direction it might develop. Furthermore, foreign examples were of little help. What was the relevance of French or English theories to a state which seemed to be moving in a completely different direction and was based on completely different foundations? Only a genuinely Dutch theory could explain and ground this uniquely Dutch state; but where were the creative thinkers capable of such adventurous originality? Much of what was taught

and written in the universities in the early years of the century was taken uncritically from French or German works. It lacked realism and was of little relevance to the Netherlands of that time. This foreign influence on Dutch political theory remained fairly sterile until the middle of the century; only after 1650 did it stimulate Dutch thinkers to set up systems of their own that reflected Dutch realities.

There was one particular difficulty which created huge problems for Dutch theorists and this was the legacy of the sixteenth century. It lay like a dead weight upon their shoulders; they worried long and hard about it; but they could not free themselves from it. The roots of the Dutch state, after all, lay in the Calvinist doctrine of legitimate resistance against a tyrannical prince which Althusius expounded in a brilliant synthesis at the start of the seventeenth century. There was much that was positive in his system: the idea of a constitution which was binding on every prince if he was not to degenerate into a tyrant; the idea that the state was based on law (a *rechtsstaat*); and finally the idea that ultimately all sovereignty was popular sovereignty. But even in Althusius's *Politica methodice digesta* this constitutionalism was used to explain the Dutch Revolt and not the Dutch state.¹ It was therefore the task of Dutch thinkers to clear a path through the negative theories of the Revolt to a positive justification of the new state. We shall see successive generations losing their way in the undergrowth which the 16th sixteenth century had planted and trying in vain to make find their way out again. Only at the end of the century did the Dutch succeed in freeing their *politica* from the thrall of the Revolt and adapting their *politica* to the new circumstances that had developed.

The dynamic of Dutch political theory in the seventeenth century therefore lies in its need to discover itself and free itself from European political fashion. We shall see that its strength turns out to depend on its uniqueness. The uniqueness of the Netherlands evolved as much through actual events as in the theories which accompanied them. During the hesitations and uncertainties of the first half of the century, the Netherlands, though powerful, was still not very self-aware and was content to remain within the wider European tradition. Only after 1650 when John de Witt broke with the house of Orange and the traditions of the stadholderate, making the Republic more republican than it had ever been before, only when the Dutch state learned to

¹ See E.H. Kossmann, 'Bodin, Althusius en Parker, of: Over de moderniteit van de Nederlandse Opstand', in *Opstellen ... aangeboden aan Dr. F.K.H. Kossmann*, The Hague 1958, p. 79 ff. Reprinted in idem, *Politieke theorie en geschiedenis*, Amsterdam 1987, p. 93-110.

behave like a great power, not so much to acquire power as to hold on to the power which it had already acquired through the weakness of others, did the Netherlanders dare to be themselves and be different from the rest of Europe. It was during this period of Dutch splendid isolation, symbolized as it were by the Anglo-French attempt in 1672 to stamp out this strange anomaly, that the Dutch form of government was praised for the first time as also being the best form of government.

Dutch republicanism in the second half of the century marked a break with tradition and the *politica* of the universities. In the first half of the century the Dutch had busied themselves with political theory at length and with enthusiasm. Professors gave lectures on it and students wrote theses about it. Naturally there were disagreements but there was nevertheless a kind of consensus on the best form of government. The theory was neither original nor profound and it was far from revolutionary. There were limits, fairly circumscribed limits, within which most were content to remain. The respectable and cultured Dutchman of the times was Aristotelian, humanist and Calvinist, and he believed in Natural Law. These elements satisfied him and from them he constructed a political theory. Although the enormous intellectual developments of the seventeenth century soon left it looking conservative and old-fashioned, it nevertheless survived. Even at the end of the century, although the form had changed considerably, one still finds academic dissertations defending the old tradition.

The Aristotelian-Humanist Character of the Tradition

The tradition was, of course, Aristotelian. It was assumed that man was a political being predestined to live in society and that the state was therefore almost a part of nature. It may or may not have been based on an agreement but it certainly came about without violent catastrophes or far-reaching decisions. The transition from natural to civil society occurred calmly since the state was actually little more than the institutionalization of what had always existed since man was created. Although the idea of original communism was a necessary element in this, it did not exclude a recognition that some degree of private property was possible in the state of nature. Anyway, Grotius had argued that private property had its origins in natural not positive law, and his followers developed this further to argue that private ownership dated from before the founding of the state.² Of course, there was still the Fall and

² F.A.A. Schweigman, *De eigendomsphilosophie van Hugo de Groot*, Nijmegen 1929, p. 43 ff.

original sin but oddly enough these did not play a significant role. It is in fact highly paradoxical that the fundamental sinfulness of mankind only acquired significance in Dutch political theory after it was discovered in Hobbes. The *Confessio Belgica* (1562) states in article xxvi that the state existed because of man's corruption, but even the Calvinist theologians with their scholastic and Aristotelian attitudes felt no compulsion to draw any political conclusions from that.³ Only in the middle of the eighteenth century did they discover that the doctrine of natural law in the form which had been handed down by jurists, even orthodox jurists, and taught for so many years in the universities was difficult to reconcile with their fundamental beliefs.⁴

The tradition was also humanist. One appealed not to contemporary writers but to the classics and this humanist tradition was maintained by philosophers and professors of ethics and politics, as well as by the jurists. Their style was elegant and their Latin was often attractive; their expression was rhetorical and they were much more interested in Greek and Roman antiquity than in old-Netherlands institutions. Classical and juridical studies often seem to merge with each other. Even a systematic thinker as able and as interested in contemporary affairs as Busius used the Roman state as the obvious paradigm for his *De Republica* (1613). The history of Rome rather than the history of Israel was the point of departure for all political theory.⁵ It was quite normal for juridical dissertations on sovereignty to consist of little more than a historical account of the Roman empire.⁶ In the same way that natural law dulled the edge of Dutch Calvinism, humanism dulled the edge of Dutch republicanism. And that too passed almost unnoticed. It was not deliberate; there was no intellectual agitation in favour of a monarchy; it certainly did not involve making a choice between political parties. Nevertheless, it is a fact that monarchy retained an important place in what one might call traditional theory.

³ F. Fries, *Die Lehre vom Staat bei den protestantischen Gottesgelehrten Deutschlands und der Niederlande in der zweiten Hälfte des 17. Jahrhunderts*, Berlin 1912, p. 48.

⁴ W.J.A.J. Duynstee, *Geschiedenis van het natuurrecht en de wijsbegeerte van het recht in Nederland*, Amsterdam 1940, p. 49.

⁵ See Busius's definition in his *Illustrium disquisitionum politicarum liber*, p.A: Politica vulgo quae est doctrina Reipub. rite tractandae. Et haec licet pars Ethicae censeatur, ita tamen aucta ab usu est, ut originem quidem ejus philosophiae, incrementum vero maximum historiis et legibus Romanis debeamus.

⁶ M.L. Singendonck, *Dissertatio juridica inauguralis de Majestate*, Leiden 1701.

Republicanism at the beginning of the century

And yet the basis on which to build a republican theory did exist in the Netherlands. Republicanism, it is true, did not form a systematic whole; it was opinion rather than doctrine and it needed elaboration and expansion, but it was there nonetheless. So it is quite remarkable that it was left to the Cartesians in the second half of the century to develop it further. The republicanism of Grotius, C.P. Hooft, Paul Buis and a few of Bertius's pupils can be described in a few words because it was so incomplete and primitive.

C.P. Hooft

The Amsterdam burgomaster, C.P. Hooft (1547-1626), who has become familiar to us thanks to the work of H.A. Enno van Gelder, had no well-defined political theory. He was a typical representative of the generation and the class who came to power in the town after the removal of the Roman Catholic magistrates in May 1578 (the so-called Alteration of Amsterdam). His republicanism was based on experience; it was rooted in a mistrust of foreign monarchism and pride in Dutch strength. As such it is impressive and remarkable enough, even though it should be added that Hooft's arguments lack a certain vigour and conciseness. But it was not based on a theoretical understanding of recent history and remained a direct reaction to his own experiences. He extolled the advantages of aristocratic government repeatedly and with great conviction, and warned explicitly against isolating government from the people as a whole. His ideal was an administration led by cultured and responsible burghers with the support of the masses, and in his own way, though in vain, he worked to bring it about in Amsterdam.⁷ However, his *Memoriën en Adviezen* are not theoretical writings but a defence of his own practical convictions. They lack the degree of abstraction which political doctrine requires before it can provide a systematic and creative interpretation of the real world.

Hugo Grotius

Grotius too, in spite of his early learning and courageous, even reckless, intellectual powers, was too involved in the practice of politics in the early years of the seventeenth century to have enough leisure to develop a reasonably acceptable theoretical defence of the republican form of government. His *De*

⁷ See e.g. C.P. Hooft, *Memoriën en Adviezen* (Werken Historisch Genootschap Nieuwe Reeks, 16, 1871), p. 154 ff. and the references mentioned by Van Gelder under 'regering' in the register of his edition of *Memoriën en Adviezen II* (Werken H.G., 3rd series, 48, 1925).

antiquitate et statu reipublicae batavae (1610) is not a work which can compare with the best of contemporary political theory. It is an occasional piece, in essence rigidly conservative and shallow. Grotius himself was later dissatisfied with it, admitting that after starting it he had gone too far. Many such ideas, he added, evaporate as we grow older.⁸ Lotte Barschak has shown that much of its constitutional content is taken from François Hotman's *Franco-Gallia* (1573).⁹ But whereas Hotman's conservatism ultimately had the practical aim of bringing about change, in Grotius it served to preserve an existing incomplete system as if it possessed eternal value. And although his theory of an ancient aristocratic system, its origins lost in the mists of time and virtually untouched by monarchy, enjoyed some success in the northern Netherlands, it could never have formed the basis for further debate on the merits of aristocratic government.

The students of Petrus Bertius

It would be unreasonable to expect from students what the youthful genius of Grotius could not deliver. Even three unusual disputations by the Polish brothers Rey in 1602 produced in Leiden under the supervision of the Arminian Professor of Ethics, Petrus Bertius (1565-1629) are no signposts to a great future. Nevertheless, they are attractive discussions of old problems. Stanislaus Rey's task was to analyse the various forms of government systematically.¹⁰ He distinguished six: the three pure forms and the three corrupted forms to which they often give rise. This was hardly new. But it is interesting to note that he did not recognize the existence of mixed constitutions: for him even Sparta was a pure aristocracy, Polybius notwithstanding (p. B3). Bertius's teaching was apparently not only based on Aristotle but also drew on contemporary theory. Iohannes Rey¹¹ discussed monarchy and tyranny and handled these general and so often misused terms with care and precision. Finally, Andreas Rey had to make a choice and indicate the best form of government.¹² In practice, he argued, an aristocratic republic is best for although it is true that the ideal would be a prince who excels in wisdom and virtue, in the real world it is easier to find a number of good rulers than a single excellent sovereign (p. A2 vo ff.).

⁸ *Epistolae*, no. 636, 1646.

⁹ 'Die Staatsanschauung des Hugo Grotius', *Bijdragen voor Vaderlandsche Geschiedenis en Oudheidkunde*, 1926, p. 223.

¹⁰ Stanislaus Rey à Nagłowicz Polonus, *Theses politicae de variis rerumpublicarum formis*, Leiden, 1602.

¹¹ Iohannes Rey, *Theses politicae de regno et tyrannide*, Leiden 1602.

¹² Andreas Rey, *Theses politicae de optima republica*, Leiden 1602.

Did Bertius's teaching always have this republican character? Did he allow his students, who came from many different countries, complete freedom or did they defend only what he had taught? Whatever the case, he clearly did not have much interest in constitutional matters since very few of the disputations held under his supervision dealt with *politica*. Furthermore, his own vehement Aristotelianism (on the title page of one of his disputations he was described as a *strenuissimus philosophiae Aristotelicae propugnator*¹³) would have pointed him in the direction of monarchy. A pupil of his once summed up Aristotle's opinions on government: there are three forms of government; there is monarchy with its antithesis tyranny; aristocracy and its antithesis oligarchy, and timocracy with its antithesis democracy. Of these, according to Aristotle, the *basileiâ*, monarchy, is the best; the worst is tyranny because it is the antithesis of the best.¹⁴ Again, in a disputation of 1617 the Londoner Petrus Courten raised the question whether hereditary monarchy was the best form of government and concluded that indeed it was.¹⁵ A few years later Bertius's successor was also singing the praises of monarchy. And yet, as we have already seen, in the early years of the seventeenth century there was also still room for the defence of pure aristocracy. The odd, rather casual assertion by the professor of history Paulus Merula (1558-1607) in his famous, posthumously published rectoral oration,¹⁶ that the Dutch state was a mixture of monarchy, aristocracy and democracy was clearly not a high-point of political wisdom at Leiden.

Paul Buis

Franeker's light, on the other hand, burned brighter. After failing to attract Althusius to the vacant chair of Professor in the Pandects in 1610, the Friesians appointed Paul Buis from Zwolle (c. 1570-1617), who for a few years also taught *politica*.¹⁷ Buis was not of the same calibre as Althusius. His vision and his arguments did not extend as far as those of the Emden syndic. But within his limitations he was an excellent jurist and an outstanding political theorist.

¹³ H. Gesteranus, *Centuria controversiarum ethicarum ... sub ... praesidio strenuissimi philosophiae Aristotelicae propugnatoris D. Petri Bertii*, Leiden 1603.

¹⁴ I. Narsius, *Theses ethicae de amicitia*, Leiden 1598, p. A3.

¹⁵ P. Courten, *Theses philosophicae de politiarum principiis*, Leiden 1617.

¹⁶ P. Merula, *De statu Reipublicae batavicae diatriba*, 1614.

¹⁷ It was probably in this period that the anti-Aristotelian H. de Venio (d. 1613), who also taught *politica*, was reduced to silence. His teaching does not seem to have been significant. An impression of it can be gained from a dissertation in 1606 by one of his pupils (Henr. à Weerdum) cited by W.B.S. Boeles, *Friesland's Hoogeschool en het Rijks Athenaeum te*

As a teacher, he was without doubt better than Bertius because he was able to provide an independent, systematic and well-considered contribution to constitutional theory. He was the only Netherlander able to move comfortably at the same high level as Bodin or Althusius despite lacking their creative originality. Only Grotius, many years later in the period of his *De jure belli ac pacis* (1625), would outstrip him.

Busius produced a constitutional theory in two books of 1613: his *De republica libri tres*,¹⁸ and the *Disquisitiones*¹⁹ in which the same ideas and material are treated at greater length in the form of academic disputations. The title of his main work reflects its dependence on Bodin's *De republica libri sex* of 1586 (the Latin edition of the famous French work which appeared in 1576). At the same time, one has only to set the hundred pages of Busius next to the colossal volume of Bodin's to appreciate how cursory his approach was. Nevertheless, Buis was no slavish follower of his French model. On the contrary, however much Bodin may have inspired him to start upon his work, his conclusions were different and one often has the impression that his book is a commentary on or even a polemic against Bodin. What the Dutchman found hard to accept in Bodin was in the first place his absolutism, and in the second place his strangely elusive notion that the true end of the state is '*beatitudo animi*', the blessedness of the citizens' souls. Buis was more down to earth. The goal of the state was the security of its citizens and even if the ideal goal for human individuals is to be absorbed in contemplation of the divine, this has no practical bearing on earth or on the nature of the political community.²⁰ Busius's chief concern was, without doubt, to combat absolutism. The remarkable thing is that he did not resort to theories of contract or popular sovereignty – there is no mention of Althusius's *Politica methodice digesta* which was first published in 1603. Instead he subtly moderated and modified Bodin's propositions. He accepted the doctrine of legislative sovereignty, even its indivisibility, but attempted to remove the absolutist tendencies which Bodin had clearly given to it by attributing this power to what one can probably best describe as 'king

Franeker, 2 vols, Leeuwarden 1879-1889, vol. II, p. 75. For Buis, see the article by L. de Hartog, 'Een Nederlandsch schrijver over den staat, uit het begin der XVIIe eeuw', in *Nieuwe Bijdragen voor Regtsgeleerdheid en Wetgeving*, 1882, p. 474-534.

¹⁸ Paulus Busius, *De republica libri tres. Quibus tota politicae ratio nova et succincta methodo ingenuae ejusdem praxi applicatur*, Franeker 1613, 100 p.

¹⁹ Paulus Busius, *Illustrium disquisitionum politicarum liber, quo quaestiones politicae, seu ejus quae est de gerendae reipublicae ratione, septendecim disputationibus explicantur*, Franeker 1613, c. 200 p.

²⁰ *De republica*, p. 10 ff.

in parliament'. According to him, most of the west and central European monarchies consisted, like the Roman Empire, of a *princeps* and a senate to whom the rights of sovereignty belonged jointly. As such this sovereignty is certainly absolute and indivisible even if it is rarely exercised by a single person, so that there is no place for the Calvinist doctrine of ephors, a term which he never uses. According to him the prevalent European system could be described as a mixed form of government,²¹ an idea which both Althusius and Bodin had rejected but which Busius returns to.

It is, however, clear that Busius's mixing and modifying was more carefully thought through than that of later generations in which, as we shall see, sovereignty itself disappears. Nevertheless, Busius was still unable to explain why it was a good thing that the state was not absolute, *dominatus*, but tempered, *principatus*. For he rejected the idea of a constitution which had to be defended by a senate. In this he pays dearly for his contempt for the Calvinist constitutionalist tradition and his arbitrary decision to accept the Roman system of government as his guiding principle. His senate and his prince float, as it were, in the air and nowhere does he indicate how they are related to the society they are supposed to rule. The attempt by Busius to temper dazzling absolutism lessened its brilliance but failed to break it.

Although Busius rejected the absolutist forms of government which he perceived in Turkey, Moscow, Africa, Asia and the European colonies in America²² and designated all non-absolutist forms as mixed and praised them highly, in the end he set aristocracy above all of them. Busius was a republican. De Hartog, in the excellent article cited previously, poses the question whether and how Busius's love of aristocracy can be reconciled with his admiration for a mixed constitution.²³ There appears, however, to be no answer since Busius himself did not see the problem. He seems simply not to have given any thought to the possibility that aristocracy, the rule of the best, could be absolute and that the senate as absolute ruler could be as oppressive as any absolute monarch. And at this point he joined his Calvinist brothers who for so long had described the Estates of the Netherlands as ephors whose task it was to defend the constitution, while forgetting how far these sovereign bodies had raised themselves above the constitution. For how could the moderating element in a monarchy become a tyrant in a republic?

Busius's defence of aristocracy is otherwise a courageous piece of reason-

²¹ *Ibidem*, p. 55 ff.

²² *Ibidem*, p. 45.

²³ L. de Hartog, 'Een Nederlandsch schrijver', p. 498.

ing,²⁴ in many respects anticipating the writings of the De la Courts in the second half of the century. It is striking however that here he abandons his systematic and schematic reasoning for a long excursion on the empirically proven power and excellence of the aristocratic republic. It is as if theoretical abstraction could not stretch this far. Also striking is that he considered the Dutch Republic to be a pure aristocracy and ascribed no fundamental constitutional importance to the function of the stadholder.²⁵ And finally it should be said that he had no wish to see the Republic become a unitary state, believing that to abandon the federative structure would be disastrous.²⁶ In spite of all their omissions, the two books by Busius were far superior to anything that had thus far been produced in the Netherlands. However, they had little influence and were very rarely cited. Only at the end of the century did a jurist of similar stature appear in Franeker: Ulric Huber. But by then so much had happened and so many new problems had arisen that Huber could not be expected to have pursued the same path as his predecessor.

So there were in the early years of the seventeenth century undoubtedly some Dutch writers who were prepared to study the nature of the republican form of government and to conclude that it possessed distinct merits. Yet their republicanism remained a torso for which no-one later showed much concern or interest. Even so, it is surprising how quickly it was lost. It appeared unable to recruit any support and remained limited to being an apology for an accidental and transient historical situation. The monarchical character of Frederick Henry's stadholderate (1625-1647) and, probably more importantly, the very nature of humanist scholarship led the theory down a different path and rapidly turned this republicanism into an anomaly. Grotius, though a republican in the special circumstances of his youth, found himself during his exile in Paris so far removed from Holland's peculiar constitutional ambiguities that in his *De jure belli ac pacis* (1625) he returned naturally as it were to the usual humanist position on the state and monarchy. In Leiden, Utrecht and Groningen, professors propounded theories of varying degrees of vagueness from which a more or less tempered monarchy emerged as the ideal form of government. The theory left little room for a republic. Thanks to Aristotle, it was recognized as having a place in political *schemata*; its existence was noted but no effort was made to explore its merits. Whereas in the early seventeenth century it was at least acknowledged that it worked in practice,

²⁴ *De republica*, p. 99 ff.; *Disquisitiones*, p. Q ff.

²⁵ *Disquisitiones*, p. Q6 vo.

²⁶ *Ibidem*, p. Q5 ff.

later writers, obsessed by theories in which republics had no place, turned away and were silent. Flooding into this vacuum came the praise of monarchy – an abstract, theoretical praise which required neither creativity nor party allegiance.

Monarchism after the end of the Truce with Spain (1621)

P.C. Hooft (1581-1647)

Of course that did not mean that none of those who sang the praises of monarchy gave any thought to the situation in the Netherlands. It is highly probable that the great poet and historian P.C. Hooft, the son of burgomaster Hooft whom we discussed earlier, did so. Hooft was not personally involved in party politics, and probably not interested in the purely theoretical reflections of the academics. His sympathy for the monarchical form of government had different roots: a belief that in the circumstances of the time a republic was not viable. Tacitus might have taught him that a moderate monarch can restore life to a state in which liberty has degenerated into civil war²⁷ though of this we can not be absolutely sure. However, Lipsius's influence on Hooft can clearly be demonstrated as can the links between his conservatism and Montaigne's.²⁸ The poet would have been well-read in political literature and obviously familiar with the idea expressed in the final lines of his play *Baeto* that sovereignty, like God, is above discrimination, and good and evil are subject to its mercy. Why then should one want to deny, as some historians have done, that a monarchical tendency is discernible in his work? It would in any case be quite understandable in the uncertainties and fluctuations of Dutch political life in the early seventeenth century since it also reflected the intellectual mood of the time.²⁹

Teaching at Leiden

F. Burgersdijk

The poet Hooft lived outside the university world, so let us return to the scholars of Leiden. When the Arminian Bertius was dismissed in the wake of stadholder Maurice's victory over Oldenbarnevelt in 1618, he was succeeded

²⁷ J.D.M. Cornelissen, *Hooft en Tacitus*, Assen, 1946, *passim*.

²⁸ F. Veenstra, *Bijdrage tot de kennis van de invloeden op Hooft*, Assen, 1946, *passim*, p. 185 ff.

²⁹ It seems to me that P. Geyl (*Nederlandsche Historiebladen*, 1938, p. 384) and F. Veenstra (in his edition of Hooft's *Baeto*, p. 75 ff.) were wrong to deny it.

as Professor of Philosophy by the well-known philosopher Frank Burgersdijk (1590-1635), who enjoyed an extremely successful career and was three times elected to the position of Rector Magnificus. He is reckoned among the younger generation of scholastics and had an important influence on the development of a broad Aristotelianism in the Netherlands.³⁰ Incidentally, his logic was also much admired abroad – in Cambridge and even in Harvard, New England.³¹ After his death two works by him on political matters were published which are certainly his lecture notes on that part of ethics known as *politica*. First of all in 1644 there appeared in Leiden a small book entitled *Idea oeconomicae et politicae doctrinae* which was very popular and was twice reprinted in 1649 and 1657.³² There was apparently still a market for Burgersdijk's political insights in 1668 when the irrepressively prolific Georg Horn (1620-1670), whose greatest contribution was probably the use of the term *medium aevum* in one of his numerous handbooks, published a heavily annotated reprint of *F.Burgersdyckii Idea Politica*³³ shortly before insanity removed him from the academic scene. For various reasons this is a remarkable work in spite of its rather scholastic approach and its failure to add anything new to current political thinking. What makes it particularly interesting is its defence of monarchy as the best form of government in a completely natural and didactic style without polemic or exaggeration. The argument is traditional. Man is an *animal politicum* and his natural inclination to society is fanned by the perils confronting him which he can not face alone. It is in this way that families came together to create the state; the state was not, as Bodin had insisted, created solely by conquest. The heads of families chose one man as leader and thus did monarchy emerge as the simplest and most orderly form of government. However, because people do not always behave rationally, other forms of government are sometimes needed to satisfy their desires. Burgersdijk shows little interest in these other forms. At least, he devotes by far the largest part of his work to describing what the prince should know and be able to do, how he should be educated and which virtues should be instilled into him. In short, it falls under the well-loved category of the *Institutio Principis Christiani*, a genre to

³⁰ See P. Dibon, *La philosophie néerlandaise au siècle d'or* vol. 1, Amsterdam 1954, p. 90 ff.

³¹ D.J. Struik, *Het land van Stevin en Huygens*, Amsterdam 1958, p. 110.

³² C. de Waard, in *Nieuw Nederlandsch Biographisch Woordenboek* VII. Cf. also St. von Dunin Borkowski, *Spinoza*, part III, Münster 1935, p. 316.

³³ Leiden, 1668, 232 p. For a full bibliography of Burgersdijk, see Dibon, *Philosophie néerlandaise*, p. 124.

which also Caspar Barlaeus paid homage in 1633³⁴ and in which it was impossible to make either any great mistakes or any great discoveries. Incidentally, Burgersdijk was thoroughly familiar with the juridical basis of monarchy and was thus able to provide a coherent definition of sovereignty. Indeed, his definitions are always up-to-date and reliable. In principle, he is certainly an absolutist but in an enlightened sense. His discussions of compulsory education, the public school, food supplies, the possibility of recognizing several religions within the state (p. 187) make it clear that he, like Hooft, inhabited the intellectual world of the *politiques* with whom he presumably came in contact during his professorship at Saumur (1614-1620).

Burgersdijk has little to say about republics. He gives them little chance of surviving for long without some form of semi-monarchical institution to guarantee unity (pp. 193-194). On the other hand, he was attracted by a mixture of monarchy and aristocracy (pp. 210 ff.) and even has a friendly word for the famous aristo-democratic monarchy which had preoccupied political theorists in Germany and the Netherlands for so long (pp. 218 ff.). Nevertheless, these complex forms clearly do not engage his real interest and it is only their monarchical aspects which he valued.

G. Jacchaeus and his students

Burgersdijk's monarchism was not exceptional in the Leiden of his day. His one-time teacher and colleague, the Scot Gilbert Jacchaeus (c. 1578-1628) who as theologian, philosopher and physician lectured on a variety of subjects in Leiden from 1605 on, also seems to have taught his students the natural excellence of a monarchical form of government. Under his supervision in 1625, a Swedish student presented a disputation which defended monarchy as the simplest, oldest and best form of government.³⁵ Dutch students too were given this proposition to defend and they praised pure hereditary monarchy without reservation. Even the risk that it might degenerate into tyranny does not seem to have caused these students any concern. One of Jacchaeus's maxims was 'tyrannum tolerare quam tollere, ferre quam auferre praestat' which, however one looks at it, is an amazingly casual assertion for a Leiden philosopher to make forty years after the abjuration of Philip II.³⁶ Even Grotius, whose *De jure*

³⁴ C. Barlaeus, *Dissertatio de bono principe adversus ... Machiavelli ... suasorias*, Amsterdam, 1633.

³⁵ Johannes Nicodemi Orebrogensis Suedus, *Disputatio politica de monarchia*, Leiden 1625.

³⁶ Cf. Ioannes Erasmus Ultrajectinus, *Quaestiones philosophicae miscellaneae*, Leiden 1626, p. A4 & verso.

belli ac pacis of 1625 allows little room for a right of resistance, would have balked at such a generalization. And *he* lived in Paris.

Jacchaeus was probably a Remonstrant. He went through a difficult patch in 1619 after Maurice's triumph but he did not share the fate of his friend Bertius and after a brief suspension was able to resume his lectures. It is surprising that it was his pupil Burgersdijk of all people who was appointed as Bertius's successor even though he was certainly no more of a Gomarist (that is, an adherent of the version of Calvinist theology developed by Gomarus for which the Prince of Orange, Stadholder Maurice, had opted in his conflict with Oldenbarnevelt) than Jacchaeus was. It would therefore be wrong to explain the monarchism of these men as an expression of Orangism and there is absolutely no reason to do so. These philosophers could hardly have been admirers of Maurice and yet even before his death they were singing the praises of monarchy.³⁷ It is a truly remarkable feature of the history of the universities and especially the teaching of so sensitive a subject as *politica*, that Dutch party disputes had virtually no influence on Dutch academic life. Academic political theory was not indifferent to political reality as such, but only to the peculiar, local disputes among the Dutch rulers. Academic theory was possibly applicable to the Dutch situation – it is difficult to assess its sense of reality – but if so it was grounded in a generalized, detached assessment of the situation rather than any party perspective.³⁸

G. Hornius (1620-1670)

It is nevertheless curious that Burgersdijk's book, based on lectures given in the 1620s and published in 1644, should reappear in a fully revised and reworked edition many years later when any hope of a Dutch monarchy appeared to have evaporated completely. Its editor, the prolific Georg Horn whom we met earlier, took on the task in the time of John de Witt when republicanism reigned supreme. It did not thereby become a party pamphlet and in Hornius's pedantic annotations there is no trace of Orangist sympathy. On the contrary, the annotations were intended to be amendments. They corrected Burgersdijk's text on various points and in particular contested the idea that monarchy was the best form of government. Hornius softened

³⁷ Thus Burgersdijk's pupil Samuel Cabelavius, *Positiones philosophicae miscellaneae*, Leiden 1624, p. A4. Here too one encounters the maxim cited above from a disputation of one of Jacchaeus's pupils that it is better to tolerate a tyrant than to depose him.

³⁸ Cf. the apposite remarks of S.J. Fockema Andreae on jurisprudence in *Algemene Geschiedenis der Nederlanden*, 12 vols 1949-1958, Utrecht 1953, vol. VI, p. 84.

Burgersdijk's propositions, but got so confused by his own superlatives – having declared monarchy to be the best in theory and aristocracy the best in practice, he went on to set democracy above them both – that only the most sympathetic of readers could deduce that Horn's preference was for a mixture of all three. Or was he after all, in his untidy fashion, a democrat? It is not unthinkable. While he was still teaching at the University of Harderwijk he allowed a student of his to defend democracy³⁹ and in his annotations to Boxhorn's *Institutiones politicae*⁴⁰ he was sharply critical of its condescending treatment of that form of government. But he was simply not profound or original enough to break free from tradition. His haste and his lack of balance meant that he remained a superficial hack and an imperfect conservative.⁴¹

M.Z. Boxhorn

His immediate predecessor at Leiden, M.Z. Boxhorn (1612-1653), who had succeeded Burgersdijk in a number of the subjects taught by the latter, was scarcely more original. The disputations from his seminars, some of which he published in 1635, give a good impression of his ideas. A second edition, expanded to nineteen disputations, appeared around 1650.⁴² Sixteen of them dealt with the history of the Roman Empire. Boxhorn got his students to recount the origins and rise of Rome with appropriate quotations from classical authors and a general commentary. They had to judge the deeds of Rome's rulers and question their acceptability from both a moral as well as from a political viewpoint. They therefore deal with practical cases and the emphasis in their evaluation is consistently utilitarian, although the students do not miss opportunities for excursions into such areas as international law. *Raison d'état* also plays an important role and is defended by the students. There is little generalization and equally little in the way of a political system. Boxhorn wanted a realistic assessment of the facts and swept the question of the best form of government aside as meaningless. For that matter, so did many Dutch theorists in the seventeenth century, in accordance with the individualizing theory of political 'interest', i.e. the complex of interests by which each individual state was ruled and which gave it its particular form. It was much discussed at the time and its adherents could also appeal to the authority of

³⁹ G. Hornius, *Dissertationes historicae et politicae*, Leiden and Rotterdam 1668, p. 251 ff.

⁴⁰ Utrecht 1702, p. 348.

⁴¹ J. Huizinga, *Verzamelde Werken* vol. iv, Haarlem 1949, p. 433.

⁴² M.Z. Boxhorn, *Emblemata politica. Editio nova et aucta. Accedunt ejusdem dissertationes politicae de Romanorum Imperio, et quaedam aliae* (s.a., no page numbers), (c. 1650; first edition, 1635).

Aristotle who had very well understood how relative the concept of the 'best form of government' was. But Boxhorn was original in so far as in contrast to other sceptics he actually made no attempt to answer the question. One might label him an unoriginal modernist who showed himself to be extremely sensitive to contemporary baroque in his *Emblemata*, and to the politically fashionable issue of political interest in his other works.

The same spirit prevails in his *Institutiones politicae*, which the indefatigable Hornius published with an inevitably lengthy commentary after Boxhorn's death. In 1702, it was again published, this time by the professor of *Politica* at Utrecht, Gerard de Vries.⁴³ It is a skilful, well-organized work, moderate and sober in tone avoiding anything adventurous; a useful textbook for beginners but nothing more. There is no question of its being an alternative to or a criticism of the tradition, in spite of some concessions to the cultural style of the period. It is not possible to determine whether Boxhorn was a republican or a monarchist; he was simply an analyst and empiricist who rejected systematization and abstract theory as unworkable. His task was to describe objectively and with discrimination the *arcana* of the various forms of government. It must be said, however, that he had little regard for democracy and had no doubt that monarchy was the oldest, simplest and safest form of government (p. 264). On the other hand, he was such an experienced reader and so familiar with the purely individual nature of *raison d'état* as it affected different states that he took great care not to apply any general conclusions to special cases. In the end, he was probably most attracted by the mixed forms of government despite his dislike for the term *respublica mixta* (p. 260). In short, he remained deliberately and with conviction within the traditional mould and, without attempting to reconcile it with his modern, realistic insights, only partially disguised it with his stylish phrasing. It is possible, however, that his teaching of *raison d'état* laid the foundations in one of his pupils for a personal, totally untraditional construction. Johan de la Court attended his lectures and it is very likely that they inspired him to follow a path which his teacher indicated but never himself trod.⁴⁴

It is worth a mention that Boxhorn provoked a pamphleteer from Utrecht to complain bitterly that he 'itched and whined for kings'.⁴⁵ The occasion for

⁴³ M.Z. Boxhorn, *Institutiones politicae cum commentariis ejusdem, et Georgii Hornii observationibus*, Utrecht 1702. First published in 1657.

⁴⁴ There is a manuscript of notes in Johan de la Court's hand of a series of lectures by Boxhorn on Dutch history in the Royal Library at the Hague.

⁴⁵ *Mis-verstant vanden Heer Professor Boxhorn*, 1649, W.P.C. Knuttel, *Catalogus van de pam-*

this was Boxhorn's defence in 1648 of Charles II's rights to the English throne⁴⁶ and his response to criticisms of it by an anonymous writer.⁴⁷ The reproach was unjustified. Boxhorn most certainly had great respect for the Dutch Republic and he was neither Orangist nor Contra-Remonstrant.⁴⁸ But seen against the general background of teaching at Leiden, it was not surprising that such criticism was encountered. The aristotelian-humanist structure of the traditionalist position contained a monarchical tendency within it. That it was politically harmless could only be perceived by those who recognized its purely academic and general character.

Teaching at Utrecht

D. Berckringer and his students

While in Leiden the merits of monarchy were sometimes quite openly praised above all else, in Utrecht a bewildering classification of mixed governments was constructed. The professor of practical philosophy, Daniel Berckringer, who was born in the Palatinate in 1598 and taught *ethica*, *politica* and *eloquentia* at Utrecht until his death in 1667, practised his scholasticism in a manner which might be regarded as comical by those who have not learned to take seriously even the wilder excesses of that tradition. In a book of almost 650 pages published in 1646, he analysed 'economic' institutions, which in those days meant the household, in a didactic fashion. Apparently modelled on his lectures, the format is one of question and answer along the following lines: What are women's clothes? They are clothes normally worn by women which men can not wear without censure. We list: umbrella, mitra, semimitra, redimiculum, capillare sive reticulum, calyptra, flammeum, plaga, plagula, rica, rricula, caliendrum, calantica, mammillare, strophium, amictorium, praecinctorium, succinctorium, cingulum, ricinium sive recinium, theristrum, supparus sive supparum, palla, stola, cyclas, denique periscelides atque sandalium. He then goes to treat men's clothing in the same way. After that he asks whether the family's clothing, both in general and in particular, should be reckoned among the household effects and concludes that it should be. Does

flettenverzameling berustende in de Koninklijke Bibliotheek, 9 vols, The Hague 1889-1934, number 6382, p. A3

⁴⁶ *De successione, et jure primogenitorum* (sic) (1649, Knuttel, 6377). This was also an academic disputation.

⁴⁷ *Tscreet van de Engelsche Mis* (1649, Knuttel, 6380).

⁴⁸ This is clear from his *Commentariolus de statu Confoederatarum Provinciarum Belgii*, The Hague 1649.

that mean both male and female clothing, and clothes which cover the whole body as well as those which only cover parts of the body? Certainly. And are they materially as well as formally part of one's household effects? This too is confirmed. All of which does not prevent Berckringer from devoting many more pages to further summaries and distinctions, specifications, elaborations, modifications and closer definitions in lengthy lists of sonorous and barbarous Latin words.⁴⁹ It is not surprising that the political disputations which took place under his guidance do not leave one with a high opinion of his exceedingly pedantic instruction. It is entirely scholastic and Aristotelian but at the same time based particularly on writers like Bodin and Besold. Berckringer was certainly no supporter of pure monarchy, which in his parlance meant despotic monarchy, a form of government which was not to be found in West and Central Europe but only in Russia, Turkey, Africa and Asia. Marcus du Tour, one of his students, even went so as to suggest that in general no pure forms had ever existed and that throughout history there had only been *status mixti*.⁵⁰ Be that as it may, the best was in any case the most complete mixture, and so year after year we see students defending the *monarchia aristocratico-democratica*.⁵¹ However, the students do not tell us precisely what it looks like or where one can find an actual example. Should one look in England, France, Poland, Scandinavia? Most probably. Did it also exist in the Netherlands? It is remarkable that the professor directs his students to Germans like Besold and even Althusius and Frenchmen like Bodin, but not to Dutch authors such as Grotius or Paulus Merula. In any case, it is clear that at Utrecht the professor of *politica* did not teach a republican political theory. After all, however one looks at it, with such a *respublica mixta* one always ends up with some form of limited monarchy.

G. Voet

Did the theologians of Utrecht, that stronghold of orthodoxy, think any differently? It is unlikely. The broad scholarly interests of Voetius, Gijsbert Voet (1589-1676), leader of the extreme Calvinists and a close friend of Berckringer's, did not extend to political theory and there is no reason to suppose

⁴⁹ D. Berckringer, *Institutiones oeconomicae didactico-problematicae*, Utrecht 1646, p. 380 ff.

⁵⁰ Marcus du Tour, *Disputatio politica de optimo statu Reipublicae*, Utrecht 1541 (sic!): 1641, thesis xviii.

⁵¹ *Ibidem*, thesis xxxvi; M. Michielzoon, *Disputatio politica de optimo statu reipublicae* (Utrecht, 1651), thesis. xvi. For Besold's influence see N. Schuyt, *Disputatio politica de universitate personarum ... sub praesidio D. Berckringeri*, Utrecht 1656.

either that he wanted to step outside the traditions of Dutch Aristotelianism and humanism or that he could have breathed new life into the idea of popular sovereignty which, almost unnoticed, was slipping into oblivion,⁵² even though he certainly recognized the right of the ephors, or the Estates, to resist a tyrannical prince. But could that have had any practical significance in a state like the United Provinces?

On this point, two observations should be made. Very occasionally one does indeed come across an attempt to define more closely who the ephors actually were in the Republic. Hornius, in one of his disputations in Harderwijk, introduced a distinction between *generales* and *speciales ephori*. The first sort naturally consisted of the electoral princes and assemblies of the Estates while the second were the ubiquitous town councils or the *gemeensmannen* to be found in Overijssel. One might well think that in this way the old concept which was designed to curb princely power could be adapted to the Dutch situation with the town governments acting as ephors against the sovereign States. However, Hornius did not draw the obvious conclusion that the sovereign States should now be denied the function of ephor, so one can not regard his observations as a conscious attempt to adapt the doctrine to the needs of the Republic. Even if he really had thought up such a novel theory one might have admired its ingenuity, but it would not have been a satisfactory solution to what was in fact a very serious problem. In any case, Hornius does not tread that particular path and so reaches the bizarre if not entirely unexpected conclusion that the Dutch state is composed of mutually controlling ephors, guardians of a constitution which they must defend against nobody.

The second observation which must be made is that in spite of their vagueness, monarchomach doctrines appeared to acquire a new and contemporary significance in the second half of the century, not because they were applicable to the Netherlands but because they were believed to offer a means of combating the abominable absolutism of Hobbes. Voetius was familiar with Hobbes. So was a Utrecht student who in 1681 even quoted Althusius against the English menace.⁵³ There was nothing new in this but what is remarkable is that such writings should still be produced so late in the century.

⁵² Fries, *Lehre vom Staat*, p. 76 ff.

⁵³ G. vander Schuer, *Exercitatio politica expendens, an Princeps sit legibus solutus ... sub praesidio G. de Vries*, Utrecht 1681, p. B2.

G. Cocquius

For long before this in 1668 a book by Cocquius had appeared which was one of the first extensive polemics against Hobbes in the Netherlands.⁵⁴ In that year Gisbertus Cocquius (1630-1708), a minister in Kockengen near Utrecht with a doctorate in philosophy from the University of Utrecht, published two academic dissertations (written fifteen years earlier) together with a theological treatise, all of which refuted the dangerous innovations of Hobbes. Cocquius is certainly not an original theorist, though as an able debater he sometimes succeeds in getting Hobbes to contradict himself. But what he is in fact defending is the old doctrine of natural law and popular sovereignty without any concession to recent developments nor any attempt whatsoever to turn it into a concrete system. His sole intention appears to have been to defeat the new doctrine by repeating the old. His chief witness was Althusius who according to Cocquius stood head and shoulders above all other political theorists in learning and orthodoxy (A 2vo). The influence of Althusius is quite clear, but so is that of other authorities on whom Cocquius draws without apparently being aware that they sometimes propounded conflicting opinions.⁵⁵ The entire book is little more than the recollection of an old dream evoked by the harsh realities of the new cynicism. Nowhere is there any sign that the writer is capable of seeing that the sixteenth century's negative and aristocratic theory of popular sovereignty needed supplementing if it was to have any impact on the seventeenth century. This work demonstrates clearly that the Voetians, of whom Cocquius was one, were neither able nor willing to make any contribution to political thought which involved abandoning the constitutionalist tradition or building it on new foundations.

Teaching at Groningen

W. Macdowell and his students

The situation in Groningen was more complex than in Utrecht because the students were fed a combination of Calvinistic theory and Burgersdijk's absolutism. In the 1620s William Macdowell (1590-c.1667), the Scottish Professor

⁵⁴ Gisbertus Cocquius, *Hobbes elegchomenos sive vindiciae pro lege, imperio, et religione contra tractatus Thomae Hobbesii, quibus tit. de Cive et Leviathan*, Utrecht 1668. In 1680 Cocq published yet another large book (632 p.!) to refute Hobbes's religious views: *Hobbesianismi anatome*, Utrecht 1680.

⁵⁵ E.g. when he accepts the distinction between 'majestas realis' and 'personalis' (I, p. 57) which is impossible to reconcile with Althusius's conception of sovereignty.

of Philosophy, appointed in 1614 when the university was founded, was in agreement with Bodin and his undivided monarchism. This is astonishing considering that its relevance to Groningen must have been even less than for Leiden. And yet Macdowell was far from being an abstract theoretician. He appears to have grasped enthusiastically any opportunity to break free from his academic environment; in 1627 after obtaining a degree in law he was made President of the court martial for Groningen and Friesland; he took on a range of diplomatic work and in 1650 was appointed Charles II of England's representative in the Hague and became so caught up in the pro-English intrigues at the court of Orange that when De Witt decided to reorganize it he was banished by the High Court of Holland. Was all this activity a result of his monarchical convictions? It is impossible to say. However, the character of his academic teaching was so completely determined by contemporary international fashions rather than by actual daily practice that in a series of fifteen academic disputations, published in 1628 under the title *Collegium iuridico-politicum*,⁵⁶ he provided an excellent survey of current theories of constitutional law, the origins of the state, government, law, warfare and so on, without a single reference either to the Netherlands or to Groningen. In the eighth disputation, a young Dutch student who was given the task of defending Macdowell's theses praised monarchy as the oldest and by far the best form of government,⁵⁷ in the next, another student argued that the prince stands above the law and can not be constrained or punished either by the Estates or his subjects since the people have irrevocably transferred all power to him. Even if the prince were to command his subjects to sin against God's laws, he should be obeyed without protest or resistance. It is true, though, that only in emergencies is power exalted to such heights; in normal circumstances it can be expected to remain within the limits of tradition.⁵⁸

It is apparent from his annotations that Macdowell was familiar with writers such as Hotman and Althusius. But there is no trace of their theories either in this book or in any of the disputations which he chaired. Notwithstanding the breadth of his knowledge – as well as being Professor of Ethics and Philosophy he also had a doctorate in Law – the only political wisdom he

⁵⁶ *Collegium iuridico-politicum exuberantibus Ictorum et politicorum lati-fundis ad veritatem limandam varie excerptum ac xv disputationibus comprehensum. Quas propitio numine publice propugnandas, in ... Groningae et Omlandiae Ordinum Academia praeside Guilhelmo Mackdowel I.V.D. susceperunt generosi ac nobiles aliquot juvenes ...*, Groningen 1628.

⁵⁷ *Ibidem*, disp. viii, thesis ii.

⁵⁸ *Ibidem*, disp. ix, thesis i ff.

passed on to his students was praise for unlimited monarchy.⁵⁹ It is very similar to the teaching of Burgersdijk in Leiden.

M. Pasor

Macdowell's successor in the chair of Ethics, the German Mathias Pasor (1599-1658) was a many-sided man, best known as an orientalist and theologian who earlier in his life had also taught physics and mathematics. He appears to have leaned slightly towards Calvinist constitutionalism in so far as one of his students defended the proposition that the ephors may, indeed must, resist a tyrant.⁶⁰ But otherwise he too believed that monarchy was the best form of government and that it need not necessarily encroach on the liberty of the subject.⁶¹ Pasor produced little in the way of political theory and appears, even more than Macdowell, to have regarded *politica* as an unimportant subsidiary of philosophy.

M. Schook

To hear pure Aristotelian, scholastic Calvinism applied to constitutional theory, one must listen to the vehement words of Martinus Schookius (1614-1669), Professor of Logic and Physics at Groningen, who greatly irritated his colleagues by lecturing on *politica*, a subject for which he had not been appointed. Schook was not a great scholar. He was a tireless and voluminous writer who published books on archacology, logic, history, physics, ornithology, natural law and civil wars, even on herrings and storks, whose work is best described by the title of one his own works: *Exercitationes variae de diversis materiis*.⁶² Nevertheless, the quality of his work was by no means poor and a book such as *Belgium Federatum* of 1652 is even today still instructive and readable. Schook was very old-fashioned. His fiery and coarse Latin though fluent is much closer to the vernacular pamphlets of the time than to the polished elegance of the Leiden school whose writing already has some of the ring of eighteenth-century French. In spirit he belonged to the sixteenth century, an inexhaustible polemicist, a vehement opponent of papists, Remonstrants, sceptics, Socinians and Descartes. In his

⁵⁹ Cf. also the *disputatio* of Abelus Lamberti, *Continens assertiones nonnullas miscellaneas controversas*, Groningen 1628, p. A3 ff.

⁶⁰ Iohannes Antonius Orth [from Emden], *Disputatio politica de consilario tertia*, Groningen 1650, corollaria 1 ff.

⁶¹ P. à Diemen [from Zutphen], *Dissertatio politica de Republica*, Groningen 1648, thesis xviii.

⁶² Utrecht 1663.

massive encyclopaedia of civil wars, an astonishing work of frighteningly wide learning which rather overshadows Schook's considerable insights into *raison d'état*,⁶³ one encounters practical political advice. A more theoretical approach can be found in his *Dissertatio singularis de majestate* of 1659, a much shorter work but made indigestible by its extreme pedantry.⁶⁴ In true humanist tradition, he believes that the original form of government was hereditary monarchy, and he calls on the testimony of the usual authorities (pp. 12 ff.; p. 49). He admired Aristotle greatly and could not forgive Bodin's arrogant rebuttal of him (p. 48). Man is a political being and the state did not arise through conquest; men turned to monarchy as if driven by natural instinct (p. 53). Although the sovereignty of the king is ultimately derived from God, it is always and everywhere the case that it was the people who first offered it to him. In none of the great European states has this original popular sovereignty been entirely lost, since neither in the Roman Empire nor, for instance, in Germany, France or Spain was the prince absolute. And then Schookius, who like the Voetians of Utrecht knew of and rejected Hobbes, produces the old monarchomach theory and summarizes the reasons why the ephors may rebel against a tyrannical prince (pp. 89-90).

So it was the theory of popular sovereignty in its aristocratic, sixteenth-century form which Schookius taught. He regretted the seventeenth century's development towards absolutism and was heartened by the way in which the English parliament had gained new vigour (p. 136). Schook was certainly old-fashioned. And in general it seems to have been old-fashioned Netherlanders (although by no means all), traditionalists, conservatives and dogmatists who supported the cause of the English revolutionaries.⁶⁵ Hornius, the unbalanced and unoriginal professor at Leiden, was one of the Protestants who followed the Revolution with intense interest, admired it, wrote about it, and feared for the end of the world when Cromwell died.⁶⁶ Schookius, incidentally, held quite different opinions and his attitude to Cromwell was distinctly ambivalent.⁶⁷

⁶³ *De seditionibus, seu discordiis domesticis libri tres. Quibus omnia, huc pertinentia distincte proponuntur: non modo per praecepta, verum etiam exempla: tum antiqua, tum recentia*, Groningen 1664. [The book has 1043 pages.]

⁶⁴ *Dissertatio singularis de majestate ad disputandum publice proposita*, Groningen 1659.

⁶⁵ See also M.T. Uit den Bogaard, *De Gereformeerden en Oranje tijdens het eerste stadhouderloze tijdperk*, Groningen 1955, p. 113 ff.

⁶⁶ D. Grosheide, *Cromwell naar het oordeel van zijn Nederlandse tijdgenoten*, Amsterdam 1951, p. 128.

⁶⁷ *Ibidem*, p. 180.

But there is no denying that he was sympathetic towards the English Revolution and the parliamentary cause.

Schookius did not express any opinion on the best form of government in his *De majestate*, but appeared to lean strongly towards a moderate, aristocratic monarchy. That is not to say, however, that he rejected post-1650 Dutch republicanism even though he was a fierce Contra-Remonstrant and a loyal supporter of the House of Orange. On the contrary, he accepted it without difficulty.⁶⁸ He was no political activist and in spite of his aggressiveness remained a man of the study.

Gaps in the Traditional Theory

So this was the tradition and in spite of numerous contradictions and ambiguities it retained a certain unity. This was the theory which was taught to students and was probably considered useful by most of the urban regents. It was complex because it had absorbed some rather divergent elements, but there is no sign that the professors or their students had any difficulty in accepting and supporting it. It was moderate, but it never developed into principled republicanism; it had assimilated modern theories of sovereignty without changing its character greatly because it was indifferent to or overlooked the consequences. It was often constitutionalist, but made no effort to inject any practical meaning into *jus resistendi* in so far as it was admitted to exist. It saw monarchy as the original, the simplest, and often the best form of government. However, such views remained academic and led neither to political action nor to any particular party allegiance. Its contact with Dutch political life was in fact minimal.

For what place in the real political world was there for this interpretation of fundamental political truths? If indeed the best form of government was one which was monarchical in tendency but broadened and supported by aristocracy and democracy, where might one observe it working in practice? Usually one would have thought of the so-called *regna mixta*, states such as Sweden, Denmark, Poland, Hungary, Bohemia, England, Scotland, France, Spain and Portugal.⁶⁹ There might even have been some who believed that the United Provinces also belonged to that category even though the stadhold-

⁶⁸ *Belgium Federatum*, Amsterdam 1652, p. 67 ff. [Unchanged in the second edition of 1665].

⁶⁹ This list can be found in Hornius's marginal notes to Burgersdijk's *Idea politica*, p. 222

er was not actually a monarch. Broadly speaking, they would not have been entirely wrong. And if the stadholderate could stand in for monarchy, why could not a place also be found for aristocracy and democracy in the astonishing multiformity of the Dutch Republic? Others again might rather have considered the constitution of the Holy Roman Empire to be closer to their ideal. But it does not really matter. One only has to consider what was omitted from the blueprint to see that it no longer had a place in the seventeenth century.

There were two fundamental gaps in the theory. In the first place, it failed to show in which Netherlands institution modern sovereignty resided so that the construction continued to lack a crucial centre point. And furthermore, just because of this, it was unable to define the basis for any right of resistance. It is impossible to determine who may resist and for what reason, if it is not known against what institution the resistance must be directed. In the dangerous chasm left by these gaps both authority and constitution just disappeared. It is therefore only an apparent paradox to assert that absolutism had to be accepted before one could think of saving the constitution. For this is in fact what happened. Not only did Dutch absolutist theories give new energy to the constitutional tradition; they also opened up the possibility for a positive appraisal of democracy by acknowledging and praising it as the most absolute form of government. There was, after all, nothing new in regarding certain forms of democracy as the pinnacle of despotism – the idea came from Aristotle.⁷⁰ What was new, however, was that Dutch thinkers began to view absolute democracy in a positive light.

⁷⁰ See e.g. A. Rey, *De optima republica* (1602), thesis xviii: tale imperium (democraticum) herile est et tyrannicum. Cf. Aristotle, *Politics*, 1292 a 16.

II Modernist Republicanism

The pioneers

In March 1647 Prince William II succeeded his father Frederick Henry as the stadholder of Holland and most of the other provinces. In 1648 he was obliged to accept the peace which, after lengthy negotiation, the Republic finally made with Spain. His father had been reluctant to resign himself to ending the war but was unable to resist Holland's insistence on doing so. His son, born in 1626, a brilliant but reckless young man, resented this bitterly and attempted to reverse Dutch foreign policy. He wanted to resume the war in alliance with France and, after rapidly defeating the Spanish king, intervene in the English Civil War on behalf of his mother's family, the Stuarts. For this he needed a strong army but Holland, deeply in debt, refused to finance it any longer. In the summer of 1650 the stadholder decided to use force against the province. He imprisoned six leading patricians and marched on Amsterdam but the town was warned in time and closed its gates. On 3 August a compromise was reached with no clear victor. Some months of awkward suspense followed. But then, on 6 November 1650, after an illness of only ten days, William II died. Eight days later William III was born. Suddenly the Republic's form of government had changed: from 1650 to 1672 five of the seven provinces had no stadholder. (See above: Introduction, p.16.)

The shock at William II's abortive coup in 1650 and the sense of outrage which ensued have been well documented by Geyl in his study of the stadholderate in party literature under De Witt.¹ For the first time in the history of the Netherlands a genuinely republican theory made its appearance, a process in which John de Witt himself also played a part. This represented a revolutionary break with tradition, a pointed rejection of ancient authority and obscurantism, and occasionally an almost snobbish modernism. It can not of course be entirely explained by William II's political adventure since in

¹ P. Geyl, *Het stadhouderschap in de partij-literatuur onder De Witt: Mededelingen der Koninklijke Nederlandse Akademie van Wetenschappen*, N.R. vol 10, 2, Amsterdam 1947. Reprinted in idem, *Pennestrĳd over staat en historie*, Groningen 1971, p. 3-71. References are to the original edition.

some respects it clearly reflected the political aspect of the new Cartesian philosophy which was making such rapid inroads in the Netherlands. There was much in it that now seems 'enlightened', not least because it arose outside the universities and at times explicitly attacked scholastic politics. Let us attempt to trace its initial stages.

D. Graswinckel

Dirck Graswinckel (1600-1666), a high official in the province of Holland who enjoyed a close relationship with Grotius in spite of the latter's objections to aspects of his work,² stood firmly on traditional ground. He was a man of faith who though sympathetic with the Remonstrants never joined them, perhaps because he feared it would harm his career. He leaves the impression of being extremely fond of high social position; he married an exceptionally ugly but rich daughter of a merchant and seems to have been much attracted by foreign titles. One would not expect exciting novelties from such a man, and indeed he did not produce them. Nevertheless, as a jurist he was too thorough and well-read to be satisfied with scholastic irrelevance and in his work he discarded a substantial amount of traditional ballast.

Graswinckel's originality lay in his being an absolutist in the Netherlands, though not an enlightened and political absolutist like Burgersdijk but on the basis of formal legalistic argument. That is not to say that his views were entirely logical. Liesker's thorough study of Graswinckel's ideas shows up the contradictions and confusions of the unusual middle position which he adopted. Starting with Aristotle and contract theory he attempted to prove that the sovereign is directly appointed by God. A scholastic himself, he battled against scholasticism without always being aware of what he was doing. Although he was a militant supporter of natural law he nevertheless believed that on occasion the prince might stand above it. His frequent and choleric exaggerations, arising perhaps from his alcoholism, add to the impression that his theory was not entirely coherent. There is nothing edifying in the impassioned extremism

² *Epistolae* (1687), p. 710 (1642), p. 976 (1645). On Graswinckel, see G.L. Liesker, *Die staatswissenschaftlichen Anschauungen Dirck Graswinckels*, Freiburg 1901. Further biographical information in D.P.M. Graswinckel, *Graswinckel, geschiedenis van een Delfts brouwers- en regentengeslacht*, The Hague 1956, p. 90 ff. Graswinckel expounded his political ideas most clearly in his *De jure majestatis dissertatio, ad Serenissimam potentissimamque Suecorum, Gothorum, Vandalorum Reginam*, The Hague 1642, and in his weighty, posthumously published *Nasporinge van het recht van de opperste macht toekomende de Edele Groot Mogende Heeren de Heeren Staten van Holland en Westvriesland*, Rotterdam 1667.

of a traditionalist and conformist who, as critics rightly pointed out, failed to do justice to political facts and whose conservatism was intellectual and unrealistic.³

The basis of Graswinckel's absolutism was theology; the doctrine of divine right, the absolute duty of obedience and the immutability of a God-given form of government can all be found without nuances or escape clauses. One does not get the impression that he had much influence on his contemporaries. And yet his apparently misplaced and anachronistic revival of academic, theological absolutism is more than a purely personal aberration. The German scholar Johann Friedrich Horn, whose absolutism was very similar,⁴ published his *Architectonica de civitate* in the Netherlands in 1664. It was very successful and was widely cited with admiration in academic dissertations.⁵ It is quite astonishing that these ideas should have found a market in Dutch universities for so long. Possibly the French Huguenot tendency to theological absolutism had some influence on the Netherlands in mid-century, but it is still surprising how the Dutch variant outlived the persecutions in France.

In spite of Graswinckel's great interest in monarchy, he can not be regarded as a monarchist. He was not a party man in the narrow sense of the word, though he was certainly a firm supporter of the States regime in Holland. It was this somewhat paradoxical position which forced him to adapt his theocratic absolutism to a republican form of government and adopt the standpoint of an absolutist aristocrat. Although this position was scarcely a matter of principle and it would be incorrect to call him a republican, he has earned a place in the history of Dutch political thought as one of the first to break with traditional vagueness and to demand absolute sovereignty for aristocratic

³ This is well brought out by the writer of *Beduncken op de onderrechtighe raeckende de fundamentele Regering in Engelant* (1649, Knuttel 6376), a pamphlet written in response to Graswinckel's defence of absolute monarchy in England in *Korte onderrechtighe, raeckende de fundamentele Regeringhe van Engelandt* (1649, Knuttel 6375).

⁴ O. Gierke, *Johannes Althusius und die Entwicklung der naturrechtlichen Staatstheorien*, 1880, p. 70.

⁵ E.g. G.H. Baertling, *Jus principis in subditos temporarios ... sub praesidio P.R. Vitriarii*, Leiden 1689, p. A 2vo. It should be noted that this doctoral candidate and his supervisor were both German. There is a curious reference to the *droit divin* of the stadholder-king. Even in 1714 Hornius could still be referred to by a doctoral candidate at Leiden as 'omnium politicorum theoreticorum ... accuratissimus' and ranked above Pufendorf (C. Backer, *Dissertatio juridica inauguralis de principiis juris naturae, gentium et civilis*, Leiden 1714, p. 34, 36). His doctoral supervisor (*promotor*) was Anton Schulting. Backer had also studied under Vitriarius (p. 25).

rulers.⁶ It is nevertheless peculiar that he seemed to consider such absolute aristocracy to be a 'free' constitution, a form of government which was an exception to the general rule because a 'free' people may normally appoint and depose their rulers at will, be they kings, princes, stadholders or dukes.⁷ This is a strange assertion. It is republican mysticism. For why should oligarchical absolutism leave any more freedom to a people than princely absolutism? In his confused argument, Graswinckel, the conservative absolutist, showed himself to be incapable of an objective analysis of the Dutch form of government.

R.H. Schele

Whereas Graswinckel applied absolutism to republics without passing it through the sieve of the new philosophy, the republicanism of his contemporary Rabo Schelius, though equally untouched by Cartesianism, was principled and non-absolutist. Raebolt Heerman Schele (1620-1662) is not easily accessible. He was born into a minor noble family in Overijssel, studied in Leiden, travelled through France and Italy and studied the arts of war in the service of the Duke of Florence. On his return to the Netherlands he found that his parents had died. He established himself in the parental home and devoted himself, unmarried and childless, to the study of the classics. His Latin was widely admired, while his study of Roman war strategy was considered superior even to that of Lipsius. However, he published practically none of the fruits of his solitary study. Had he no ambition? He makes an occasional appearance in the correspondence of John de Witt as a provincial celebrity of some importance, one of the leaders of the anti-stadholder minority in the province.⁸ He was noted at the time as completely unself-seeking and his writings do not seem to be the work of an ambitious man. In 1651 he agreed to represent the *ridderschap* (owners of noble manors) in Overijssel at the so-called Grand Assembly in The Hague (January-August), which it was vainly hoped would be better able than the States-General to resolve the problems created by the sudden death of Stadhouder William II, and he resided there frequently. Shortly before his death, the Overijssel States elected

⁶ Cf. Geyl, *Stadhouderschap*, p. 31 ff.

⁷ Liesker, *Die staatswissenschaftlichen Anschauungen*, p. 204 ff.

⁸ Cf. C.H. Th. Bussemaker, *Geschiedenis van Overijssel gedurende het eerste stadhouderlooze tijdperk* vol. 1, The Hague 1888, *passim*.

him to the position of bailiff for the town of IJsselmuiden. Four years later, a friend of his published the manuscript of his *Libertas publica* and also translated it into Dutch. In 1678 a German version appeared in Switzerland and in the eighteenth century Peter Burman the Second published Schelius's collected works.⁹ From the late seventeenth to the end of the eighteenth century Schelius was frequently cited with admiration.

Schelius's *Libertas publica*, an exercise in republican rhetoric, paints an idyllic picture. Although it was first published in 1666 he presumably wrote it during the First Anglo-Dutch War.¹⁰ It was probably written after his *De jure imperii*, which was an extremely lengthy reaction to Salmasius's notorious defence of the Stuarts of 1649 but was only published in 1671. Whole passages of *De jure* are repeated more briefly and more concisely in *Libertas publica*. Both books are extremely eloquent orations rather than *disquisitiones* and repeat in increasingly well-crafted sentences a few simple, traditional truisms. They oppose absolutists who do not believe that mixed governments can exist (pp. 271 ff.) and monarchists who consider monarchy to be the precondition of stability. Schelius fiercely opposed Orange and the Orangists who to his astonishment he encountered at all levels of society. Though he was a party man his republicanism was nationalistic and his praise of freedom was praise for the Netherlands. For him, the Netherlands freed from the court of Orange could become the ideal republic with a government founded upon justice.

The great jurist Thomasius thought that *De jure imperii*, though elegantly written, was not precise enough¹¹ and he was certainly right. One should not turn to Schelius for juridical insight or constructive theory. Nevertheless, he merits our interest because it was he who for the first time employed the entire traditional, classical apparatus in the defence of a pure republican form of government. His originality lay not in his means nor in his ideas but in his objective. Only occasionally does that objective raise the argument to new levels. Before contesting the traditional idea that monarchy is the oldest form of government, Schelius refutes the belief that old and good are identical values, and praises the progress made by the human race (pp. 52 ff., 289 ff.). It is undoubtedly his reading of the Stoics which leads him to speak of the unity of mankind and the responsibility of each nation, including the free

⁹ *Opuscula politica*, vol II of *Analectica Belgica* (ed. P. Burman, Leiden 1772). Biography by S.J. Fockema Andreae in *Overijsselse portretten*, Zwolle 1958.

¹⁰ Cf. *Analectica Belgica* II, p. 70, where Schelius writes about 'hoc grave bellum' which had, it seems, been going on for some time.

¹¹ Cited by Burmannus, *ibidem*, p. xxvii, note 2.

Netherlanders, to nurture that sense of international solidarity (p. 256) but his words nevertheless have a ring of the Enlightenment.

L. van Velthuysen

A few years before the appearance of Schelius's *Libertas publica* the Cartesian, Lambert van Velthuysen, published his defence of Hobbes¹² and, in principle at least, initiated the modernization of Dutch political theory. Velthuysen (1622-1685) has a place in the history of Dutch philosophy. He was a doctor by profession and was fascinated by anything new. He was *avant-garde* by nature and a generous admirer of every intellectual adventure, so long as it did not offend his Protestant beliefs. Thus he ceased to follow Spinoza in spite of having contributed in various ways to his system and continuing to belong, after difficult years of friction, to his circle of friends and correspondents. He was interested in everything; he wrote about Descartes and theology, he constructed a system of psychology and characterology based on the overriding importance of the spleen for body and soul, and he also devoted himself to discussions about the state.¹³

Velthuysen admired Hobbes as an outstanding philosopher and accepted his new conception of ethics and politics. Of course, he realized that it was not entirely new and that not everything which had been written on these matters in the past was unacceptable. But Hobbes seemed to him to have been the first to use the correct philosophical method to reduce all true principles to one. And yet in their stubborn conservatism, the same people who could recognize in wonderment that nature was constantly producing surprises were unable to accept that the mind too could provide new insights. After all, without free and fearless enquiry even America would never have been discovered. He pleads with his readers to open their minds and promises them that by taking Hobbes as their compass they will sail safely into harbour, notwithstanding the malicious libels of conservatives.

Velthuysen sticks quite closely to Hobbes and to *De cive* in particular. Not without long-windedness and a tendency to be side-tracked by an attractive idea or an old proposition of his own now joyfully revisited, he faithfully expounds Hobbes's principles. He does not appear to have any misgivings about them and in his generous enthusiasm is clearly not the man to draw the

¹² (Lambertus van Velthuysen), *Epistolica dissertatio de principiis justitiae et decori, continens apologiam pro tractatu clarissimi Hobbesii, De Cive*, Amsterdam 1651, 271 p.

¹³ See *Opuscula Velthusii*, Rotterdam 1680.

horrifying conclusions of *Leviathan* from *De cive*. He also fails to see that his own admiration for humanity's God-given perfection and his enlightened use of an expression like *hominis dignitas* seem incongruous in this context (p. 41). He is sometimes very naïve. Be that as it may, Velthuysen carefully explains all of Hobbes's famous assertions and all his notorious denials. It seems as if the old doctrine of natural law, the humanistic canonization of Roman law, and indeed the entire system which had been constructed on them, had just gone up in smoke.

It is as if Velthusius could not see what Hobbes had done. When, after a lengthy excursion about ethics, he finally comes to *politica* he still declares his admiration for Hobbes. In fact, he appears scarcely to have understood the Englishman. It is striking, even rather amusing, to observe how immune this acute Dutchman was to Hobbes's extremism. With obvious delight he holds sovereignty aloft and describes its powers but then immediately goes on to argue that some rights can never be renounced by the subjects to the sovereign. One of these is the right to the free expression of various fundamental articles of faith (pp. 136 ff.). This is the first limitation on absolute sovereignty. And there are more. He agrees with Hobbes that subjects are not obliged to remain passive when the sovereign refuses, or is unable, to defend them against the chaos from which the state was designed to rescue them. But he moves on to quite another plane when he grants the lesser magistrates the right to resist a tyrannical prince, and it is touching to see the violation of the people's privileges numbered among the great acts of tyranny (pp. 145 ff.). His careful and traditional distinction between a freely appointed prince and an absolute ruler reveals that all his Hobbesian novelties are unable to deflect him from the old paths.

Velthuysen was no less naïve when, many years later in his short work *Munus pastorale, vulgo dictum concionatorum; et jus ecclesiae*¹⁴ he tried to construct a fundamental defence of the right of magistrates to settle religious disputes. What he gave with one hand, he took away with the other at the last moment, explaining that every subject retained the right to withhold obedience if he believed that a decision of government imperilled his salvation. This is not merely faulty logic; it is a deeply atavistic moderation, which made him avoid the consequences of the new insights that he embraced so enthusiastically and propagated so freely.

¹⁴ *Ibidem*, I, p. 333-372. Cf. St. von Dunin-Borkowski, *Spinoza*, 4 vols, Münster 1910-1936, vol. III, p. 271 ff.

The Cartesian Republicans

J. de la Court

What Velthuysen could not do, and did not even attempt, was done by the brothers De la Court and Spinoza. They too started out with Hobbes and arrived elsewhere, but at least they did not slip back unawares into the well-worn paths of tradition. It was they who permanently moved Dutch political theory away from old catch phrases and opened up the way to a democratic constitutionalism which their academic opponents, who never acknowledged their debt to these non-scholastic pioneers, were later able to define more solidly.

We know little about Johan de la Court (1622-1660). In some commentaries he virtually disappears under the shadow of his larger-than-life brother Pieter (1618-1685).¹⁵ P. Geyl quite rightly protested against this, arguing that Johan's studious learning can be readily distinguished from Pieter's more worldly cynicism.¹⁶ Indeed, one's first impression of Johan, the brother who died prematurely, is of a theorist, a powerful and keen thinker who never completed anything but was lively and overhasty, often acute, sometimes irrational and illogical, never really deep but ready to follow a line of reasoning to startling conclusions. Pieter, who published all of his brother's work and could not leave it alone was less well-read and if an argument seemed to be moving towards an unexpected outcome would hastily withdraw to a safer position. It is fascinating to see how the *Politike Weegschaal* [Political Balance], the work of Johan and published posthumously by Pieter, grew larger with each edition, and became more cautious in theory but more cutting in its anti-Orangism. Johan was clearly a party man and a supporter of De Witt. But his mind extended beyond the borders of Holland. Pieter, who appears to have admired his brother, left his actual words intact but added countless local details and polemics. He turned what Johan had intended to be a theoretical treatise into a political pamphlet.¹⁷

But what happened to that second work, the *Politike Discoursen* [Political Discourses] which Pieter may rightly have attributed to his brother and pub-

¹⁵ Madeleine Francès, *La Balance politique de J. et P. de la Court* (Thèse complémentaire, Paris, 1937), p. x.

¹⁶ Geyl, *Stadhouderschap*, p. 61 ff.

¹⁷ The first printing was in 1660 under the title *Consideration en exempelen van staet. Omtrent de fundamente van allerley regeringe. Beschreven door V.H.*, Amsterdam 1660. It contained 369 pages. In the succeeding editions the title was changed to *Consideration van staet ofte Politike Weegschaal*. The third edition in 1661 had grown to 572 pages, the fourth in 1662 to 670 pages. The anti-Orangist philippics were added after 1660 and therefore seem not to be by Johan.

lished in 1662?¹⁸ We do not know. The style is more laborious than that of the *Politike Weegschaal* and the argument is looser. Pieter stated in his introduction to the *Discoursen* that he found it among Johan's papers in an incomplete state and that he arranged and rearranged it into a book. There is no reason to disbelieve him. There is, however, reason to believe that Pieter added large sections to a text which had initially been arranged differently – probably the first few books which are full of Pieter's personal economic opinions which we can identify from his own work, the *Interest van Holland*. In spite of all that, it is evident that what Johan had intended to write was a political theory based on the latest advances in psychology.

In many respects Johan was a pupil and disciple of Hobbes. We know that he was not always careful about citing his sources, so perhaps one may assume that it was Pieter who supplied most of the references in the later editions of the *Politike Weegschaal* and the *Politike Discoursen*.¹⁹ This makes it difficult to get a clear idea of Johan's sources. But there are so many parallels between his statements and those of Hobbes that a knowledge of *De cive* may be assumed. But what about *Leviathan*? All we can say is that there is no reason to doubt it.

None of Johan de la Court's works is logically entirely defensible. They are full of startling contradictions²⁰ and lack any systematic foundation. They are obviously the work of a dilettante who allowed his thoughts to range over problems as he encountered them in his reading or his surroundings. Furthermore, they also appear to have been highly dependent on prevailing fashion. Descartes can certainly be found there next to Hobbes²¹ and in the many medico-psychological digressions which are so important in the *Politike Discoursen*

¹⁸ *Politike Discoursen handelende in sex onderscheide boeken, van steeden, landen, oorlogen, kerken, regeeringen, en zeeden. Beschreven door D. C.*, Amsterdam 1662, 2 vols.

¹⁹ The annotations in the *Politike Weegschaal* do not tell us conclusively with which works of Hobbes Johan was acquainted. The references to *De Cive*, *Leviathan* and *Le corps politique* in the fourth edition on p. 31 are absent from the first two editions and were therefore added after Johan's death. It is, of course, possible that Pieter did this from Johan's notes. However, this is unlikely since the passage concerned is entirely missing from the first edition. See also note 36 of this chapter.

²⁰ E.g. in *Politike Weegschaal*, p. 38, it is conceded that an aristocratic state can develop without violence from the original democracy while this is denied on p. 523; on p. 65 Caesar Augustus is 'that cruel, cursed tyrant' but by p. 147 has become 'mild, courteous, hardworking and cautious'. In *Politike Discoursen* his use of the central concepts of 'reason', 'soul', and 'movement' is strikingly inconsistent.

²¹ Pieter supported the cause of Cartesianism in the controversy over the 'new philosophy' which raged in Leiden during his later student years. Th. van Tijn, 'Pieter de la Court. Zijn leven en economische denkbeelden', *Tijdschrift van Geschiedenis*, LXIX, p. 311 ff.

the influence of Lambert van Velthuysen is likely. So, however revolutionary and fresh the brothers' political ideas may seem against the background of scholastic politics, from a philosophical standpoint they are rather amateurish exercises on currently fashionable themes. Their importance for the development of Dutch political theory lies in the fact that they were the first to lead it out of the blind alley in which it found itself by seeing its connection with the new philosophy. Nevertheless, they themselves were not able to construct a completely coherent system whose consequences they could accept. Just as Velthuysen was by nature an *avant-gardist*, the De la Courts were by nature pioneers and trend-setters.

The highly improvised nature of the *Politike Discoursen* makes it difficult to describe its content. Many of its fundamental psychological assumptions are derived from Descartes' famous and obviously clearer and more systematic *Les Passions de l'Ame* of which the first of many editions appeared in Amsterdam in 1649.²² There is no shadow of doubt that this was the primary source for Johan de la Court's psycho-physiology, though always bearing in mind that he also drew on Hobbes as well as developing a number of independent insights of his own. However, his explanation for psychic phenomena through complex bodily processes is pure Descartes, and in some cases even the description of these processes and their influence on the soul is taken entirely from the French philosopher. Johan was evidently convinced by Descartes' account of the function and structure of the *esprits animaux* or 'spirits' of the pineal gland and the nervous system, and used his reading of *Les Passions de l'Ame* as the basis for his own ideas.²³ It is impossible to follow his treatment of psychology in the *Politike Discoursen* without constantly referring back to Descartes.

De la Court was also in agreement with the whole tenor of Descartes' thinking. Following his great predecessor, he saw that the 'passions of the soul', the feelings aroused in the soul by a highly complex physical process, were completely natural. And in principle they were also useful in so far as they prompted the soul to accept and participate in actions which serve to sustain or perfect the body (art. 137). But that did not mean that one should therefore automatically submit to the passions. On the contrary, Descartes had designed a refined technique to make it possible to master and direct them. De la Court followed him in this, emphasizing the great importance of

²² I have used the edition of G. Rodis-Lewis, Paris 1955.

²³ Cf. e.g. *Politike Discoursen* I, p. 140, 162 with Descartes, *Passions*, articles 45 and 46; *Politike Discoursen* II, p. 220 with articles 14 and 31. The list can easily be expanded.

reason and experience in showing the soul how to control the passions. But the remarkable thing about De la Court's exposition is that despite its obvious dependence on *Les Passions de l'Ame*, the impression it leaves behind is totally different. Descartes not only provided an explanation for psycho-physical phenomena but also employed great ingenuity in indicating the ethical value of the passions when used rightly. He never underestimated the difficulties that the soul would encounter in rising above the passions, but his whole approach was suffused with a positive and optimistic spirit. His theory had to do with the art of the good life, the attempt to create happiness and peace by the skilful control of natural and useful but also dangerous forces. Furthermore, his extolling of love gave his theory a gentleness which is completely missing from De la Court's work.

De la Court's attitude was quite different. For him, the conflict in men's souls is far more dramatic and desperate and the mood is more pessimistic. His passions, though identical to those of Descartes, are more violent, more unfeeling and more difficult to master. Descartes had insisted that in principle they could all be brought under control (art. 50) but De la Court did not accept that. Even the most reasonable among us believe the prejudices aroused by passion to be true.²⁴ Time and again he sees the old humanity, flesh and blood, triumph over the new, spirit and reason.²⁵ He also makes the urge to self-preservation much more central. Of course he had encountered this in Hobbes, and Descartes too had accepted this emotion as essential. But cynically and unrelentingly De la Court reduced everything, including the quality of friendship which he esteemed so highly, to the fundamental egoism of human beings.²⁶ A deep and resigned pessimism suffuses all of his writings. Only within the family circle can men withdraw from the conflicts of a hostile world and be themselves. Here one sees very clearly the impact of Puritanism, which had also influenced Hobbes but which had passed Descartes by. In fact, De la Court was well aware that his bottomless pessimism corresponded more closely to the Reformed religion than to any other.²⁷

The amazingly complex being which we call man comes into the world helpless and burdened with terrors which the mother's body, out of balance through her pregnancy, has already passed on to him in his embryonic state. This fundamental crisis experienced within the womb determines his exist-

²⁴ *Politike Discoursen* II, p. 2 ff.

²⁵ *Politike Weegschaal*⁴, p. 20.

²⁶ *Politike Discoursen* II, p. 271.

²⁷ *Politike Weegschaal*⁴, p. 173.

ence. It is curious how De la Court develops and dramatizes what is merely a conjecture in Descartes (art. 136). Descartes too had acknowledged the possibility of prenatal influences on the child by the mother. He had also gone on to speculate that youthful traumas might explain many strange phobias in adult life. However, in De la Court all this acquires more sombre overtones and becomes a cause of human weakness.²⁸ For fear of death, fear of loss and boundless selfishness determine life in youth and accompany it irrevocably to the end. It was Hobbes, not Descartes, who convinced De la Court that man is driven by fear and that his life is one long struggle against death. And yet ultimately it was Descartes who was victorious. In the end, De la Court concluded that even if man could not conquer his passions he should nevertheless attempt in some measure to control them through his reason and experience. For through reason and experience, and through memory – De la Court's description of the brain as the seat of memory deviates somewhat from Descartes' hypothesis²⁹ – past and future are opened up and the soul, hitherto the helpless prey of today's emotions, is able to consider what it should do. De la Court, who appeared to acquiesce in the passions and their egoism, nevertheless considered reason to be more than merely an instrument for regulating these blind forces and directing them towards a better goal. It possessed a value in itself. Although man may never be able to suppress his passions completely, the rational man whom De la Court had in mind is in a position to prevail to some extent over his own nature and indeed over nature in general. Only thus will he be able to enjoy more than fleeting contentment.

Just as humanity's goal is the development of rationality, so the goal of the state is to make possible the rule of reason. The state of nature, described so realistically by Hobbes, is a situation in which the passions have been given a free rein. The best state is where they are reined in most tightly. And that state, we shall see, is the democratic republic in which no-one possesses power. For all power is bad. The powerful know no restraint. He who has power can do what he wants and is a slave to his passions. The more power anyone acquires, the more unreasonable he becomes and the deeper he sinks back into the state of nature. One can not even say that all power corrupts; it simply makes the perfection of man through the suppression of his lusts superfluous and prevents him from becoming civilized.³⁰

One should not view this too ethically. De la Court was fascinated by

²⁸ *Ibidem*, p. 18 ff.; cf. *Politike Discoursen* II, p. 79.

²⁹ Cf. Descartes, *op.cit.*, art. 42 with *Politike Discoursen* II, p. 216.

³⁰ See e.g. *Politike Discoursen* II, p. 182 ff., *Politike Weegschaal*⁴, p. 47, 55. See also Machiavelli, *Discorsi* I, 58.

Hobbes's raw utilitarianism as can be seen throughout his work. He was certainly not an idealistic philosopher. His point of departure remained the drive to self-preservation, self-love, the will to power and the complex system of vessels and fibres through which the spirits and passions which they arouse move restlessly. There can be no doubt that the control of passion by reason is recommended by De la Court primarily because it is more useful than blind submission to it. Yet it is not exclusively utilitarian. There is also De la Court's appreciation of culture and his fascinating exploration of the close relationship between the form of government and the level of civilization. He took a great deal of trouble to demonstrate that a republic, the most rational form of government, not only provides utility and wealth but also makes it possible for literature and philosophy to flourish. Athens, like the Italian, German and Swiss cities and states of the Renaissance and Reformation, owed their tremendous intellectual vitality to their republicanism.³¹ De la Court undeniably attached great importance to such matters and it is safe to assume that for him reason possessed a value that extended beyond utility.

De la Court tried to build a political theory on this system of psychology and ethics.³² But his *politica* was no more systematic than the rest of his ideas. Nevertheless, it is still possible to construct a more or less coherent theory out of his rather disorganized observations. The *Politike Weegschaal* makes an original and fruitful contribution to political philosophy because, although parts of it appear to depend on Hobbes, ultimately De la Court deviates as far from him, and in the same direction, as Spinoza did. In fact, to put it bluntly, Spinoza followed De la Court more than De la Court followed Hobbes.

De la Court's political theory consists of two layers. At its base is his methodical research into the psycho-physiological motives of human behaviour. But methodical in this case does not mean systematic. De la Court was no systematist. His reasoning was guided by experience – even though that experience was often acquired from books. He was satisfied with an explanation of observed phenomena and with any lessons that could be drawn from it. In the *Politike Discoursen* for instance he carefully works out how to change a government, how to punish, how one should behave in a civil war, how to set up and carry out conspiracies and why they are so seldom successful, how mutinies come about and are suppressed. In short, he provides a series of recommendations, along the lines of Machiavelli whose work he knew and

³¹ *Politike Discoursen* II, p. 169 ff.

³² It seems to me that Van Tijn in the important study cited above has neglected the much more psychological than economic basis of De la Court's political theory.

admired,³³ based on an analysis of the dominance of the emotions along the lines of Descartes. Everything was arranged and explained in psychological categories – even down to the fact that revolt should be against ministers and not against the prince.³⁴

However, De la Court provided more than a course in practical psychology for politicians. On the basis of his knowledge of human nature he also tried to find a constitutional form which, as his brother Pieter explained in the introduction to *Politike Weegschaal*, would curb man's wickedness. Scholastic politics could not help him in this. Pieter's introduction to *Politike Discoursen* pours scorn on the Latin works with their pompous titles written by German professors, doctors, preachers and schoolmasters and, indeed, not a single one of these works is ever cited. Neither is Aristotle. Nor is Grotius. Machiavelli, Descartes and Hobbes pointed the way to a new theory which would concern itself with mankind as it really is, and not as old-fashioned professors wanted it to be. History would help to define man's character although, infected by all things modern including Pyrrhonism, the brothers were not always careful about historical accuracy.³⁵

In his *Politike Weegschaal*, Johan de la Court provided an extensive and detailed comparison of the various constitutional forms. He did this not as a jurist but as a man whose sole interest was in their practical advantages for the state. He was completely indifferent to law itself as well as to the overabundant juridical literature of his age. He seems to have been hardly more interested in Hobbes's thoughts on law and sovereignty. He had nothing to say about the origins of the state; his summary of the state of nature and the manner in which men decided to form political society is a careless and hasty extract from Hobbes. Pieter later tacked on the scarcely relevant doctrine of indivisible sovereignty, apparently unaware of how out of place it was.³⁶ What is striking and paradoxical about this book, where so much emphasis is placed on the

³³ Frequently cited in *Politike Discoursen*. Direct influence is often demonstrable as e.g. *Politike Discoursen* I, p. 297 ff. where De la Court alleges that it is better 'to employ one's own subjects in a war than foreign soldiery'; cf. Machiavelli, *The Prince*, chaps. XII and XIII. This observation can also be found in Spinoza, *Tractatus Theologico-Politicus*, XVII and *Tractatus Politicus*, VII, p. 17. See also Spinoza's appreciation of Machiavelli, *Tractatus Politicus*, V, p. 7.

³⁴ *Politike Discoursen* II, p. 157 ff.

³⁵ See the remarkable preface to *Politike Weegschaal*.

³⁶ *Politike Weegschaal*⁴, p. 26 ff. The entire passage is missing from the first edition. Geyl, *Stadthouderschap*, p. 29, does observe that it is an eccentric interpolation but because he did not compare the various editions was unable to explain the anomaly. It should not surprise us that Pieter was unaware of the extent to which he disrupted the tenor of his brother's

prime importance of the form of government, is precisely that the writer was opposed to power, sovereignty and even the state itself, and developed a theory which was intended to break them. In his lengthy discussion of monarchy, Johan continually betrays his low regard for juridical precision. He had absolutely no eye for the constitutional foundations on which, for instance, the French monarchy was based and even proposed the constitutionally reckless hypothesis that Turkey, condemned by generations of monarchists as a despotism, was a perfect monarchy.³⁷ Nevertheless, the De la Courts' perception of contemporary politics was acute. Pieter saw that Louis xiv was developing into a dangerously absolute monarch shortly after the death of Mazarin, at a time when John de Witt (with good reason) was still seeking an alliance with France.³⁸ There was something vibrant and healthy in this anti-juridical approach. Nowhere in traditional political writing will one find so compelling an analysis of the birth of absolutist monarchy in France, Spain and Sweden as in the *Politike Weegschaal*, nor such an accurate demonstration of just how recently it had taken place.³⁹ The Dutch jurists, in their firm belief that these states were *regna mixta* and could be clearly distinguished from *regna absoluta*, had remained indifferent to the constitutional developments and the changes which were taking place. Nevertheless, the De la Courts certainly went much too far. If they had taken greater account of the constitutional significance and limitations of kingship and had not been so one-sided in their emphasis on kingly power, their criticism of monarchy might have been able to rise above the level of rather childish jibes at royal personalities. But we shall have further occasion to observe that they actually had no real insight into the coherence and life of the state.

Johan's non-juridical comparison of the practical merits of different forms of government was based on the belief that if political society were wisely designed, the rule of reason could be achieved. In this he adopted the various

argument. Moreover, in this context it should be noted that neither of the brothers concerned themselves much with the sovereignty of the States of Holland. Their historical account of it is weak because they cited the medieval history of Holland to demonstrate the disastrous influence of monarchical or semi-monarchical authority and of divided sovereignty (*Politike Weegschaal* ⁴, p. 31, 94, 122, 282). See the excellent discussion of the fact that the theory of the sovereignty of the States did not accord with the ideas of writers like the De la Courts, in H. Kampinga, *De opvattingen over onze oudere vaderlandsche geschiedenis bij de Hollandsche historici der xvte en xviie eeuw*, The Hague 1917, p. 131-133.

³⁷ *Politike Weegschaal* ⁴, p. 172 ff.

³⁸ *Ibidem*, p. 148.

³⁹ *Ibidem*, p. 169.

methods of controlling human passion which Descartes had already suggested. After all, it is not always easy to curb a spontaneous emotion by rational analysis alone and the affected spirit may often need to resort to some artifice. For instance, in order to overcome fear it might have to reflect on the glory and pleasure which a courageous victory would provide (art. 45).⁴⁰ Passions can be opposed and neutralized by counter-passions thus making it possible to behave rationally. Johan now applied this technique to the state where the passions dominate social life just as much as they do individuals. The best state is consequently one in which the passions which drive its members are in continual conflict, thereby rendering each other harmless.⁴¹ Only in a society where the greatest disunity is carefully maintained can reason find a place for itself among the wild emotions. This is the surprising conclusion which Johan drew from Descartes' art of the good life. It goes without saying that it was extremely untraditional.⁴²

If one accepts this criterion, it is not difficult to distinguish between good and bad forms of government. Monarchy, dominated by the passions of a single despot, is by definition irrational and the worst regime imaginable. Any republic, however constituted, is always better. De la Court analysed the advantages and disadvantages of aristocracy with objectivity and insight and despite some admiration for Venice and Genoa came to fairly negative conclusions. He did not believe that in the long run there would be sufficient concern for the general good.⁴³ But even more interesting was his lengthy and thoughtful discussion of democracy.⁴⁴

De la Court was convinced that democracy had been the original form of government from which all the other forms had developed, possibly quite naturally but more probably through cunning and deception. In this the influence and limitations of Hobbes can easily be observed. He made no

⁴⁰ *Politike Discoursen* 1, p. 163.

⁴¹ *Politike Weegschaal*⁴, p. 321

⁴² Cf. Machiavelli, *Discorsi*, 1, IV-VI for a very different appreciation of disunity. De la Court's theory on this point is surprisingly similar to that of the English Utilitarians of the early nineteenth century. John Plamenatz in *The English Utilitarians* (London, 1949, p. 16) summarizes their position as follows: 'Bentham and the Utilitarians, for instance, are as certain as Hobbes that men ought not to trust one another. But they happened to be more afraid of misgovernment than anarchy. They therefore argued that because men are selfish, vain and naturally abusive of power, only a democratic government can secure them against each other's ill usage.' This is precisely the same conclusion reached by De la Court a century and a half earlier.

⁴³ *Politike Weegschaal*, p. 514 ff.

⁴⁴ *Ibidem*, p. 518 ff.

mention of the traditional belief that, when need arose, heads of families came together to elect a wise ruler. He had little interest in precisely how the state came into being or what form its original constituting assembly may have taken and he made no attempt to enlighten his readers. What he did claim was that this original assembly, had it been free, would have established a democratic state in which all decisions were taken by majority vote. For this is the most natural, the most rational, and the most equitable solution. Only in such a state can the general interest, in principle and in practice, be the supreme law. After all, everyone pursues exclusively his own interests. So if the majority support a particular decision, then the majority will have concluded that it is advantageous for each one of them and such a decision will be in the interest of the people as a whole. While aristocracy is infinitely preferable to monarchy, it is in turn less acceptable than democracy.⁴⁵

In itself, this reasoning, though untraditional, is fairly superficial. It is also not entirely consistent. It is not easy to see how this much-vaunted disunity can be sustained by a popular assembly which can make absolute decisions through a majority vote. It is clear that De la Court's contempt for scholastic *politica* led him to ignore some important problems. He appears to have underestimated the power of a robust democratic system and to have considered that any brake on it would be superfluous. However, he does take great pains to refute the contemporary belief that democracy was a highly uncertain and unreliable form of government subject to the whims of an immature and irrational populace. He did not deny the ignorance of the masses, which he explained by reference to their poverty which allowed them no opportunity for study or development. He did not believe that intellectual potential, as such, varied greatly between individuals and thought that a good education would create good citizens.⁴⁶ But it is typical of his purely theoretical and resigned attitude that he did not then take the obvious step of demanding universal education but just accepted the fact that the majority of people will be stupid. He also frankly acknowledged that democracy was not an ideal form of government. But in a fascinating chapter,⁴⁷ he goes on to ask why it should matter. Politics as a branch of ethics – how traditional he sounds here! – is concerned with relative, not absolute, truths. Given that all other governments cause their citizens more inconvenience and less freedom than democracy does, it must obviously be the best. Furthermore, there is the fact that com-

⁴⁵ *Ibidem*, p. 640.

⁴⁶ *Ibidem*, p. 536 ff.

⁴⁷ *Ibidem*, p. 557–577.

mentators in their ignorance have all too often confused quite different types of popular assembly, both lawful and unlawful. And why make such a fuss about the tumults which afflict democracies? So what? Uprisings are far less dangerous in a democracy than in an aristocracy or monarchy because a democratic government, being unable to oppose them, will quickly have to satisfy popular demands. An uprising in a democracy is like a curative sudorific whereas in other states it is a bloodletting or purgative which causes the patient to languish and die. De la Court illustrates this hypothesis with examples from Roman history.

Taken as a whole it is clear that De la Court was arguing for an open democratic society.⁴⁸ In the *Politike Discoursen*, leaving aside which of the brothers actually wrote the particular passage, he attempted eloquently and with an arsenal of arguments to prove the value of uncontrolled immigration.⁴⁹ He believed that a populous and open society would guarantee a generous degree of social mobility while in a closed society social relations would harden and the division between rich and poor would soon become fixed. In this discussion it is striking that De la Court appears to make no distinction between the city and the state and switches without warning between urban and national society. This is typical of his conception of the state. For him the state is not an all-embracing structure with a life of its own but a conglomeration of cities. His plea for an open democracy, a dynamic and magnanimous society to which individuals and ideas might have open access, is ultimately a plea for a

⁴⁸ In my analysis of the *Politike Weegschaal* I have generally not discussed the parts which Pieter added later on, especially where he alters the original argument. I have therefore taken no account of Pieter's careful qualification of Johan's praise of democracy. For Pieter himself believed that in practice a moderate aristocracy was preferable to complete democracy. However, this was a quite unjustifiable alteration to an argument which consistently defends democracy. Pieter's additions can be found in *Politike Weegschaal*⁴, p. 661 ff. The assurance which follows that the work was purely speculative and written as a pastime rather than as a programme for political revolution came from Johan (p. 665), but Pieter added several further pages condemning revolutions and revolutionaries (p. 666-670).

The local social substructure of Leiden which underlies De la Court's system has been analysed admirably by Van Tijn and I did not feel it necessary to go into it more deeply. But one objection to Van Tijn's study is that he ignored Johan's original text and refused to take Johan's democratic theory seriously.

The place of the De la Courts in contemporary political life is described *inter alia* by Geyl, *Stadhouderschap* and Van Tijn, 'Pieter de la Court', p. 326 ff.

⁴⁹ *Politike Discoursen* 1, p. 36 ff.

great city which in its unhindered expansion would diminish the state's purely political power as much as possible.

This survey of De la Court's political ideas is, however, not exhaustive. There can be no doubt that he, like Spinoza later, considered the goal of the state to be freedom – economic, social, constitutional and intellectual freedom. His entire argument would make no sense unless this were the case. But how is one to reconcile this with the highly absolutist opinions which are scattered throughout the work? Some of them are indeed later interpolations.⁵⁰ But it would be too easy to assume that this is therefore true of them all and thereby evade what is a genuine difficulty. There must be an explanation for the fact that in such important and intelligent works, what we would call 'liberalism' is combined with what we would regard as 'absolutism'. The problem is highlighted by the fact that in this respect Spinoza, hardly one to accuse of lacking logical insight, followed De la Court.

The historical situation in which the De la Courts found themselves was confused. It is scarcely conceivable that they were unaware of the sixteenth-century constitutionalist theories which Dutch writers were so thoughtlessly repeating and they must have found them highly irritating. The monarchical elements alone which these old doctrines contained would have been enough to make them hostile. Added to this was the fact that they were originally theories of revolt which in principle could become dangerous for the current regime. One is faced here with a remarkable shift of values. In the sixteenth century, constitutionalism had served to establish the regime of the States. Now, a century later, it was abandoned by the supporters of De Witt because it threatened the absolute dominion of the States. This fear was certainly justified and is evidence of their consistency and insight. For neither Calvinists nor Orangists had yet realized that the *monarchomach* doctrines against tyrants could be turned not only against princes but also against the sovereign States ...

The anti-constitutional absolutism of De Witt's supporters was primarily anti-monarchical and had close ties with that of the English Parliament of the 1640s. In England too, when it was attempted to place the prince outside the state, it had been necessary to raise parliamentary sovereignty so high that the constitution itself – including even Magna Carta and the Petition of Right – lost its authority and was subjected to the power of Parliament. Furthermore, political absolutism was needed to defend religious toleration against the church. Freedom of religious and philosophical thought was only possible if the clergy could be prevented from taking over all intellectual activity.

⁵⁰ See note 36 of this chapter.

Hobbes's provocative propositions were of the greatest importance in this debate because they appeared to ground the supremacy of the state so fundamentally and incontrovertibly. In some of De la Court's *Discourses*,⁵¹ as in Spinoza's *Tractatus Theologico-Politicus* which in places appears to follow the *Discourses*, an inflated form of absolutism is called upon to defend intellectual freedom.

So it seems certain that for these men, absolutism was a weapon, an argument in a debate. It has as it were a negative function. One has to accept the paradox that in these circumstances the establishment of a 'liberal' state appeared to be impossible unless one first repudiated the constitution and embraced 'absolutism'. In contrast, constitutionalism broke up the state; it made exceptions, it dispersed, it obscured. It weakened the state so much that the might of monarchical and clerical intolerance could penetrate the cracks and holes of the walls of its dilapidated structure. 'Liberalism' could only be achieved by means of 'absolutism'. The task of this 'absolutism' was not to be despotic – indeed that was never the task of any kind of absolutism under the *Ancien Régime* – but to give the state the power to free people from the social and intellectual constraints imposed by feudal, constitutional and ecclesiastical traditions. 'Absolutism' was liberating because it broke the old social and intellectual forms.

Nevertheless, even from this perspective, the construction remains suspect. In De la Court's work democratic 'liberalism' sits so awkwardly alongside 'absolutism' that the reader is scarcely if at all able to comprehend how the arbitrary sovereign power to determine good and bad, right and wrong can be reconciled with the proposition that all humans have a right to freedom of thought and expression. Neither in the *Discoursen* nor in Spinoza's *Tractatus Theologico-Politicus* does the argument seem to be entirely consistent. The tension between the two extremes was left unresolved. Only the introduction of a new constitutionalism could have bridged it. Moreover, this absolutism did not even provide all the advantages of which it was capable. From the perspective of the state, it remained negative and defensive and lacked any creative function. It never became a driving force in De la Court's system and did not lead him to deeper insights into the cohesive dynamic of an organized political community.

This is the reason that De la Court, for all his awkward modernism and shrewd concern for the Holland in which he lived, in fact took a step back-

⁵¹ *Politieke Discoursen* II, book IV, Discourse 2 ff., p. 11 ff.

ward in the evolution of political theory. His entire reasoning was directed not at grounding the state more securely but at abolishing it. He fought against historical developments and yearned to return to a pre-national era. He observed that the whole of Europe – Greece, Italy, France, Spain – had once consisted of an infinite number of city states, that having been swallowed up in the Roman Empire and later regaining their freedom, had regrettably never rediscovered their original energy.⁵² His political theory, however revolutionary it might have been, was reactionary in its complete failure to appreciate the power of nationalism and the closely associated growth of the state. Neither the doctrine of political interest which he regarded so highly and which provided some of his contemporaries with such deep insight into the individuality of the state, nor his knowledge of history made him aware that his rationalistic and purely psychological analysis was insufficient and had led him to overlook important elements of political life.

In the end, the system resulted in a single fundamental paradox. Absolutism and modernism did not lead to a state but took refuge in a remarkably old-fashioned particularism reminiscent of Althusius. And what was the fate of De Witt's regime that the theory was at least partially designed to defend? Surely not a happy one. In essence, De la Court's theory, like Spinoza's, was one of opposition, a doctrine which undermined the oligarchic system. It was a defence of anti-Orangism and republicanism but it was formulated in such a way that it struck at the very heart of De Witt's republican and anti-Orangist regime. This did not, however, make it revolutionary. For the final paradox is that this theory can not and should not be seen as a programme for political agitation. Not only did the De la Courts forbid such an interpretation, it is in itself impossible since the entire theory is abstract speculation. There are no obvious suggestions for transforming the regent regime into a democratic-liberal government. There is an air of resignation in their writing which one can also detect in Spinoza. Their belief in the fundamental and irrevocable weakness of humanity excluded any thought of activism. Their entire political *oeuvre*, even in its most dangerous conclusions, was ultimately designed if not to praise the existing system, certainly to defend it against the enemy without. Perhaps in practice they did support some limited expansion of the oligarchy as a means of postponing the collapse of the regime, which they could foresee. But that is certainly as far as they went. They were too sceptical and too objective to expect revolution to bring salvation. The nature of their work and the limitations of their environment also immunized them to any hope for

⁵² *Politike Weegschaal* 4, p. 231 ff. Cf. *Politike Discoursen* II, p. 132.

gradual peaceful progress. The general crisis which had affected all the west European states in mid-century was still so recent that they expected chaos around every turning in the road. The state was a *tour de force*, a barely comprehensible victory over the deep anarchistic traits in human nature. Although it may have been permissible to discuss the nature of the state and even to analyse human nature itself in a book written for intellectuals, it would have been highly irresponsible actually to upset the fragile equilibrium of the existing state. Every reform, every change led to the blood and flames of civil war.

Nevertheless taken as a whole their work contains extremely dynamic elements that have played a very important role in the history of Dutch political theory. The impression it made on Spinoza, one of the most intelligent of their contemporaries, is proof of its vitality and of how easily it can be set alongside the writings of Hobbes. For it was Spinoza who adopted and systematized De la Court's ideas and in so doing succeeded in developing the first genuinely Dutch interpretation of political reality since Althusius. Ever since Gebhardt's introduction and annotated translation of the *Tractatus Politicus*,⁵³ it has been recognized that Spinoza leaned heavily on De la Court's work and repeatedly drew examples from the *Politike Weegschaal*. But that is not all. It is clear (and Gebhardt concurs) that De la Court was far more than just a source of information for Spinoza and it is necessary now to consider how intimately Spinoza's politics was bound up with that of De la Court.

B. de Spinoza

The main difference between De la Court's political theory and Spinoza's lies not in the subject matter nor in their conclusions, but simply in the quality. De la Court remains an amateur of genius while Spinoza is a systematic philosopher. De la Court's sparkling but superficial intuition becomes in the hands of Spinoza a piece of consistent well-considered, progressive reasoning. De la Court's insights are isolated observations; Spinoza's politics is closely tied in to his all-encompassing metaphysics. And he was not the kind of metaphysical philosopher who on occasion might descend from his tower, however briefly, to more earthly concerns; Spinoza's politics was, as Dunin-Borkowski never tired of pointing out, one of the foundations of his ethics, to which he devoted his entire philosophical life. However, it is not the task of the historian to demonstrate this difference in quality. And if in the following pages it is

⁵³ C. Gebhardt, *Spinoza. Abhandlung über die Verbesserung des Verstandes. Abhandlung vom Staate*, Leipzig 1907. See his introduction, p. xxvi.

shown that Spinoza dealt with the same problems as De la Court and resolved them in the same way, it does not mean that Spinoza was unoriginal nor that he failed to add anything to the theory. Spinoza elevated the ideas, the concepts and the terminology of De la Court to philosophical heights of which his predecessor had no conception and by integrating them into a dynamic system gave them a power and a significance which they did not previously have. He was thus able to prove logically, at least to those prepared to follow his logic, what De la Court had merely proposed.

De la Court had wondered how he could construct a state based on human passions which was absolute, tolerant and free. His answer had been hesitant and he was never able entirely to avoid inconsistencies and paradoxes. Spinoza asked the same question; but although in practice his answers were the same as those of the *Politike Weegschaal* and the *Politike Discoursen*, their underlying reasoning was much tighter. Spinoza resolved the problem by recognizing democracy to be the most absolute and the freest form of government.

Doubts have been expressed as to whether Spinoza was really a democrat but the text of his work gives no reason for doubt. Furthermore, his dependence on De la Court, which is palpably present throughout the argument, only strengthens the presumption of his democratic sympathies. This does not mean that he, any more than De la Court, wanted rapidly to introduce popular government through inevitably violent revolution nor that he respected the masses as a source of wisdom. However, his intellectual convictions led him to recognize that democracy was the original and, so long as it was designed properly, the best form of government. But just as he was about to draw up his blueprint for the ideal popular state, death snatched the pen from his hand. The chapter in the *Tractatus Politicus* which was to contain this plan was never completed; indeed it was barely started.

The question whether Spinoza's preference was for aristocracy or democracy, however uninteresting it may or may not be, is important enough to warrant some exploration of the evidence. In De la Court the issue becomes confused through later emendations and is ultimately of secondary importance. For him a transition from democracy to aristocracy usually takes place fairly smoothly and, though of great significance in practice, theoretically it is relatively unimportant whether all men can vote or only the more or less educated. Spinoza, however, believed that there was no such overlap between the two forms and that they can be distinguished systematically and in principle. For while aristocracy gives no-one the right to belong to the patrician class since the decision – a totally arbitrary decision – belongs exclusively to the

already incumbent patricians, in a democracy political participation is a right belonging to the individual. Even if this right to participate is subject to very restrictive conditions, such as a particular level of income, any state where the right to vote is genuine and automatic is always a democracy. It is therefore possible for the sovereign assembly in an aristocracy to be larger and more representative than that in a democracy. For his own treatment of the subject Spinoza intended to take virtually universal manhood suffrage as his prototype for the democratic state.⁵⁴ So it is quite apparent that according to Spinoza there was an essential difference between these states. But the difference was constitutional rather than social. Spinoza's aristocracy is not necessarily governed by a higher social group than a democracy even though he would have recognized that normally that would be the case. However, he demonstrated in his political work a striking and consistent indifference to purely social questions, not because he forgot them but because he thought them irrelevant to his theory.

The fact that for Spinoza there was technically such an important difference between aristocracy and democracy makes it necessary to determine which form he ultimately preferred. Fortunately in the *Tractatus Theologico-Politicus* he is quite explicit: democracy is the most natural state that most closely approaches the freedom which nature has granted to each individual.⁵⁵ Seeing that the goal of the state is freedom,⁵⁶ there is, at least in this work, no room for any doubt. But is it also true of the *Tractatus Politicus*? Some have tried to show that Spinoza, shocked by the fury of the mob in 1672, abandoned his naïve faith in the people in his later work and opted for the relative safety of aristocracy. But there is not a shred of evidence,⁵⁷ nor any reason for him to have done so. In fact, there is every reason to assume the opposite. After all, it is in the *Tractatus Politicus* that Spinoza specifically defends the people, the 'rabble', against traditional humanist criticisms.⁵⁸ De la Court had done so before him and it was an event of the greatest importance in the development of political theory. Any defence of the classical theory of popular sovereignty had always been accompanied by fierce attacks on the *demos*. The entire humanist-Calvinist system had been aristocratic; aristocratic in its polit-

⁵⁴ *Tractatus Politicus*, xi, p. 1, 2 and 3.

⁵⁵ *Tractatus Theologico-Politicus*, p. 136-137. My references are to A.G. Wernham's excellent edition and translation (B. de Spinoza, *The Political Works*, Oxford, 1958).

⁵⁶ *Ibidem*, xx, p. 230-231.

⁵⁷ Gebhardt, *Spinoza*, p. xxi ff. refutes this opinion very effectively.

⁵⁸ *Tractatus Politicus*, vii, p. 27.

ical goals as well as in its general moralism. It was universally assumed that government ought to be entrusted to the virtuous, to the rational, to men of breeding and manners, in short to the best. Both De la Court and Spinoza rejected this as meaningless. They knew that all men were equally subject to irrational passions since they were a fundamental element of life itself. Their entire political philosophy assumed that the objective could not be to put the best into government through a process of careful selection, but rather that the state should be founded on blind passion itself. It was this anti-humanist, anti-Calvinist, totally a-moral psychology which brought them to a new appreciation of the people.

Here too, De la Court had been inconsistent. The revolutionary, irrational and passionate rabble swarms through his books just as it had always done in the works of classical and renaissance political theorists reducing them to a state of panic.⁵⁹ But as we have seen he was also able to discuss popular uprisings in gentler terms. He was on occasion also aware that in reality the people, the lower classes, were not always and everywhere a dangerous source of revolution, that they were loyal to their rulers and that they were usually only seduced into revolution by cunning and poisonous troublemakers.⁶⁰ Could he have learned that from Hobbes's *Leviathan*? For neither did Hobbes believe that the masses were self-evidently bad.⁶¹ However, De la Court went much further and devoted some thoughts to the honest idealism that could govern the masses, even while they were being stirred up by treacherous, untrue and inflammatory language. But Spinoza went the furthest. He mockingly cited the words of Tacitus and Livy, which had resounded down through the seventeenth century, that the common people know no moderation, that they are either slavish servants or proud tyrants and that they recognize neither truth nor reason. Is this less true of the noble and the rich, he asked, and is it at all surprising that the populace lacks political insight when all that they have on which to base their judgements are the scraps of information that can not be hidden from them? This was the inevitable consequence of the new psychology. The rejection of the humanist ideal of virtue implied a rejection of the humanist aversion to the rabble.

The space available to the theorists was hereby considerably widened. Henceforth and for the first time, democracy could in principle be regarded

⁵⁹ E.g. *Politike Weegschaal*⁴, p. 262, 515.

⁶⁰ *Politike Discoursen*, I, p. 168.

⁶¹ Hobbes, *Leviathan* II, 30, ed. 1651, p. 176 ff. De la Court could also have taken the idea from Machiavelli. See his *Discorsi* I, LVII.

as a form of government not only worthy of serious consideration but also as one with extremely attractive features. It was clearly of the greatest importance to subject all the forms of government to careful analysis because only in this way would it be possible to identify the best. But the question immediately arises whether this comparative analysis, so often undertaken in the past, might be little more than a disastrous return to the abstract scholastic rationalizing of tradition.

It is true that the problem had been posed countless times in the past and been answered with little imagination in a fairly arbitrary fashion. There had been a reaction against this, even in the Netherlands. The theory of political interest had focussed attention much more sharply on the actual circumstances of the state in question and had revealed the extent to which the nature of a people, its history and the form of its government interacted with and affected each other. This relativism, this awareness that there was no 'best' form of government because each nation had the state which was best for itself and itself alone had been essentially conservative since it tended to accept the particular situation which it encountered. De la Court and Spinoza were not satisfied with this. Although they were not political activists in practice, at the intellectual level they certainly were. Of course they were familiar with the theory of interest – Johan de la Court had studied under Boxhorn – ; they sneered at utopias⁶² and considered themselves to be highly realistic. Their whole reasoning, however, was based on the belief that the state did not arise from the characteristics of the people and the irreversible march of history, but on the contrary itself determined the collective nature of its subjects. If this were true, the age-old problem would suddenly take on a totally new and incomparably greater significance.

It was of course Hobbes who persuaded De la Court to reject the traditional idea that men first entered the state fully equipped with morality and religion. The state had been given the task of distinguishing right from wrong and elevating man to his true humanity. Hobbes had spelt this out in a crude and deliberately offensive fashion. However, the idea was less shocking than it appeared. The old doctrine of natural law had certainly accepted far too easily the existence of original, directly inspired norms of morality and social life, and in so doing had made any realistic appreciation of historical growth impossible. We shall see later that it had to concede to Hobbes on a number of important points. For what he ultimately did in his abrupt and incisive

⁶² *Politieke Weegschaal*¹, p. 23, 173; *Tractatus Politicus* 1, p. 1.

manner was to establish a role for constitutional arrangement in the rise of human communities. It was indeed an arrangement, a creation of norms and rules of behaviour, and not merely the application of previously existing, immutable codes. De la Court's *étatisme* is closely related to this theory. But he developed it much further. Hobbes limited himself to the proposition that the state distinguished arbitrarily between right and wrong; De la Court saw that the primary significance of the state could not be expressed by this single definition since it determined the whole of human life. For according to him it was not merely the fact of political society but also its different forms which exercised a deep and lasting influence.

Incontrovertibly, mankind and human achievement are determined by the form of government. History demonstrates it clearly. Is there anything static about human nature? To answer this rhetorical question, one only has to look at the example of Athens, whose intelligence remained unsurpassed so long as it was ruled democratically, but later became the most stupid of peoples under Turkish domination.⁶³ In one of his *Discoursen* De la Court analysed the malleability of human beings and their minds at length, and concluded that knowledge and virtue, stupidity and wickedness did not depend on geographical features like the climate or the water, but on discipline and order; in other words on the form of government.⁶⁴ In a later *Discourse*, however, he appeared to hesitate and in his objective but confusing manner inconclusively presented all the counter-arguments drawn from ancient theories about the all-important influence of climate.⁶⁵ Nevertheless his politics is certainly based on the first point of view. The whole objective of the *Politike Weegschaal* was to demonstrate that the best form of government also produces the best people, the greatest prosperity and the highest culture.

With Spinoza any hesitation vanishes. At the start of his *Tractatus Theologico-Politicus* he says emphatically that the only thing which distinguishes the peoples of the world is the nature of their societies and their laws.⁶⁶ Later on he goes to claim that only laws and customs give a people its character.⁶⁷ Virtue and vice, tranquillity or unrest do not arise from the particular tendencies of people but from the manner in which their state is designed.⁶⁸ In other words, although human nature may be absolute and immutable, human

⁶³ *Politike Weegschaal*⁴, p. 623.

⁶⁴ *Politike Discoursen* n, p. 166 ff.

⁶⁵ *Ibidem*, p. 173 ff.

⁶⁶ *Tractatus Theologico-Politicus* iii, p. 56-57.

⁶⁷ *Op. cit.*, xvii, p. 180-181.

⁶⁸ *Tractatus Politicus* v, 1 and 3.

behaviour depends on the form of the society in which he lives. It becomes crystal clear, bearing in mind that everybody has the same tendencies, when one looks at the wide differences in human behaviour. The form of government obviously does not create the individual, but it does determine which innate characteristics he will employ and for what objectives. The individual is unchanging in so far as his passions will always be a part of him. However, the human community will determine the way in which those passions are developed and given meaning. It is to misjudge Spinoza's theory and its historical place if we reproach him, as did Meinecke, for slipping back from a realistic understanding of *raison d'état* and the political interest of individual states to the old outworn problem of the best form of government.⁶⁹ For it is a new problem which is now being posed and it arises from a new appreciation of the state as a creative, formative force. This is particularly clear when one bears in mind that Spinoza is in fact giving a tighter, more systematic version of De la Court who drew his evidence from the full sweep of world history.

But Spinoza's consistency also constituted a limitation. De la Court's psychologism had never stopped him from being a keen observer of economic and sometimes social facts. He had concluded that a republic created prosperity and although this correlation between politics and economics was admittedly far too simplistic, it was at least a correlation. Spinoza, however, was only a psychologist, philosopher and systematist. He was only interested in what human beings shared in common like the basic passions, and not in what divided them such as their place in society. So the forms of government which he constructed have little contact with tangible reality. They remain airy constructions which float above the concrete facts of economic and social reality. This is the weakness in his reasoning. It is here that he betrays his lack of realism. We would not be doing him or De la Court complete justice if we accused them of abandoning the pure political doctrine of interest, since they did not do that. But one might well regret that in his *politica* Spinoza's sense of reality was less acute than De la Court's and that by ignoring economic and social factors he dangerously narrowed the basis of his argument.

This narrowing becomes apparent when one follows the fate of De la Court's conception of liberty in Spinoza's philosophy. De la Court had naturally never adequately defined it. He used the word in a fairly loose sense and meant either a republic or simply the freedom to do whatever one wanted to do. He had noted that this freedom, genuine and complete freedom, only

⁶⁹ F. Meinecke, *Die Idee der Staatsräson in der neueren Geschichte* (ed. Hofer, München 1957), p. 262.

existed under popular governments and consequently in his time was rarely to be found.⁷⁰ He had praised social and economic freedom highly but had also come close to asking what the psychological significance of freedom might be and whether to be able to indulge all one's passions could be regarded as genuine freedom. From this it is clear that he had not been satisfied with Hobbes's definition of freedom as the removal of all external hindrances to do whatever one wanted.

For Spinoza only the psychological significance was of any interest. He raised the concept of freedom to a high philosophical level and gave to it a place of great importance in his system. To attempt any assessment of the nature and value of this philosophical concept would lead us too far into technical questions of a metaphysical nature.⁷¹ It is sufficient for our purposes to note that for Spinoza human freedom could not be the freedom to live out one's passions. Like De la Court he disagreed totally with Hobbes's notion that the state of nature was a state of freedom. Freedom is moral freedom and can only be enjoyed by a rational being. The state of nature, on the other hand, is the state in which humans are entirely controlled by their passions. Political society in Spinoza acquires the meaning that we occasionally observed in De la Court. It is not merely a means of combating death as in Hobbes, but also a form of human fulfilment. It has an ethical dimension because through obedience to its laws it becomes possible for men to free themselves from subjection to the passions.

Spinoza's technique for suppressing spontaneous but blind emotion was built on a much deeper knowledge of human psychology than De la Court's Cartesian psycho-physiology which Spinoza explicitly rejected in Book Three of his *Ethics*.⁷² It concerns us only in so far as it explains the fundamental paradox that the freest individual is he who obeys the commands of the sovereign most closely. The paradox is not particularly difficult. Once unfreedom is defined as the inability to curb and control the emotions because one is thereby placed in the hands of fate and unable to determine independently what is in one's own best interests,⁷³ and if one consequently accepts that in

⁷⁰ *Politike Discoursen*, II, p. 115.

⁷¹ For an extremely technical analysis see H.F. Hallet, *Benedict de Spinoza. The Elements of his Philosophy*, London 1957, p. 148 ff.

⁷² Philosophical research into links between De la Court's and Spinoza's psychology might possibly produce some interesting results. There are a number of propositions in the *Ethics* which relate to propositions in De la Court. Cf. *Ethica*, IV, 66 and *Politike Discoursen*, II, p. 316, p. 145 ff., or *Ethica*, II, 18 and *Politike Discoursen*, II, p. 216.

⁷³ *Ethica*, IV, foreword.

the good state the highest law is the welfare of all, it becomes evident that the man who obeys those rational laws becomes free and can live his life according to reason.⁷⁴

But now it is possible to take the argument still further. If one accepts that the state is a means of developing man's moral and intellectual potential, and that freedom is the rational control of the passions through obedience to the state, it is no longer difficult to conclude that the best state is also the most absolute. After all, the stability of a political community increases as sovereignty becomes concentrated in the hands of a single body. And because Spinoza assumes that in a monarchy sovereignty returns to the people on the death of the ruler, an aristocracy where sovereignty is in the hands of a constantly self-maintaining group of patricians must be more absolute and therefore better than a monarchy.⁷⁵ However, the most absolute is democracy.⁷⁶ The irritating dilemma in De la Court's work was thereby resolved.

Naturally this did not mark the end of Spinoza's argument. A great deal of shrewd reasoning was subsequently needed to indicate the limitations of even the most absolute forms of state authority and it is well enough known how he did this. Spinoza's political theory is certainly no game of logical terminology and concepts but a very serious attempt to prove the existence of the right to intellectual freedom in the normal sense of the word. However, it is not necessary to expand on this here since it has often been done in the past and all the references required can be found in Wernham's edition of Spinoza's political works. Our objective was not to provide a complete analysis of

⁷⁴ *Tractatus Theologico-Politicus*, xvi, 134-135; *Tractatus Politicus*, iii, 6.

⁷⁵ *Tractatus Politicus*, viii, 7.

⁷⁶ *Tractatus Politicus*, viii, 3.

⁷⁷ Gebhardt, Francès and Wernham all consider the *Politike Weegschaal* to have been Spinoza's main sourcebook for his knowledge of foreign institutions and have taken a great deal of trouble to indicate Spinoza's borrowings. However, this is a quite inadequate indication of the extent of Spinoza's dependence. I myself only wanted to give a general idea so as to avoid overloading the argument with numerous references. But two striking illustrations of Spinoza's dependence on De la Court should not pass without notice. His calculation of the minimum number of regents required in an aristocracy (*Tractatus Politicus*, viii, p. 2, 13, 25) is borrowed in every detail from *Politike Discoursen*, ii, p. 120 ff. Even more striking, however, is that the most important propositions in the *Tractatus Theologico-Politicus* are in essence to be found in *Politike Discoursen*, part ii, book iv, discourses 2 and 3. This is easy to demonstrate at length, but it should be sufficient to cite

Spinoza's political philosophy but merely to indicate as clearly as possible its place in Dutch political theory. To do this it was necessary to show first of all how much Spinoza owed to De la Court in terms of problems and solutions and subsequently how he developed those insights into a solid and coherent system.⁷⁷

a single 'Spinozist' sentence from De la Court (*Politike Discoursen*, p. 22) in which the equivalence of right and might can be found: 'Man', writes De la Court, 'in moving from the state of nature into civil society did not give up his right or his power to believe whatever seemed to him to be true; because that would have been impossible.'

III Politica Novantiqua

Dutch political theory rose to new heights with De la Court and Spinoza. Necessity and circumstance led both thinkers to ideas which a century later would be taken up by Rousseau. In many ways this encapsulates the inexhaustible wealth of seventeenth-century Dutch civilization: in less than a century there was an intellectual development which led from the constitutionalist theories of the Calvinists through the paradoxes of De la Court and Spinoza up to modern constitutionalism. At times one has the impression that the Netherlands was running a preview of the history of the Enlightenment and the French Revolution. In the same way that the French Revolution proceeded from Montesquieu via Rousseau to the constitutional liberals of 1789 and 1814, so Dutch thought evolved from Althusius via Spinoza to Ulric Huber. The French repeated on a grander scale developments in seventeenth-century Dutch philosophy.

Of course, this does not mean that Dutch theory did not have its limitations. Although in many ways it appeared to anticipate the eighteenth century, it nevertheless remained rooted in its own time and could never have produced the telling formulae which were the hallmark of the *philosophes'* success. Furthermore, the unusual situation of the Netherlands itself imposed a limitation that clearly manifested itself in Spinoza's theory. For what possible significance – and this is a question which must always be asked – could his theory have had as a rationalization of the actual situation? In other words, was his theory realistic enough in the circumstances of the time to exert a creative political influence? The answer can only be that it did not. Spinoza made no attempt to produce a theory which could either account for or reform the Dutch system of government. Neither did De la Court. Both had an excellent understanding of the Dutch constitution but they did not take the trouble to explain or rationalize its characteristic and highly unusual constructions. Their ideal democracy was elevated far above the real world.

One must therefore conclude that the group of modernist philosophers completely failed to resolve the problem which had faced Dutch political theorists from the late sixteenth century onwards. They made reference to the Dutch state, they praised it and they criticized it, but they did not construct a

theory which could account for it within a universal framework of constitutional law. So the historian of Dutch seventeenth-century political theory can not end his survey with Spinoza. Spinoza did not complete its development because the goal of explaining reality, which all theory must have, was not achieved. Not even he was able to put a positive theoretical construction on a Dutch state that had been born as a negation. Nevertheless, as the spokesman for the modernist group to which he belonged, he did make a valuable contribution to the solution of a problem which was by then almost a century old.

De la Court and Spinoza had no followers. They stood too far outside tradition and academia for that. But they did have opponents who learned some essential things from them. Added to which there were also positive influences from abroad. During the final decades of the seventeenth century not only did Hobbes's philosophy enter the Netherlands but so did that of Pufendorf, and the polemic against the former as well as the rapturous welcome for the latter helped the Dutch to formulate their own ideas more clearly.

The post-Hobbesian period was one of astonishing ambiguity. Everyone was out to do battle against the dangerous Englishman and, where appropriate, his equally dangerous Dutch follower, Spinoza. In 1674 the High Court of Holland banned both *Leviathan* and the *Tractatus Theologico-Politicus*, not, incidentally, because it feared for the political health of the province but because the two works were blasphemous and soul-corrupting, and harmful to the church and religion.¹ Dissertations and handbooks regularly included savage attacks on Hobbes. Sometimes the attacks were taken very seriously as in the work of the Reverend Cocquius or in Cornelius Backer's substantial dissertation of 1714, both of which we have previously encountered. Backer had studied constitutional law under Huber in the 1690s and it was undoubtedly then that he developed his aversion to Hobbes.²

The remarkable thing is that in spite of such fierce opposition, Hobbes's theory in fact had a manifestly positive influence on its opponents. Although Hobbes was attacked because he was regarded as anti-Christian and because his cold absolutism was unattractive, there was nevertheless something in his theory which Dutch Calvinists could understand and accept. Huber, for instance, – and we shall hear much more from him later – thought that

¹ Algemeen Rijks Archief, Hof van Holland, 90. Publication of 19 July 1674. Also banned at the same time were Lodewijk Meyer's *Philosophia Sacrae Scripturae interpres* of 1666 and a socinian publication.

² C. Backer, *Dissertatio juridica inauguralis de principiis juris naturae, gentium et civilis*, Leiden 1714, cap. iv. Huber mentions him as one of his students in the preface to his *Institutionum historiae civilis libri tres*, Franeker 1692.

Hobbes's premises were basically correct and that his belief in people's fundamental egoism and the war of all against all was biblically and historically justified.³ Hobbes's impact must actually have been considerable. Huber recounts having heard a rumour that Grotius, on reading Hobbes's work, regretted having written his own *De Jure Belli ac Pacis* many years before its publication. However, he dismissed the implication that Grotius was a crypto-Hobbesian. 'Although Grotius renounced true [Calvinist] orthodoxy, I believe that in this, his greatest work, he was actually trying to protect his readers against being corrupted by the Englishman.' Grotius's correspondence, which was published in 1687, shows that he had indeed read *De Cive*, but while agreeing with its royalism he could not accept its underlying principles.⁴ Nevertheless, the rumour alone says a great deal.

Adriaan Houtuyn

Ambiguity is taken to the level of caricature in the work of Adriaan Houtuyn (1645-1710) and he can not be regarded as representative of much more than his own errors. Nevertheless, he does deserve some attention. He studied law in Leiden and was a barrister in the High Court of Holland in The Hague.⁵ He came from a petty-bourgeois family and appears to have had pro-Orangist sympathies. His name appears in the list of candidates for the position of sheriff presented to Prince William by the Hague militia after the murder of the De Witts in 1672, but he was not selected.⁶ He was and remained an impecunious⁷ but ambitious and pretentious man who enjoyed writing books. In 1685 he published a work on ancient Palestine's form of government,⁸ a question which jurists and theologians often debated in the seventeenth century. Four years later a treatise dedicated to Grand Pensionary Caspar Fagel appeared on the early history of the Netherlands in which he did his best to define the nature of the so-called Batavian state with juridical preci-

³ U. Huber, *De jure civitatis*, ed. 1694, p. 10.

⁴ Huber, *op.cit.*, p. 17; H. Grotius, *Epistolae*, Amsterdam 1687, appendix 648 (April 1643).

⁵ R. Dekkers, *Bibliotheca belgica juridica*, Brussels 1951, wrongly records the year of his birth as 1642. However, he was baptized in the Hague on 17 December 1645. Details of his later years are missing from the Hague city archives so I have been unable to verify the year of his death.

⁶ H.E. van Gelder, 'Schutterij en magistraat in 1672' in *Die Haghe* (1937), p. 68 ff.

⁷ H.E. van Gelder, 'Haagsche cohieren II' in *Die Haghe* (1914-1915), p. 97.

⁸ *Monarchia Hebraeorum, quae est de imperio monarchico in populum Hebraeum probatio ab Abrahamo ad dispersam gentem*, Leiden 1685.

sion.⁹ Much earlier, however, he had published a handbook which dealt exclusively with the great issues of the formation of the state and sovereignty: *Politica contracta generalis*.¹⁰

The book seems to have been written with the sole aim of driving the reader to despair. It is so ingeniously constructed and the 'contraction' of *politica generalis* so extreme that it takes up a mere eight pages. The rest of the work of over 350 pages, consists of a foreword, introduction, summary of the notes and finally the notes themselves. Houtuyn's penchant for extreme self-discipline also affects his style which is so full of pointed formulations and excessively abbreviated phrasing that the argument sometimes reads like a cryptic puzzle. Added to which, his effort to be philosophically trenchant prevented him from citing his sources or naming the targets of his polemic. It is as if he wanted the argument to appear completely autonomous and self-generating – as in Spinoza. Unfortunately, whereas Spinoza succeeded in making his reasoning entirely transparent, the combination of Houtuyn's lack of originality and his conceit disastrously complicated his argument.

Probably the best way to sum up Houtuyn's position is that he attempted to base Hobbesian absolutism on Grotius's theory of natural law. His book begins with definitions of natural law which are in fact pure Grotius. 'The law of nature', he writes (p. Bvo), 'is a prescription commanding man to govern his actions by his inborn reason, which is to say, to do what reason prescribes. This inborn reason is a divine light, given to man by God Himself, which reveals to our minds and judgement what is good and evil, permissible or forbidden.' Houtuyn also accepts the social dimension which Grotius gave to natural law. Whoever harms human society, he writes (p. A6vo), or whose deeds run counter to the natural order or the ends established by nature, acts against nature. But after that he abandons his illustrious exemplar. Grotius had concluded from these premises that natural good and social good were equivalent. Man pursues his own good, but he can not arbitrarily decide what that is since it must correspond to human nature. It is the nature of man as a

⁹ *Reipublicae Batavae liber primus. Periodum ab gentis initio ad comitum tempora complectens*, The Hague 1689.

¹⁰ *Politica contracta generalis notis illustrata*, The Hague 1681. In the copy which I read in the British Museum, there are two title pages. The title on the first has an unsightly printing error and ends with the words: 'Accedunt additiones ejusdem authoris in quibus principiorum Hobbesianorum est confutatio'. The second title, however, states more modestly and accurately: 'Ad calcem errores Hobbesiani indicantur'. This actually amounts to an appendix of less than seven pages of references to *De cive* and *Leviathan* where Houtuyn disagrees with Hobbes, but without any further commentary.

social being which determines what is good and bad. Good is by nature a social good. Duynstee has rightly pointed out that it was here that Hobbes radically departed from traditional natural law theory.¹¹ For Hobbes, the good which man pursues is not objective but purely subjective. It is what he personally desires because it will personally benefit him alone. It was at this juncture that Houtuyn left Grotius and joined Hobbes whom he scornfully claimed to have refuted. It is a quite astonishing *volte-face*. After his Grotian definitions, after his explicit assurance that the law of nature had always existed and predates the founding of civil society, that by nature man strives to preserve his life and defend justice, he suddenly changes masters and continues with a pure Hobbesian theory.

The distinction between good and bad, he says (p. B6vo), is a purely personal matter in which no-one can compel another. Seeing that each individual has the right to decide what is good for himself, that is to say what will advance his own self-preservation, he also has the right to any means necessary for that self-preservation. In the state of nature man has a right to take everything and do anything. So far this is pure Hobbes. And yet there is a difference and Houtuyn, who had an over-blown opinion of his own originality, never ceases to remind us of it. To Hobbes the state of nature in which everyone has a right to everything was *ipso facto* a state of war of all against all. For Houtuyn it was not. He believed that the social character of natural law which he had so carefully defined ought in some way to be reconciled with modernist individualism. The result is two successive states of nature: first Grotius's, then Hobbes's. God began by giving peace to mankind. Mankind lived together in one great spontaneously formed community under the law of nature. Gradually private property developed (pp. 17 ff.) and with it theft and the concepts of right and wrong. The Grotian state of peace was disturbed by the self-willed impulse to self-preservation. The impulse to self-preservation is also entirely natural, but because men are sinful it tends to be taken to extremes. In this way, the peace was broken and Hobbes was able to lead his Dutch disciple out of the paradise of natural law into the war of all against all. Nevertheless, Houtuyn could rightly claim that his interpretation differed from that of Hobbes, since for Hobbes all deeds in the chaotic state of nature were morally indifferent. This was certainly not the case with Houtuyn for whom they were bad.

Faced by wild anarchy, human beings realized that natural reason was not enough to maintain peace. They therefore decided to found states which

¹¹ Duynstee, *Geschiedenis van het natuurrecht*, p. 41.

would restrain freedom and support natural reason. Houtuyn explicitly stated that the *causa impulsiva* of the state was fear and not Grotius's inclination to society. He thus rejects the old idea of man's natural sociability (p. 38).¹² The manner in which the state was created holds no surprises (pp. 43 ff.): a group of people despairing of the confusion in which they lived decided to place themselves under a government. There is no pact between the people and a sovereign who has yet to be appointed; there is only, and this is entirely Hobbesian, a mutual agreement between the people to subject themselves to that sovereign. But for Houtuyn this was not enough. In a complicated fashion he attempted to show that the ruler's sovereignty ultimately derived not just from this consensus but also from God. God crowns rulers, and Divine Right is the bedrock of sovereignty (p. 46). In this way, Houtuyn rescues something from everyone, from Grotius, from Hobbes and from the theological absolutism of Graswinckel ...

So the state which has arisen on this mosaic-like basis – it hardly seems necessary to point out its appalling contradictions – is as absolute as it can possibly be. Pufendorf, who rounded on certain aspects of Houtuyn's theory with vitriolic irony, wondered what could have possessed him, living as he did in a free state, to defend such suffocating despotism.¹³ Even now, three centuries later, one can share this baffled amazement. It seems very likely – at least it is a thought that recurs while studying these materials – that in the Netherlands absolutism had a function which could in some way be viewed positively. But it was usually an absolutism which could be explained by circumstances and the need for which can be understood. In Houtuyn's theory, however, Leviathan goes mad. Houtuyn defended a completely unlimited, and therefore completely pointless absolutism that could only have issued from some hare-brained intellectual extremism. It had no basis in reality and no significance in the development of political philosophy.

It is hardly worth the effort to write down all the rights which Houtuyn granted to his sovereign. In the end, the subjects retain nothing. The sovereign has absolute dominion over persons and property. He determines what is just and unjust; within the state he is the source of all property; and he levies taxation at will (*ex arbitratu*). Religion too falls under his total authority. He not only governs the church, but the choice of public religion is also dependent on

¹² On pages 36 ff. Houtuyn attacks Pufendorf's theory on the origins of the state, again without mentioning his name.

¹³ S. Pufendorf, *De habitu Religionis Christianae ad vitam civilem liber singularis. Accedunt animadversiones ad aliqua loca è Politica Adriani Houtuyn Jcti Batavi*, Bremen 1687, p. 223.

his arbitrary decision. Divine and natural laws can not escape his power for it is he who interprets them and makes them public. No protest against him is permitted, no resistance, no revolt.

However, a number of other elements in his theory do deserve a mention. For in one respect, absolutism led Houtuyn to the correct and fruitful insight that it makes no sense to distinguish forms of government by their degree of freedom. In principle they are all absolute. It is therefore wrong to characterize democracy, as occasionally happens, with the word 'freedom', seeing that in theory it can not be freer than other forms of government and in practice its authority is often far more oppressive than that of a monarchy (pp. 50-51). What then is freedom? Houtuyn does not hesitate. It is a remainder; it is what survives from the state of nature and it only exists where the law is silent. There is therefore no such thing as a 'civil liberty'. If the law explicitly permits something, it is merely recognizing a natural liberty; it is not creating a new freedom (pp. 31-32).

This comment is typical. For Houtuyn as for Hobbes, the state is a totally artificial construction without a life of its own. It is despotic, but whatever lies beyond its reach is left to nature. It is much less than in the traditional theory of natural law which embraced the whole of human life in it, and much less than the conception of De la Court and Spinoza who gave it such dynamic and creative force. Furthermore, for Houtuyn and Hobbes, it has only a limited duration. For although the sovereign is bound by nothing and any opposition to him is strictly forbidden, the subject is able at any moment to step out of civil society into the state of nature, and he will do so if the state fails to fulfil its task. Naturally, there is no contract between ruler and people. But the impulse to self-preservation which had caused people to subject themselves to the state and which continues to control their lives even in their subjection to the sovereign, will sometimes lead them to prefer the dangers of nature to the disasters brought on them by the ruler. So the subjects of a prince who has been hopelessly defeated will abandon him, return briefly to the state of nature, and then place themselves under the authority of the victor because their previous sovereign had proved himself unable to fulfil his duty to protect them (pp. 34, 40). As Bishop Bramhall put it when as early as 1658 he pointed out how revolutionary Hobbes was from the perspective of paternalist absolutism: this philosopher 'did take his sovereign for better but not for worse'.¹⁴

However, in spite of all his intellectualist extremism there is more flexibi-

¹⁴ Cited by John Bowle, *Hobbes and his critics. A study in seventeenth-century constitutionalism*, London 1951, p. 124.

lity in Houtuyn's theories than in Hobbes. For Houtuyn also opens up the possibility of a completely different conception of the state when he describes how the people are able to limit sovereignty (pp. 245 ff.). This was no novelty in Dutch political philosophy. Both Grotius and Graswinckel, after exploring absolutism to its utmost consequences, ended as it were by making it optional. It is difficult to regard it as anything other than inconsistency, a logically unacceptable attempt to adapt theory to practice. For it is obvious that in the seventeenth century nowhere was there, nor could there be, any form of absolutism as total as the theory proposed. It was not just that it would have been unacceptable to subjects; the practical means were simply unavailable to what were still such imperfect, primitive and isolated governments. In any case, it certainly did not exist in the Netherlands. The reader might wonder what the point is of a theory which describes the state in general terms, discovers that it is completely absolute, but then has to acknowledge that in fact every existing state fails to satisfy its theoretical preconditions and is therefore an exception to the rule, though in itself a perfectly justifiable exception. Houtuyn was forced back to a position which he had tried to avoid when he had to admit that in his time there was scarcely a single example of absolute sovereignty. He even held that in such limited governments the lesser magistrates had a right of resistance, though he justified it, consistently with his individualistic standpoint, more as a practical solution than, as the Calvinists believed, a juridically valid proposition. Sometimes he went so far as to claim that democracy was the form of government which deviated least from original freedom (pp. 58-59), thus contradicting the basic principles expounded on other pages. He had, after all, denied the possibility of equating freedom with democracy. In all of these sections as well as in his list of '*errores hobbesiani*' it becomes clear, as he constantly reminds us, that Houtuyn differed from Hobbes on a number of essential points.

All this reveals his lack of logic. But Houtuyn could not be anything else than illogical and his attempt to combine old and new simply by setting them next to or behind each other was doomed to failure. The attempt may have been praiseworthy and there were reasons enough to want to reconcile Grotius and Hobbes, but in this fashion it did not, could not work. And what this dense and learned book made very apparent was that political philosophy can not make sense if it has no clear objective.¹⁵

¹⁵ It should be pointed out that in a number of places Houtuyn not only attacks Hobbes but also Spinoza, though without mentioning him by name; cf. e.g. p. 2 ff.

G. de Vries and his students

Attempts at synthesis, a common characteristic of political writing in this period, did not always lead to such extreme confusion as in Houtuyn. The Professor of Philosophy at Utrecht, Gerard de Vries (1648-1705), for instance approached the task more calmly. He was born in Utrecht in 1648 where he later studied under Voetius in the hope of following a university career. Early on he started lecturing in philosophy, but in 1672 fled before the French invaders and continued his teaching at Leiden. The circumstances of his exile left him with time on his hands and also seem to have given him a keen interest in politics. He embarked on a study of Lieuwe van Aitzema (1600-1669) whose *Saken van Staet en Oorlogh* (12 vols, 1657-68) – a chronicle of Dutch history from 1621 to 1667, partly based on secret information and enlivened by the author's cynical commentary – he read repeatedly.¹⁶ In 1673 he succeeded a Cartesian as sub-regent of the college for students in theology financed by the States of Holland. But his Leiden students with their Cartesian sympathies made life so difficult for him that it came as a great relief¹⁷ when in 1674 he was appointed Professor of Logic and Metaphysics at the University of Utrecht, which after the restoration of the stadholderate had reverted to its deep conservatism. He remained there until his death in 1705. He produced no work of his own in the field of *politica*. In 1702 he announced that he was working on a book entitled *Determinationes Politicae* but his poor health seems to have prevented him from completing it.¹⁸ At least, it was never published.

De Vries holds a place in the history of the battle against Cartesianism. He objected to Descartes' theories, but objected even more to Descartes' followers whom he accused of one-sided dogmatism and being imprisoned by a system. He himself wanted to be able to survey the whole field of philosophy, give praise where praise was due and accept what was acceptable. In his approach to *politica* too, at least in so far as it is reflected in the disputations which he chaired, he demanded undogmatic, though religiously orthodox, freedom. He recognized that scholastic *politica* was abstract and that its trivial, pointless disputations were far removed from reality (was he thinking of his predecessor Berckringer when he wrote that?), but he also protested against the cold, unethical realism of Machiavelli and Hobbes which only concerned

¹⁶ Cf. on all this G. de Vries's introduction to the reprint of M.Z. Boxhorn's *Institutiones politicae*, annotated by Hornius, Utrecht 1702.

¹⁷ C.L. Thijssen-Schoute, *Nederlands Cartesianisme*, Amsterdam 1954, p. 226 ff.

¹⁸ Introduction to the *Institutiones politicae*, p. *6.

itself with the practical usefulness of political behaviour and not its moral content.¹⁹

The political disputations held under De Vries's guidance leave a fairly good but not a lasting impression. In general they are very traditional in their dislike of absolutism and absolutist thinkers and their aversion to Machiavelli and Hobbes, who in spite of their great insight and intelligence praised not only tyranny but almost every other crime.²⁰ Every so often we learn that the state did not arise through fear but from love, that the state of nature was not a state of war, that princes should not be worshipped, that no state can survive without religion and that it is better to tolerate a single religion than many (though here the reader might be tempted to fill in the proviso, so long as the dominant religion is Calvinist).²¹ Particularly childish was an *exercitatio politica* by Frans van Bergen from Sluis, held under De Vries's direction in 1690, in which he argued that the sovereign should pronounce justice personally and support the poor against the inevitably class-based justice of the magistracy.²²

One does not get the impression that De Vries taught his students a clearly defined theory of his own or instructed them in the system of any great predecessor. Here, as with philosophy, he seems to have been content with a degree of eclecticism. So, for instance, a highly erudite disputation by Vander Schuer in 1681 has references to Hobbes, Pufendorf, Grotius, J.F. Hornius, Huber, Schelius, Cocquius, Boxborn, Bracton and Milton.²³ Vander Schuer himself was greatly impressed by Pufendorf, but there is little evidence that other students were similarly influenced. What they all have in common, however, are references to the old Calvinist doctrine about tyrants, the right of resistance and ephors.

The influence of modern philosophy on De Vries's students can be detected in two ways. They believed that democracy was the oldest form of government and conformed most closely to the nature of reason and man. Complete equality was the original condition, and social differences evolved later. Such differences are not *per se* objectionable; democracy has practical disadvantages which in the past led to enormous problems and its being abandoned as a

¹⁹ *Ibidem*, p. *2 ff.

²⁰ T. Coorn, *Disputationum selectarum trigesima secunda de infinito, pars sexta*, Utrecht 1679, annexa respondentis, thesis vii.

²¹ Cf. the disputations by A. Arlebout and J. Best (both 1678), from the series referred to in the previous footnote.

²² F. van Bergen, *Exercitatio politica examinans, an deceat ipsum principem jus dicere?*, Utrecht 1690.

²³ G. vander Schuer, *Exercitatio politica expendens, an princeps sibi legibus solutus?*, Utrecht 1681.

form of government. However, this does not alter the fact that in later times, whatever remains of freedom and fundamental rights are survivals from this original democracy.²⁴ They are highly praised as permanent elements in the state, which was after all only founded in the interests of security and justice. There is in all this what one might almost describe as a humanistic-enlightened élan. For God gave to mankind, his supreme creation, such a refined spirit and carefully crafted body that He could never have predestined man to slavery and subjection to a despot.²⁵

Willem vander Muelen

Willem vander Muelen (1659-1739) was also eclectic in his way but he was far more systematic. He belonged to the Utrecht patriciate, studied law at Utrecht, became a canon of the chapter of St. Marie in 1686, dike reeve of the Lekdijk Benedendijks in 1691, and councillor in the Court of Utrecht in 1706. He was also on the board of the East India Company. In 1684 he published a book on the origins of natural law and the state.²⁶ This was followed in 1689 by a treatise on sovereignty in response to the English Revolution,²⁷ and a dissertation on the origin of law in 1691.²⁸ In 1696 the first volume of an enormous edition of Grotius's *De jure belli ac pacis* with a very extensive commentary was published. The work was only completed in 1703 and by then consisted of thousands of closely printed quarto pages in three volumes.²⁹ More or less as marginalia a critique of Grotius's notorious hypothesis on the survival of the Roman Empire appeared in 1698.³⁰

Vander Muelen was a vain, self-opinionated man without much originality. His huge annotated edition of Grotius is illustrated with a portrait which reveals an ugly, fleshy face under a baroque wig, the face of a somewhat haughty, difficult and high-handed patrician. He could never hold his tongue.

²⁴ Cf. e.g. J.C. Escher (a Swiss), *Exercitatio politica de libertate populi*, Utrecht 1697, and J. Leyendecker, *Exercitatio politica de imperio et obsequio*, Utrecht 1686.

²⁵ H. Griffith (from London), *Disputatio philosophiae inauguralis de libertate*, Utrecht 1684.

²⁶ G. vander Muelen, *Dissertationes de origine iuris naturalis et societatis civilis*, Utrecht 1684.

²⁷ G. vander Muelen, *Dissertatio de sanctitate summi imperii civilis*, Utrecht 1689.

²⁸ G. vander Muelen, *In historiam Pomponii de origine iuris et omnium magistratuum et successionem prudentium exercitationes*, Utrecht 1691.

²⁹ Hugonis Grotii, *De jure belli ac pacis libri tres ... cum commentariis Gulielmi vander Muelen. Accedunt et authoris annotata ... nec non Joann. Frid. Gronovii notae in totum opus*, Utrecht 1696-1703, 3 vols.

³⁰ G. vander Muelen, *Dissertatio de ortu et interitu Imperii Romani*, Utrecht 1698. For other works by Vander Muelen, see R. Dekkers, *Bibliotheca belgica juridica*.

His commentary on Grotius expanded out of all proportion and reached a size which far outstripped that of the original publication. He repeated himself constantly and prided himself on the extent of his knowledge. He sometimes sighed that his studies in natural law touched on so many different fields and that he had to give his opinion on theology, Roman Law, history and archaeology, but he loved meddling and his capacity for work was enormous. In spite of all that, the impression which one has of him is not unsympathetic. He must, after all, have possessed a naïve soul to reveal all his petty idiosyncrasies so shamelessly.

He never tired of pointing out the importance of his work and recounting the reasons which led him to undertake it. It was reading Pufendorf's great work on the Law of Nature and Nations³¹ which convinced him of its usefulness. He had obtained a copy by accident, and was grateful for it throughout the rest of his life. He read it repeatedly and also followed up Pufendorf's sources so that he soon found himself surrounded by books and problems – a situation which he obviously enjoyed. He came to realize that all human and divine scholarship merged in the study of natural law. This was entirely along the lines of Pufendorf who brought the disciplines of history, ethics and law together under the single term 'natural law' which nowadays we might be inclined to translate as 'general sociology'.³² Vander Muelen's account is almost amusing as he tells how he slaved away at the discipline until finally, brimful of knowledge, he returned to Pufendorf and noticed in this second phase of his Pufendorffian exegesis how often and with what admiration the German referred to Grotius. It occurred to him that it could be useful to follow such a good example and study *De jure belli ac pacis* himself. While consulting the numerous published commentaries he discovered that not only they, but Grotius's work as well, were full of errors. He therefore decided to write his own commentary. And that is exactly what Vander Muelen's work amounted to in the end: a commentary and critique, emendations and praise of Grotius. Or to put it slightly differently, a correction of Grotius on the basis of Pufendorf. He admitted quite openly that it was not through his own merits that he was able to correct Grotius in so many places but through the progress of scholarship...³³

And yet in this naïve confession, Vander Muelen did himself an injustice. For he was not merely driven by armchair scholarship and pedantry; the

³¹ S. Pufendorf, *De jure naturae et gentium*, 1672.

³² E. Wolf, *Grosse Rechtsdenker der deutschen Geistesgeschichte*, Tübingen 1951³, p. 317.

³³ See for all of this his *Praefatio* to the commentary on Grotius.

driving force of his life was his enthusiasm for the politics of William III. The dithyrambic dedication of the Grotius commentary to the King appears to be a conscious imitation of the baroque style which Grotius adopted in 1625 when he dedicated the original edition to that prince of justice, Louis XIII of France. It is a peculiar and fascinating irony of fate that the same style and language which the greatest of Dutch jurists employed to dedicate his greatest work to Louis XIII in 1625, should be adopted seventy years later by an epigone to dedicate the same book to the man who devoted his life to opposing Louis' son. But the century had become more honest, or perhaps one should say more comprehensible.³⁴ While it is difficult to know whether Grotius meant what he said or what he meant when he said it, there can be no doubt at all that Vander Muelen did believe in the greatness of William III and his task.

The justification of William III's policies and the political beliefs which according to Vander Muelen they embodied became his life's mission. Already in 1689, as we have seen, he published a work in which he tried to show that the Glorious Revolution had been politically and legally justifiable. Even in 1703, after the death of the Stadholder-King, he devoted the foreword to the last volume of his Grotius commentary to encouraging a continuation of the struggle against France. Throughout his work he took it upon himself to describe and defend interminably and repetitively the right to rebel, the right to freedom and that brand of individualistic radicalism peculiar to the late seventeenth century. But in so doing he became more than merely a Dutch epigone of Pufendorf; he became a Dutch Locke, though twenty seven years younger. He could, moreover, pride himself on having produced a defence of the Glorious Revolution at approximately the same moment as his kindred spirit whose *Two Treatises of Government* appeared towards the end of 1689. Though Vander Muelen was much younger than Locke, he was less obviously a man of the early Enlightenment. His Latin, which incidentally reads easily, his orthodoxy, his strong sense of the fleeting nature of earthly things and his pessimism about contemporary culture place him firmly in the baroque learning of the seventeenth century. Was that why he was forgotten while Locke who in his political philosophy was no deeper or more original became famous? Was Locke's many-sidedness, so sharply contrasting with Vander Muelen's concentration on juridical matters, perhaps a more fundamental

³⁴ On this dedication, see Huizinga's remarks in *Verzamelde Werken* vol. II, p. 395 and vol. V, p. 214. Cf. also J.D.M. Cornelissen, 'De opdracht van Hugo de Groot's 'De Jure Belli ac Pacis' aan Lodewijk XIII' in *De Gids* cix (1946), 79 ff.

reason? Or was it simply that what was no longer surprising in the Netherlands was new to Englishmen? However it may be, both Locke and Vander Muelen lacked the power of thinkers like Grotius, Spinoza, Pufendorf and the unerring originality of a scholar such as Huber. It seems an arbitrary fate that rewards the one with a place in history and banishes the other to the dust of libraries.³⁵

Vander Muelen was not familiar with Locke; his child-like pride in citing all his sources would have ensured that if he had read Locke's work he would have mentioned it. So there is little reason to compare their theories in systematic detail. Nevertheless, anyone who is familiar with Locke's theories will see that the Dutchman and the Englishman were impressed by the same material inherited from their many predecessors, and used it in the same way to achieve the same end. If it is ever shown that a form of necessity governs the growth of ideas – leaving aside whether it depends on the inner power of the ideas themselves or on a particular political constellation – then it must be here: the common intellectual property of the century ripened in two relatively unoriginal minds into an identical and relatively new theory.

It was, in fact, a very simple theory. It was based on the individualistic interpretation of natural law common to many writers of this period, but actually involved a highly paradoxical restructuring of old ideas. Vander Muelen accepted Grotius's definition of natural law as the command (*dictatum*) of correct rational judgement which reveals to us how far our deeds correspond to rational nature. That means, adds Vander Muelen, the aggregate of inborn moral principles which stem from the divine Godhead in whose image we are made.³⁶ This addition is significant. Grotius's bold assertion that natural law would be valid even if God did not exist or ceased to involve himself with humanity, was rejected by Vander Muelen as it was by Pufendorf. He derived ethical norms directly from the existence of a divine being and believed that the denial of one meant the denial of the other.³⁷ And that was not merely a theological correction by the orthodox Vander Muelen, who repeatedly admonished Grotius for his unorthodoxy,³⁸ but quite clearly a necessary consequence of his general principles. Grotius considered that moral good had an objective existence and was universally valid for all human beings. It existed, as it were, outside God and outside mankind as an autonomous, in-

³⁵ See, however, above p. 13-14.

³⁶ Commentary on Grotius, *Prolegomena*, p. 12.

³⁷ *Ibidem*, p. 25-26.

³⁸ E.g. *ibidem*, book 1, p. 99.

dependent and immutable norm that was totally universal. He did accept that the individual's impulse to do what was good for himself was also a part of natural law, but in practice that element tended to be ignored in his arguments. But for the modern thinkers it was central. For them, natural law was no longer some objective and autonomous set of rules, but a principle of life imposed on every individual by God.

Vander Muelen formulates it very incisively. His natural law is no more than the human impulse to self-preservation. Sometimes his definitions sound like Spinoza's. The whole of nature, he wrote, seeks to defend itself, be secure and continue in its current state – or as Spinoza put it, each thing strives to preserve its own being.³⁹ This principle is an immutable, ineluctable, moral duty, imposed directly by God. Even animals share this urge to self-preservation, but lacking reason they can not trace the principle back to the Creator and so fall outside any obligation to live by it. For man, however, it is the norm by which he must live; it is that aggregate of ethical principles which Grotius called rational nature, to which our actions, if they are good, must correspond. To put it another way: by natural law we mean those rules which direct each individual toward a particular way of living and behaving, and which flow from God's eternal and immutable will.⁴⁰

It hardly needs stating that all these things had been said before. One only has to think of Hobbes or, in the Netherlands, of Spinoza and Velthuysen whose ethics followed the same path. But it had never before been presented so explicitly as a commentary on Grotius, as a kind of exposition of fairly simplistic seventy-year-old propositions which the new learning was better able to develop further. Whereas Velthuysen had thought himself revolutionary when he expressed such ideas, Vander Muelen did so as a conciliator.

Vander Muelen's line of reasoning followed Pufendorf when he placed his individualistic interpretation of natural law within the framework of human society. His reasoning was unflinching. The problem which he had to resolve was that he did not want to accept Hobbes's absolute state, which was designed solely to prevent the individual from pursuing his own preservation to the detriment of others, but was equally unwilling to accept Grotius's simple assumption about human sociability. There was only one way out: the impulse to self-preservation, he declared, was identical to the desire to live in society. The obligation to preserve himself makes man sociable because he can not defend himself on his own. It is not a calculated decision; man does

³⁹ *De sanctitate*, p. 13 ff.; Spinoza, *Ethica* III, 6.

⁴⁰ Commentary on Grotius, *Prolegomena*, p. 9.

not weigh up the advantages of social against unsocial life. He is driven by nature itself to preserve himself by living sociably with others.⁴¹

These then are the primary facts. But what does the state of nature, the original state actually look like? It is remarkable that Vander Muelen seems to have had little interest in this question. Such lack of interest in what Hazard called the contemporary 'mania'⁴² for describing the state of nature must surely have been inherited from Grotius. With reference to the Fall, he declared that man's sin had destroyed the harmony of the state of nature and led to chaos from which only the creation of the state could rescue him. That chaos was truly terrifying and Vander Muelen describes it in Hobbesian terms. But did he really mean it? He refers to the period as an iron age, which seems to be reducing it to the level of mythology.⁴³ And he does not always seem to have held the same opinion about it.

A striking feature of these somewhat casual propositions is that they are virtually identical to what Houtuyn asserted in his insufferable publication of 1681. But it should not surprise us greatly. By the end of the century political theorists possessed all the hypotheses which they needed and they could defend any standpoint by drawing on this reservoir of old ideas. But then the question arises why Houtuyn, whose premises were the same as Vander Muelen's, seems confused and illogical, while Vander Muelen's work seems plausible even if rather superficial. The answer can only be that during this decisive period the quality of a theory was not determined by its logical coherence or its analytical power but by its objectives. Houtuyn's confusions were not caused by his peculiar lack of logic, but by the fact that his arguments did not serve a concrete purpose. Houtuyn wielded gratuitous preconceptions as though they were theologically and empirically proven truths of independent significance. The result was that they remained totally pointless assertions which led nowhere. Vander Muelen developed the same ideas and often in the same way, but they made sense because they were elements of an argument which was guided by a firm hand towards a conclusion.

Vander Muelen had nothing very surprising to say about the formation of the state. For him, as for Houtuyn, its aim was restorative. The state was founded because people realized that only through a firm framework of authority would it be possible to recover the peace which had been lost, though admittedly in a different form. After this, however, their ways parted:

⁴¹ Commentary on Grotius, *Prolegomena*, p. 14 ff.

⁴² P. Hazard, *La crise de la conscience européenne*, 3 vols, Paris 1935, vol. II, p. 62.

⁴³ *De sanctitate*, p. 36-37; commentary on Grotius, book I, p. 52.

Houtuyn followed Hobbes while Vander Muelen chose the path of liberal radicalism.

It was on this path that he encountered Velthuysen. Half a century earlier, Velthuysen's purified form of Hobbesian ethics had led him to explain the formation of the state by men's impulse to self-preservation and to suggest, though only vaguely, that this self-preservation also imposed limits on the authority of the state. He had not seen that by explaining Hobbes in this way, he had failed to do him justice. He was also unable to define those limits in other than traditional terms and his more detailed explanations fell back on the old constitutional theory of resistance. He believed himself to be a pioneer but in fact his politics remained within the tradition. Vander Muelen, however, who saw himself as a conciliator and synthesizer proceeded further and with his eyes open.

But before we determine the limits of the state, we must attempt to establish as clearly as possible what the state actually is. Vander Muelen gave it a great deal of thought and devoted much long-winded prose to it. Basically it was the theme of his book on the origins and decline of the Roman Empire. His inspiration for the work had been a passage in Grotius's *De jure belli ac pacis*⁴⁴ where he attempted to establish to whom the lands which were once dependent on the Roman Empire now rightfully belonged. His conclusion was that the Empire and the rights of the citizens of Rome continued to exist undiminished. It was a proposition which raised many seventeenth-century eyebrows, and no-one really understood what the point of it was. Vander Muelen also joined in the debate and attacked the theory in great detail. But in order to prove that the Roman Empire no longer existed in law, he had to define very precisely what a state was and as such what its relationship was to its form of government. It was this reasoning which interests us because it strikingly confirms how closely Vander Muelen's theory is related to that of Locke.

A state, to put it briefly, is a civil society which recognizes certain norms of authority. It is a society regulated by laws. A state exists as long as the laws are valid and hold the human group together. If the laws cease to operate or the people are scattered, the state ceases to exist. Vander Muelen uses Grotius's own words to support his argument, or rather through Grotius he actually cites Althusius who had provided Grotius with his terminology. A state, and this sentence runs like a refrain throughout the work, is 'a group of people who have joined together under a single authority for the sake of the

⁴⁴ Lib. II, cap. IX, § XI.

common good in order to live in a regulated legal order.⁴⁵ The criterion for a state, which makes it a coherent whole, is that combination of law and authority. It is therefore not, and this is the point, the form of its government. The form of government is secondary. What is fundamental is the community created by an act of will by its members which can only be dissolved if the law and the authority which it comprises cease to exist.⁴⁶ Society in the context of the state is not natural and Vander Muelen opposed the idea that it simply arose from a meeting of families,⁴⁶ it is, as Hobbes said, an artificial thing. It is deliberately created by free individuals who promise each other to subject themselves to certain norms. But once they have done that, a tight-knit community arises which will exist regardless of the form which it gives to authority. Consequently, the same state can in the course of its history be a monarchy, aristocracy or democracy without affecting its essential character. The warmth of the old natural law emanating from man's sociability still rings through Vander Muelen's individualistic theory. And it is very striking that the same thing happens in Locke. Through Grotius, Vander Muelen had been influenced by Althusius while Locke drew on the work of the late-sixteenth-century Richard Hooker. Both reshaped an old tradition in similar fashion to a similar end.

The form of government, secondary though it is, depends on a decision by society, which appoints sovereigns according to its own will. Nowhere did Vander Muelen describe at all carefully how this transfer took place, but it is clear that he assumed a mutual commitment of people and ruler which obliged the former to obedience and the latter to the fulfilment of his task to protect and advance the common good.⁴⁷ So long as the sovereign respects the limits of his mandate, the people are obliged to follow him in absolute obedience since any decision of his must be taken to be a decision of the entire society which he personifies.⁴⁸ It is wrong to think that the people retain any part of their sovereignty for themselves.⁴⁹ Such a hypothesis would by definition conflict with the absolute character of any sovereignty. On this point too, Locke and Vander Muelen agreed.

The society which relinquishes its power to the sovereign is a society of

⁴⁵ *De ortu*, p. 92 ff.

⁴⁶ *Ibidem.*, p. 9.

⁴⁷ *De sanctitate*, p. 26.

⁴⁸ Commentary on Grotius, book 1, p. 52.

⁴⁹ *Ibidem.*, p. 188.

absolutely free and absolutely equal individuals.⁵⁰ Vander Muelen considered this to be a particularly important premise and never tired of repeating it. He found words and expressions which would be common-place in the following century but which come as a surprise in the learned Latin of a late-seventeenth-century scholar. 'The renunciation of natural liberty', he wrote, 'certainly limits freedom of action but it brings no change in that condition which characterizes man to his very bones: the freedom in which he is born.'⁵¹ For every individual, be he born in a state or born a slave, is born free. There is not a scrap of truth in Aristotle's assertion, which Grotius had repeated, that some men are slavish by nature or that there are some peoples who are not suited to self-rule. It is true that not all men are equal in their abilities, but they are all equal in their condition and their rights.⁵²

It remains difficult to determine exactly what remains of this absolute natural freedom in the context of the state. One gets the impression that Vander Muelen did not form any very clear opinion on the matter, or at least thought it unnecessary to clarify his position with fresh definitions. Perhaps it was indeed unnecessary. For if it is true that the urge to self-preservation is a direct, God-given duty – one might almost say an obligation to be oneself – and furthermore if that duty is identical to the need for human society, then it would be absurd even to contemplate the possibility that it could ever be completely abolished. The single principle to which Vander Muelen reduced an entire complex of principles – the law of nature, the impulse to self-preservation, the *appetitus societatis* – forms the foundation and the distinguishing mark of the state and it is unthinkable that the state could destroy its force. From the perspective of the sovereign it means that as soon as he harms these fundamental elements he ceases to be sovereign and becomes a foe and aggressor who has placed himself outside society against whom resistance is not only permitted but obligatory.

Consequently, one must accept that the life principle imposed upon each individual, which is his freedom, is actually strengthened within the state and guaranteed by it. It is at this point that one can see how far the 'modern'

⁵⁰ In this context it is striking that Vander Muelen in *De Ortu* (1698), p.7, adopts the definition which Grotius had given the state in *De jure belli ac pacis*, lib. 1, cap. 1, § xiv, 1: 'Est autem civitas coetus perfectus liberorum hominum' etc., but added: 'liberorum hominum natura aequalium'.

⁵¹ Commentary on Grotius, book 1, p. 52: 'renunciatio enim libertatis naturalis circumscribit quidem agendi facultatem, verum non mutat conditionem, hominis ossibus inhaerentem, qua liber nascitur.'

⁵² *Ibidem*, book 1, p. 195.

radical theory has departed from Spinoza's ideas. For according to Spinoza the state has a constructive significance in so far as it makes human development possible. The state constitutes a break with non-human nature. For Vander Muelen the state is a continuation of nature, with the task of freeing it from the effects of sin. Its end is restorative and not, in principle, creative.

In actual practice this means that the state must protect the life and property of its subjects if it is to fulfil its task.⁵³ It is disappointing that Vander Muelen did not show how private property came about in the state of nature and on what rights it was based. Locke at least made the attempt, as indeed did Velthuysen and Houtuyn (though somewhat differently and with less success) and all of them broke away from the old idea, which one had still found in Grotius, that communal ownership prevailed in prehistoric society.⁵⁴ But it was Vander Muelen who spelled out more clearly than any of them that the individual whose property or liberty is threatened possesses an inalienable right of resistance.

It is almost amusing and quite fascinating to follow Vander Muelen's defence of the right of resistance. He developed his most powerful arguments in his 1689 *apologia* for the Glorious Revolution and in his commentary on Grotius. The latter was a bizarre place to defend the right of resistance and, in fact, his commentary on this point turned into a long and aggressive polemic against the man whose work he praised as a *divinum opus*. Clearly his relationship with divinity was fairly uninhibited! Grotius, in his *De jure belli ac pacis*, gave the impression of having become an absolutist. Modern historians have cast doubts on this and suggested that Grotius in fact left considerable room in his theory for a right of resistance,⁵⁵ but seventeenth-century readers, who probably understood him better than we, had no doubts whatsoever. Huber called him 'a passionate defender of sovereignty'⁵⁶ and Vander Muelen described him as 'a champion of supreme and absolute power'.⁵⁷ It is not surprising that the commentator reacted sharply against his 'incomparable' Grotius.

⁵³ *Ibidem*, pp; 19 ff.

⁵⁴ See for Grotius: F.A.A. Schweigman, *De eigendomsphilosophie van Hugo de Groot*, Nijmegen 1929. Velthuysen, *Apologia*, p. 113. Houtuyn, *Politica*, p. 17 ff. See also Huber, *De jure civilatis*, 1694³, p. 11, 15.

⁵⁵ K. Wolzendorff, *Staatsrecht und Naturrecht in der Lehre vom Widerstandsrecht des Volkes gegen rechtswidrige Ausübung der Staatsgewalt*, 1926, p. 255. Cf. L Barschak, 'Die Staatsanschauung des Hugo Grotius', *Bijdragen voor Vaderlandsche Geschiedenis en Oudheidkunde*, vi, iv, 1926, p. 17 ff.

⁵⁶ *De jure civilatis*, p. 75: 'summae potestatis acerrimus vindex'.

⁵⁷ Commentary on Grotius, book 1, p. 281.

The debate is highly characteristic of the development of political theory in the seventeenth century. When Grotius took up the question of sovereignty and the right of resistance in 1625 he had before him the works of sixteenth-century writers which Althusius had summarized and developed in his *Politica methodice digesta* (1603). These writers had given a new meaning to old ideas about popular sovereignty and the right of representative bodies to control the ruler. Grotius rejected these theories. In his polemic against Althusius (whom he did not name) he tried to show that the bold generalizations of that writer were irresponsible. Althusius had insisted that, in general, popular sovereignty was not only the basis of all government but had remained intrinsic to it, so that governments everywhere were always subject to the decisions of the people. Grotius countered with a long list of examples from various sources to prove that there were many instances where the question of popular sovereignty did not arise. Althusius's assertion was wrong because it was too abstract and conflicted with the reality of present and past political life.⁵⁸ Vander Muelen's reaction to this was surprising because, so many years later, he no longer understood to what Grotius had objected. He could not believe that anybody could assert what Grotius rejected, so to refute it was a waste of time. It therefore seemed quite pointless to provide a commentary on Grotius's argument. It was, however, highly necessary to reiterate explicitly that the authority of the state can never be completely absolute seeing that its limits are identical to the causes for which it was originally founded, *viz.* the self-preservation of the individual.⁵⁹

One can observe a very important development taking place in the course of this century-long debate. Althusius had not wanted to accept the modern state in which concentrated power emanates from a single sovereign, independent and creative centre, and he attempted to break it with a dogmatic generalization. Grotius was rightly concerned about the practical consequences which this theory might have. It seemed to lead to permanent uncertainty about the relationship between ruler and subject by granting the subject a disproportionately large but entirely negative influence. Vander Muelen found Althusius's assertion incomprehensible. He was convinced that up to a certain level every government was absolute and could not see how anyone could imagine a state in which it was merely a temporary caretaker for the 'people', whoever they might be. In a certain sense, therefore, one could say

⁵⁸ H. Grotius, *De jure belli ac pacis*, liber I, cap. III, § VIII.

⁵⁹ Commentary on Grotius, book I, p. 190, 194.

that the absolutist tendencies of the century manifested themselves in the course of this debate.

However, these tendencies did not simply lead to the strengthening of sovereign authority. For Vander Muelen not only rejected, or ignored, the sixteenth-century doctrine of popular sovereignty because it left no room for absolutism, he also rejected the constitutionalist doctrine of rebellion because it was too limited. Naturally, in his discussion of sovereignty Grotius too had run up against the Calvinist doctrine of legitimate resistance to an unjust government. There are in our time, he wrote, scholars who recognize that the private individual has no right to rebel but claim that the lesser magistrates do possess the right, indeed the duty, to oppose the injustices of the sovereign. These scholars are mistaken, for their assertion is rooted in the circumstances of a particular time and a particular place – that is the French and Dutch wars of religion – and therefore has no universal validity whatsoever.⁶⁰ Vander Muelen reacted fiercely to this⁶¹: it is not the particular circumstances of time and place, he exclaimed, but correct judgement, reasonableness and truth which lead to the assertion that not only the lesser magistrates but each individual and *a fortiori* the entire people (*universus populus*) have the right to resist! This is a truly remarkable proposition, Vander Muelen deviated as far from Althusius as he did from Grotius. The old Calvinistic doctrine had given no rights to the individual and certainly no right to rebel. But then it had never derived the state from the decision of individuals. The modern absolutists did just that and so did Vander Muelen. One sees in a debate such as this more clearly than in any abstract arguments about cultural history how, thanks to the new individualistic grounding of absolutism by writers such as Hobbes, the basic rights of man and citizen could grow and, no longer absorbed and dissolved by aristocratic constitutionalism, could acquire a very specific and dynamic significance. It was necessary for this to happen. Grotius had been right to reproach the Calvinist theorists that no coherent state could be built on the basis of their doctrines. But the scholars of the later seventeenth century, and the example of Ulric Huber will clearly demonstrate this, went further and saw what traditional Calvinistic doctrine had until recently never appreciated, namely that the Calvinist system not only failed to create a coherent state, but was also unable to guarantee constitutional freedom. For no authority in Europe had proved to be so oppressive as that of the Holland

⁶⁰ Book I, chap. IV, § VI, 1.

⁶¹ *Ibidem*, p. 277.

States, an authority which had resulted from the victory of the Calvinist theory of rebellion.

It is unfortunate that Vander Muelen, himself an abstract 'ideologue', had no interest in the question of how his theory might be developed institutionally. He does not indicate exactly in which cases the right of resistance might apply. But he does take the trouble to challenge with great emphasis the contention carefully argued even by Althusius that one should employ the right to resist with the utmost caution. Vander Muelen saw things differently. On the contrary, he was more afraid that too much patience in putting up with injustices would lead to the destruction of the state. For the sovereign who gets away with injustice against a single individual without meeting any opposition, will torment one individual after another until he destroys the commonwealth by robbing it of its rights. It is therefore the task of each individual to be vigilant and to resist immediately any infringement of his liberty.⁶² Vander Muelen does not say how it should happen, what institutions might be used, or how far resistance might be taken. On this point he lagged behind Locke. The actual structure of the state did not apparently form part of his conception of natural law. He was only prepared to say that in principle monarchy was the oldest and the best form of government but not necessarily appropriate for every country.

Finally, there is one other important matter with which Vander Muelen concerned himself, sometimes in the most unexpected places: the question of the church. It is not easy to determine how orthodox he was. He himself insisted in fierce polemics against his enemies that his beliefs were entirely in accordance with reformed dogma as taught by Voetius whom he held in high regard.⁶³ But he despised the reformed ministers as narrow-minded trouble-makers who reduced the sanctity of theology to the level of a fractious and ill-tempered livelihood.⁶⁴ He had obviously run into trouble with them at some time. He believed that the Church should be subject to the state,⁶⁵ an opinion which could easily be reconciled with orthodox Calvinism. However, he also demanded complete freedom of conscience from any kind of constraint short of the right to publicize beliefs which deviated from the state religion.⁶⁶ So although he thought that the individual had an inalienable right to form his

⁶² *Ibidem*, p. 284.

⁶³ Commentary on Grotius, book 1, p. 56.

⁶⁴ *De ortu*, p. 52 ff.

⁶⁵ *Ibidem*, p. 35.

⁶⁶ *De sanctitate*, p. 63 ff.

own opinions about God, he did not use this fundamental right as the basis for principled and effective toleration. Here too Locke had gone further by attempting to work out the practical implications of his ideas on toleration. So with all that, we have in Vander Muelen an orthodox Gomarist thinker and an Orangist who was no longer familiar with traditional Calvinistic political theory (and what he did know of it he thought absurd); who constructed a radical political theory which was closely related and sometimes identical to that of Locke; who had learned from Hobbes, Velthuysen and Spinoza and combined their ideas with Grotius and Pufendorf in a surprisingly aggressive theory of revolutionary character. It seems as if Dutch seventeenth-century developments reached their limits in his work.

Yet that is only partly true. As has already been stressed a number of times in this book, the point of a political theory, its creative potential, depends not just on its logical coherence and its daring but also on the possibilities which it opens up for explaining and reforming an existing situation. Only when both these conditions are fulfilled can it be regarded as having satisfied the highest requirements. It is not too harsh a judgement on Vander Muelen to say that he failed to meet those requirements. His interests and knowledge were narrow. It is true that he was fascinated by the critical struggle against James II and Louis XIV and his activities reflect the atmosphere of those exciting years. He certainly had an eye for the decisive political developments of the time. But for him this interest never became the basis for universal observations of positive value. He demonstrated, boldly if not with great originality, that the struggle was justified and necessary but then seemed, as it were, to run out of steam. He left unasked and unanswered too many important questions: such questions as what the actual difference was between the English, Dutch and French forms of government; how far William III altered the English form of government; or what the role of Parliament or the States General was. On the basis of a single case he decreed universal principles of the right of resistance, but made no attempt to give them an actual place in the state and its existing institutions. Not surprisingly one will not find any appreciation or explanation of the Dutch state in his writings. His one-sided attention for the great international issues of the day, his scholarly but limited background in Roman law left him far-removed from local every-day reality. There is no reason to reproach him for it. But we must nevertheless conclude that he thereby missed the chance of giving Dutch political theory a new foundation and rounding off its development. He followed certain tendencies in seventeenth-century political theory to their most extreme consequences but built no system which took the real world into account. Seventeenth-

century theory did not reach fruition in Vander Muelen. It was Ulric Huber who took upon himself the task of summary, exposition and conclusion, and brought it to maturity in a single constructive grand synthesis.

Ulric Huber (1636-1694)

Ulric Huber, being of the same generation as Locke and Spinoza, was much older than Vander Muelen. He is still widely regarded as a very eminent jurist. He was born in Dokkum in Friesland in 1636. He studied law at the University of Franeker and after that spent more than a year in Marburg, Heidelberg (where he obtained a doctorate on 14 May 1657) and Strasbourg. Later in the same year he was appointed Professor of History, Politics and Eloquence in Franeker. From 1663 the university allowed him also to lecture on law and in 1670 this became his main task. Apart from a short period as councillor in the court of Friesland at Leeuwarden, he spent his whole working life in Franeker. In 1659 he married Agnes Althusia, a grand-daughter of the famous Johannes Althusius, but she died four years later. He remarried and, surrounded by a growing family, devoted his life to study and teaching. He was a scholar absorbed in his ideas and ready to defend them with vigour and passion who never saw cause to leave his study. When he died in 1694 he was famous, even though hated by some. He left behind an important body of work which would long be studied and admired in the Netherlands, Germany and South Africa.⁶⁷

He occupied himself on many fronts and here is not the place to describe in detail his achievements as a Romanist and analyst of Friesian law, his theological views and his influence on the teaching of law. Only one book concerns us here and that is his *chef d'oeuvre* and masterpiece: *De jure civitatis libri tres*, which was first published at Franeker in 1672 and reprinted three times but only appeared in its definitive form in the revised edition of 1694.⁶⁸ In 1698 that edition was reprinted. In 1708 Thomasius published an annotated edition at Leipzig. A fourth edition was published again in Franeker to which Ulric's

⁶⁷ Biographical and bibliographical information can be found in the *Nieuw Nederlandsch Biographisch Woordenboek* vol. 1, Leiden 1911, 1165-69; Boeles, *Frieslands Hoogeschool*; C. Vitringa, *Oratio funebris*, Franeker 1700 and G. de Wal, *Oratio de claris Frisiae jureconsultis*, Leeuwarden 1825. See also above, Introduction, p. 23-24.

⁶⁸ *De jure civitatis libri tres novam juris publici universalis disciplinam continentes insertis aliquot de jure sacrarum et ecclesiae, capitibus. Ed. tertia, priore multo locupletior*, Franeker 1694. All references are to this edition.

son Zacharias added a further fifty pages of commentary on Thomasius's annotations. Finally in 1752 the work was published in Frankfurt and Leipzig with a commentary by N.C. de Lyncker but this was based on the original 1672 edition which had been rejected by Huber himself. Has it received much attention since then? The question merits further research.⁶⁹

Huber also played a role in the wider cultural life of his time. He wrote political pamphlets and involved himself in disputes touching on theology. He was a very serious man in this most serious of centuries. His sense of responsibility was great and allowed him no peace. He always felt the need to define his standpoint carefully in the face of questions which he thought important and his work is full of scruples, attempts to avoid misunderstanding, and polemics on the meaning of a single word or the implications of a concept. In disputes he was passionate, hot-tempered and unyielding, although unlike many other polemicists of this tempestuous period, he did not engage in them for the pleasure of it. A particularly stubborn and aggressive opponent was his colleague at Franeker, the classical scholar Jacob Perizonius, who was, as a eulogist pointed out, a worthy opponent: 'M. Perizonius ne fut point la dupe de cet homme et lui fit voir à son tour qu'il avoit bec et ongles'. They crossed swords on historical subjects, the purity of his Latin and the question of popular sovereignty.⁷⁰

One of Huber's most dramatic confrontations occurred in 1686 when he interrupted the public ceremony at which G.W. Duker, whose uncle H.A. Roëll acted as supervisor, was defending his doctoral dissertation in philosophy. Huber's verbal onslaught was so hostile and offensive that the Rector Magnificus had to silence him. However, the dispute continued in public in a long exchange of aggressive pamphlets between the two gamecocks and their supporters until finally the States of Friesland intervened to put an end to it.⁷¹ Huber, however, believed the issue to be too important to be closed off in this

⁶⁹ Cf. H.H. Tels, *De meritis Ulrici Huberi in jus publicum universale* (1838) and the brief survey in W. van der Vlugt, *Twee Nederlandsche meesters der rechtsgeleerdheid* (U. Huber and G. Noodt), Leiden 1916. Huber himself made an extract from the book (*Institutiones reipublicae liber singularis*), which he published with excerpts from Aristotle's *Ethics*, Ovid's *Metamorphoses* and Descartes' *Passions de l'Âme* in 1686. (See note 77 below.) In 1746 A. Wieling republished this extract in his collection *U. Huberi Opera minora et raviora juris publici et privati*, vol. 1. In that edition it was 138 pages long. Huber summarized his views in this field also in his *Heedensdaegse Rechtsgeleertheit, soo elders als in Frieslandt gebruikelijk*, Amsterdam 1726³, book iv, p. 537 ff.

⁷⁰ Cited by De Wal, *Oratio*, p. 446 from D. Durand, *Histoire du xvii^e siècle*, The Hague 1734, vol. iv.

⁷¹ Boeles, *Hoogeschool* II, p. 224.

fashion and so essential to public law that he returned to it in his *De jure civitatis*.⁷² Its importance can not be denied, even though its connection with public law is not perhaps so obvious. It revolved around the question whether religion required the assistance of reason.⁷³ Roëll and Duker had argued that the authority of the Bible needed to be supported by reason. Huber reacted vehemently against such 'Hobbesian' rationalism. He poured scorn and contempt over the small-minded thinkers who believed that unbelievers could be brought to share in the mysteries of grace and faith through careful logic. He argued heatedly that it was not narrow reason nor the cumbersome and tortuous arguments of rationalists which had brought about such massive conversions to Christianity, but the flaming power of the Word and the blazing light of Revelation.⁷⁴

Roëll and Duker were Cartesians who applied their master's logic to areas from which he himself had excluded it. As Huber pointed out, Descartes had carefully separated natural and revealed truth as two different and unrelated matters.⁷⁵ In spite of his orthodox conservatism, Huber was by no means an opponent of Descartes. He seems to have belonged to that group of eclectics who sought to combine Aristotelianism and Cartesianism in a *philosophia novantiqua*. It had been fashionable at Franeker when Huber was a student⁷⁶ and his support for this intermediate position was shown in 1686 when he published a book in which extracts from Aristotle's *Ethics* were set next to a Latin translation of Descartes' *Les Passions de l'Ame*.⁷⁷ German admirers of Huber appreciated his caution and philosophical breadth. In 1712 Thomasius included a German translation of Huber's 1678 address on pedantism⁷⁸ in a work of his own, the title of which summed up his entire programme: 'a short sketch which reveals the middle way between the prejudices of the Cartesians and the absurd fancies of the Peripatetics'.⁷⁹

⁷² *De jure civitatis*, p. 174.

⁷³ The whole debate is summarized in F. Sassen, *Geschiedenis van de wijsbegeerte in Nederland*, Amsterdam 1959, p. 171-172.

⁷⁴ *De jure civitatis*, p. 183.

⁷⁵ *Op.cit.*, p. 177.

⁷⁶ C. Vitringa, *op.cit.*, p. 9.

⁷⁷ *Specimen philosophiae civilis, et studendi bonis libris*, Franeker 1686. Cf. C. Louise Thijssen-Schoute, *Nederlands Cartesianisme*, Amsterdam 1954, p. 530.

⁷⁸ *Oratio de pedantismo*, Franeker 1678. Reprinted by A. Wieling in Huber's *Opera minora et rariora*, 1746, vol. I.

⁷⁹ Christian Thomas, *Einleitung zur Hoff-Philosophie, oder kurtzer Entwurff und die ersten Linien von der Klugheit zu bedencken und vernünftig zu schliessen, worbei die Mittel-Strasse, wie man unter den*

In recent years there has been greater appreciation of this conciliatory philosophy and the positive aspects of what has too easily been dismissed as mere 'eclecticism'.⁸⁰ In the field of political philosophy too, a strong case can be made for the creative power of this synthesizing mixture of old and new although admittedly, some caution should be exercised. In the first place, Hobbesianism did not fulfil precisely the same role for political theory as Cartesianism did for philosophy. The attitude towards Hobbes of those who came after him was quite different from the attitude of orthodox Calvinists towards Descartes. The philosophers openly appealed to Descartes and deliberately used his ideas to refine their own Aristotelian scholasticism. Political theorists, on the other hand, opposed Hobbes with all the insults they could set on paper and refused to acknowledge his decisive influence. Furthermore, it would be wrong to link Calvinist constitutionalism too closely with Aristotelianism or absolutism with Cartesianism. After all, Descartes was not an absolutist and neither was he an admirer of Hobbes. Nevertheless, there are parallels between pure philosophy and politica. For in practice, Dutch Aristotelians were old-fashioned constitutionalists while the modernists in the second half of the century found absolutism extremely attractive. Even the fact that notwithstanding their opposition to Aristotle, Hobbes and his followers continued to be influenced by him does not invalidate the division. That division, after all, is based on debates from the seventeenth century itself and not on our own perception (even though it may be clearer than that of contemporaries) about what was ephemeral, or at least contrived. Neither Descartes nor Hobbes were the innovators which they hoped or believed themselves to be. Nevertheless, they divided the century in two.⁸¹

Vorurtheilen der Cartesianer, und ungereimten Grillen der Peripatetischen Männer, die Wahrheit erfinden soll, gezeigt wird, Berlin 1712.

⁸⁰ Cf. Dibon, *Enseignement* vol. 1, p. 157.

⁸¹ Howard Warrender, in his important and enlightening *The Political Philosophy of Hobbes*, Oxford 1957, tries to show that Hobbes was much closer to the old doctrine of natural law than is generally supposed. It is possible. However, it should be said that many of the ideas which Warrender presents as Hobbes's own were employed by his opponents against him. Did they so misunderstand him? And if so, why? By that, however, I do not mean to assert that the traditional interpretation of Hobbes is the only correct one, even though for the purposes of this study I have based my views on it. I merely mean that it best fits in to the great debates of the age.

A critical study of the influence of Cartesianism on the development of political theory would be useful. The article of Karl Th. Buddeberg, 'Descartes und der politische Absolutismus' in *Archiv für Rechts- und Sozialphilosophie* xxx, Berlin 1937, p. 541 ff. is based on too little historical knowledge and is misleading.

If, with the necessary qualifications and without being too dogmatic, one regards the attempts of political theorists like De Vries, Vander Muelen and Huber to find a synthesis between the Aristotelianism of humanists and Calvinists and the Hobbesianism of the Cartesians as a form of *philosophia novantiqua*, it suddenly reveals the immense importance of this reconciliation for the development of thinking about the state. For the reconciliation turned out to be highly fruitful. It was not merely a conclusion and recapitulation; it formed at the same time the basis for liberalism. Vander Muelen's work was clear proof of this. But even more than Vander Muelen, it was Huber whose exciting originality and great knowledge enabled him not only to produce a synthesis of all past tendencies in Dutch developments, but also to point a way forward.

Huber's great strength was that he saw and actually discussed the problems facing Dutch theorists and did not, like most of his predecessors, cover them over with a couple of hasty classical references or ignore them completely in the construction of some new system which could never exist in the real world. He was the first and the only political thinker in the Netherlands who patiently considered and analysed the contradictions, the paradoxes and the unfinished debates. They supplied the starting point for his reasoning. In his book we read the words of a careful thinker of great learning who exerted himself to the utmost to find a satisfactory solution for the intolerable contradictions in both the work of his predecessors and in political reality. It was highly necessary that this should happen. Huber's sharp intellect cut away one by one at traditional misconceptions and mistakes, thoughtlessly repeated banalities, and glittering but abstract modernisms which were unable to stand up to sober analysis. Not that Huber, however courageous and independent he might have been, believed that he held a monopoly of the truth. He said that he had thought much and read widely about the great questions of public law, but acknowledged that he had nothing to offer but problems (p. 34). Those are the words of a scholar not of a handbook writer or an ideologue.

That certainly does not mean that Huber did not have his prejudices and weaknesses. His life-long polemic against Hobbes which flares up continually through the book was personal, impassioned and full of feeling. His thoughts on the Netherlands, and on Friesland in particular, however cool and objective, usually end with praise, seldom with criticism. And if rationalists should ever touch on orthodox faith his anger, as we have already seen, knew no bounds. Huber undoubtedly had powerful *a priori*'s and predilections. But we may be thankful for it since that is the reason why his book, which he intended to be and indeed succeeded in making, an objective analysis and synthesis

became more than that and developed into a constructive political theory. However, from a purely theoretical standpoint precisely this reflects a lack of balance which some might consider a weakness.

Huber claimed to be the first to distinguish clearly between universal public law and political theory as two related but very different disciplines. It is not certain whether his method was as original as he thought (there are other candidates⁸²) but ultimately the question is of secondary importance. What is certain, is that he tried to free universal public law from *politica*, which was a part of philosophy, as well as from specifically national constitutional law which in general had remained a form of Roman public law. It is true that Grotius had also pointed out that *politica* was essentially different from *jus publicum*, but according to Huber, he did not continue down that path. For after all, he dealt with the laws governing relationships between states whereas universal public law, by contrast, refers exclusively to relationships within states. But what then is the difference between *politica* and public law? According to Huber, *politica* is a system of useful rules, a *prudentia*; universal public law, on the other hand, is a branch of learning which identifies rights: the rights of rulers and the rights of subjects. Lipsius, in his opinion, was the last writer on *politica*; seventeenth-century writers confused public law with politics. Huber thus seems to criticize writers like Althusius, Hobbes and Spinoza because they added so much political prescription to their theoretical and juridical analysis. In fact, they did their work with a political end in mind and mixed what should have been kept separate.⁸³

If one considers how far Huber made good his own claims, it appears that he too repeatedly interspersed his ostensibly juridical discussion with comments of great political significance which, as he confessed, were not strictly relevant. So perhaps his main contribution was not so much that he created a new field of scholarship but that he broke with academic tradition and, thanks to the failure to live up to his pretensions, was able as a jurist to teach about *politica*, that old subsidiary of philosophy. One should therefore not be over-concerned about water-tight divisions between disciplines, which the seventeenth century maintained and disputed just as bitterly as we do today. This juridical work on public law may in fact be regarded as the culmination of Dutch seventeenth-century political theory.

Huber's strength lay in the natural originality with which he treated the

⁸² De Wal, *Oratio*, p. 268. See also E. Reibstein, *Johannes Althusius als Fortsetzer der Schule von Salamanca*, Karlsruhe 1955, p. 20.

⁸³ *De jure civitatis*, praefatio, p. 3 ff.

problems confronting him. From the opening pages of his work it is apparent, that he had not created a new system, but made his own way through terrain which his predecessors had marked out. Clearly he had first to define where he stood *vis-à-vis* natural law and the origins of political society. That he differed from Grotius on paradise and original sin need not detain us unduly (p. 5). His definition of natural law as a reflection of an original uncorrupted state broadly agrees with Grotius. But just as Houtuyn and Vander Muelen did, Huber suggested that this could be combined with Hobbes. Both the egoistical sinfulness of humanity and the resultant war of all against all seemed to him to be biblically and historically demonstrable. Friesian history provided evidence because its famed freedom on the death of Charlemagne degenerated into unbridled savagery which was only curbed by the state-formation of recent times (p. 10). The natural state of chaos was therefore far from being a logical fiction but a historical reality which could be dated. Huber thus goes considerably further than Hobbes who never concerned himself with the question whether or when his state of nature had ever existed.⁸⁴

Huber's turning away from philosophical hypothesis to historical empiricism was a turning from abstract logic to common sense. It was also a way of disarming Hobbes's system as it was then interpreted. For if one imagines that at the end of the fifteenth century the Friesians' fear of the prevailing lawlessness had grown so great that they decided to form a state (or to be more realistic, to join with the Burgundian state), then we can see both the correctness of Hobbes's hypothesis and its limitations. For the Friesians of the late Middle Ages were neither isolated barbarians nor godless brutes. Before 1498 when Albrecht of Saxony put an end to Friesian liberty or 1515 when Charles v took over Saxon claims in Friesland, there had been a certain degree of law and it was not permitted to murder, rob or rape. It was a state of nature because there was no government and there was a war of all against all. But notions of right and wrong existed and were applied; and it would be absurd to deny it.

In short, there is no reason to believe that Hobbes's theory undermined the old hypotheses. Why should a law of nature that applies before the foundation of the state, a natural love of community that together with the fear of chaos leads to the founding of the state, be suddenly discarded (pp. 11 ff.)? The

⁸⁴ *Leviathan* (ed. 651), p. 63. Cf. Warrender, *The political philosophy of Hobbes*, p. 240 ff. In his *Heedendaegse Rechtsgeleertheit*, 3rd ed., Amsterdam 1729, Huber makes the same reference to Friesian history to clarify Hobbes's views.

norms and forms of authority always existed as did paternal authority and the right to property. The state did not create right and wrong, as Hobbes asserted, but merely confirmed it. Huber did accept that the transition from the state of nature to civil society did not occur as smoothly and unnoticed as the old natural law theory had assumed with its emphasis on the naturally political nature of man, but he could not accept Hobbes's dramatic conception of the state which created law, morality and authority from nothing.

Though such reasoning was neither deep nor surprising, it was within its limitations refreshing in its down-to-earth common sense. Hobbesian (and Spinozist) extremism which had seemed so consistent and logical was in fact no more than a fairly arbitrary abstraction. Huber consistently tried to keep historical reality in his sights because that alone could be the criterion for logical coherence. The objective of his state, incidentally, does not differ greatly from that of Hobbes: it has to ensure that everyone can enjoy life and property in safety (pp. 31, 36). Even in his analysis of the manner in which the state was created, the Friesian broadly agreed with the Englishman. He too assumed that at a certain moment a number of individuals promised each other to submit to a particular authority, and subsequently established that authority. This group which had then become a unit was the 'state' and its unitary will was 'sovereignty' (p. 28). Huber emphatically rejected Graswinckel's idea that the state was directly established by God and that man might not even be regarded as a 'secondary cause' (p. 29). The state was an entirely human institution.

Can one then speak of an initial popular sovereignty? For Huber there was no shadow of doubt. The people, *i.e.* a group of free individuals, in voluntary association created the state and decided on the form of government. It is true that this did not apply to all peoples and states. Unlike Vander Muelen, Huber believed that a possibility had to be left open to explain Oriental despotism: those barbarian kingdoms of antiquity and the seventeenth-century monarchies in Turkey, Russia, China and Africa which modern Aristotelians equated with Persia, Aristotle's original paradigm (a curious instance of the way in which classical schemes influenced the evaluation of modern state-formation). But Huber had little interest in these alien non-European, non-Christian *dominatus*; he discussed them for the sake of completeness and made it clear that the prince in such despotisms commanded his subjects as a *paterfamilias* would his children and slaves and that this particular form of government usually arose through conquest. If the conquest occurred during a just war, there is no reason to regard the resultant state as unjust or tyrannical (pp. 53, 204 ff.). However, his analysis did not go much further than

that. And it certainly did not cross his mind to regard Turkey as a perfect monarchy, as De la Court did. European absolutism, even that of Louis xiv, was according to him – and many other Aristotelians before and after – totally different from Oriental despotism because it was founded on law and established by the people.⁸⁵

In Christian Europe, therefore, we generally only have to deal with this free decision of the people. Huber knew, of course, that in countless cases it was impossible to find any explicit popular pronouncement on the form the government should take. So in his description of aristocracies, for instance, where for the Dutch example he could analyse its recent history, he had to fall back on the hypothesis that it was based on a tacit popular *consensus* (pp. 30, 41, 295). Incidentally, Huber did not resort to any legal fiction. His argument remained entirely within the framework of historical fact. He believed that there were only two types of state: a constituted state or a state created through conquest. Since the founding of the Republic could not be explained by any war of conquest, one had to conclude that the new foundation and the new form of government ultimately rested on the will of the people, even though there was no record of such a constituting decision having been taken. Like Grotius before him, he looked for the reality on which the abstractions of political theory were to be based.

This approach was also his guide in defining his position *vis-à-vis* the central problem of seventeenth-century *politica*: what happened to this constituting popular sovereignty after the state was created? He summarized the pole positions in the debate by a drastic but useful simplification, under the terms 'Althusianism' and 'Hobbesianism'. According to this interpretation, Althusius represented the inalienable sovereignty of the people while Hobbes represented the inalienable and absolute sovereignty of government. In Huber's view both positions were dogmatic systematizations and untenable in the light of historical fact. However, he did not reject the two extremes entirely. He needed elements from both because, as he explained, he wanted to pursue a safer middle course (pp. 34, 209).

In fact, in his disagreement with Althusius, Huber did little more than Grotius had done seventy years earlier. He cited examples of states where the people quite clearly did not possess the right to control or depose the sover-

⁸⁵ It is striking that Hobbes also subscribed to the very traditional distinction between 'sovereignty by institution' and 'sovereignty by acquisition' (*Leviathan* II, xx, ed. 1651, p. 101 ff.). He did, however, deny that the two types of sovereignty differed in nature and content.

eign. On logical and juridical grounds he also rejected the arguments used by Althusius to show that a people that had set up a state could never renounce its sovereignty. It is unnecessary to follow his extensive and, so far as they went, conclusive criticisms of the monarchomachs (pp. 44-49). In the main they were brief, pithy and definitive: *negatio facti*. It is not true that all governments are merely mandatories of the sovereign people; it is not true that in law the mandator, the people, is always superior to the government which it has constituted; it is not true that sovereignty is of itself inalienable (although it can be declared inalienable); and it not true that absolute power is *per se* unjust. Finally there is no basis for asserting that the power of every government is always contractual and limited (for if so, where are the contracts?).

Does rejecting Althusius's proposition that the people never renounce their power imply accepting Hobbes's position that the people always renounce all their power? Of course not. Huber devoted much energy to refuting Hobbes's ingenious reasoning. The core of Hobbes's argument, which was clearly directed at writers like Althusius, was that concepts such as the body of the people, *corpus consociatum* and so on, were essentially meaningless because quite simply there is never a 'people' but only a multitude of individuals. Hobbes here put his finger on a fundamental weakness in the old Calvinist theory. None of the sixteenth-century writers, Althusius included, had been able to define the 'people' in concrete terms; in fact, sometimes their refined and apparently crystal-clear descriptions seemed rather to be intended to evade the question. But on this point, Hobbes's logic was no more conclusive. In one place he denies that there was ever anything more than a crowd of people each of whom transferred his rights to an institution which became sovereign by that very act, while elsewhere he unashamedly allows the sovereign to be established by the majority decision of a popular assembly.⁸⁶ However, the purpose of this somewhat uncertain reasoning was clear. Hobbes wanted to show that the sovereign could never be tied to a contract with the 'people' because the 'people' could not exist independently of the sovereign. The 'many' only become the 'people' at the point where their wills unite in the sovereign.

Again, Huber's reaction took the form of factual analysis. He criticized Hobbes's argument for being much too narrow because it was based exclusively on English circumstances (p. 71; cf. p. 172). It was quite possible that Parliament could not be regarded as representing the people, and that the people did not possess the means to assemble on their own initiative, but no

⁸⁶ See Warrender, *op. cit.*, p. 126 ff.

general conclusions could be drawn from that single case. When Hobbes's reasoning is scrutinized closely it turns out to be worthless. It is, for instance, very difficult to imagine that the sovereign does not receive power from a constituent assembly but from a large number of individuals all of whom personally hand over their rights to him. I can not recall, wrote Huber, a single case where sovereignty was mandated in this way. Certainly each vote is individual, but from those separate votes comes a single decision, and where an infinite number of individual decisions are brought together as one, out of the many there clearly emerges a new unity. In any case, there is enough historical evidence for the independent existence of the 'people'. In Rome, before monarchy was introduced, a majority of voices in the popular assembly was taken as law and the 'people' were quite manifestly a juridical person (p. 72). Even in Friesland where a popular assembly never meets, the group of people entitled to elect the States must be regarded as a unity possessing *jus personae*. In general, if one is to avoid getting lost in absurdities, it must be accepted that the subjects of a state, bound together by the unity of the law, form a 'people' and thus a legal person (p. 73).

One can hardly claim that Huber overcame Hobbes's doubts with this argument. In fact the only thing he did was to show that the concept of the people as a legal person was essential and universally applied. For him as a jurist that was also enough. Equally effective was his criticism of Hobbes's assertion that it was impossible that a popular assembly, which could only be summoned by the sovereign, could have any authority or even exist once it had disbanded. For he could again demonstrate the juridical inaccuracy of this generalization by examples from Roman history and contemporary Friesland. In ancient Rome and in Friesland, sovereignty was transferred by the 'people' to the magistrates for one year and at the end of that period reverted to the 'people' even if the magistrates neglected to summon a popular assembly (p. 74).

So historical fact shows that the ideological extremism of both Althusius and Hobbes leads to untenable principles. Universally valid statements about the nature of the relationship between people and ruler can not be made. Sometimes the people give up their power and sometimes not; and that is about all that can be said. Sometimes the constituent assembly draws up a constitution which binds the sovereign; usually, however, this is clearly not the case. Nevertheless, Huber did believe it possible to draw a few generally valid principles from the manner in which the state was created. For to him it was obvious that a group of people who voluntarily form a state with the aim of living more securely, retain the right to their opinions and religious beliefs,

their property and their lives: in short, to the fundamental rights of freedom of opinion and security of person and property (pp. 37, 42, 77 and *passim*). Moreover, it must be assumed that when any political society is founded (with very few exceptions) certain rules about the transfer of the newly created sovereignty must be formulated since they are necessary for the survival of the state. Hence, the sovereign may not alienate his sovereignty or unilaterally alter the succession; nor may he divide up the state. Such matters are not usually laid down explicitly in a contract, but they nonetheless form a part of the agreement by which, presumably, the transfer of sovereignty from the people to the ruler takes place.

After these cautious and careful considerations Huber went on to discuss sovereignty. His point of departure was democracy. For democracy, he wrote, is the most natural (not, incidentally, the oldest) form of government because in a democratic state the individual is closest to his natural freedom and equality (p. 35). So democracy can also be regarded as normative and as the basic pattern for all other, more complex forms of government. Democracy reveals in the simplicity of almost natural circumstances what might be difficult to decipher in an aristocracy or monarchy. The essence of democratic government is that the decision of the majority is binding on all since it must be regarded as the will of the people. In a democracy the essence of the sovereignty of the majority is therefore its absolute character. In a democracy, where the interests of the individual are a part of, or subordinated to, the common good, no individual may withdraw from the domination of the majority and the best citizen is he who sacrifices his life and property for the community. But even here, in this most 'totalitarian' of societies, the initial agreement between people and ruler (in this case, therefore, the people and the majority of the people) forbids the sovereign to commit irrational and unmotivated attacks on the individual and his interest. Although in principle the individual in a democracy should tolerate the injustices of the majority without opposition, there are still cases where resistance is permitted. Both religion and conscience fall outside the entire argument since self-evidently they have nothing to do with the decisions of the majority (pp. 36-37).

From all this it follows that sovereignty, which is identical for all forms of government, can never be other than absolute. Huber emphatically disagreed with those writers who believed that sovereignty was less absolute in a democracy than elsewhere (p. 61) and he denied the assumption, popular among German jurists in particular, that there were in fact two sovereignties, one of the people (*realis*) and another of the government (*personalis*) (p. 62). In all states the definition and nature of sovereignty are the same. There are different

ways of exercising sovereignty but there is no possibility of avoiding its absolutism. Sovereignty that is not absolute, indivisible and inalienable is no sovereignty, and a state based upon such truncated power is no state. It is certainly true that of all forms of government democracy comes closest to natural freedom, but that is not because its power is any less. It is because all, or the majority, share in its power.

Like all jurists of his time, Huber supplied a list of the rights inherent to sovereignty (pp. 83 ff.). It is long and impressive list that makes it clear just how seriously he meant his ideas on the absolute nature of power to be taken. Very important, even essential, was the right to levy taxes. He called it the criterion of sovereignty and did not want it to be diminished by any universal claims about the inviolability of property. On the contrary, he did not hesitate to argue that the state as the representative of the general interest had the indubitable right to seize or alienate private property against the will of its owner. Indeed, the state could go even further and commit manifest injustice. So long as the injustice is in the interest of the common good it can be justified. Sovereignty does not abolish private property but it can limit and overrule it when required by what is called the *raison d'état* or the *ratio status* (p. 86).

The question then arises whether these universal and imperative definitions of the absolute and indivisible nature of sovereignty have to lead to an equally universal denial of the possibility that a constitution might moderate them. According to Huber, this type of logical deduction was totally superfluous. It does indeed happen that while instituting sovereignty, the people expressly exclude particular matters from it. But such an action does not diminish sovereignty; it merely stipulates that some of the rights of sovereignty can only be exercised in partnership with the people or its representatives. Neither does it cause any division of sovereignty since this dual sovereign still exercises, by definition, a single indivisible power. Huber did not see any difficulty or contradiction in this. His readers, however, might for one anxious moment be afraid that Huber would content himself with the dangerous sophism resorted to by so many Dutch absolutists which made the Netherlands an exception to the rule. Grotius, Graswinckel and Houtuyn, after ambitiously describing the total absolutism of the state, covered their eyes at the last moment and suggested that there were alternatives after all, since the Netherlands was a free country. Would he also emasculate his own argument as soon as it involved his fatherland?

It is clear evidence of the quality and independence of Huber's thought that he did not permit himself such a paradox. For when he admitted that the exercise of sovereignty could be moderated by a constitution he was not think-

ing of the Netherlands at all but of England and Germany (pp. 46, 80, 94). Furthermore, it was not an expression of admiration. Indeed, nowhere in his work is there any indication that he preferred either of those countries and at times he seems somewhat critical of England. But in general he reports the facts as he sees them. In England there was a valid and effective constitution by which the prince was bound. Nothing of that kind existed in any of the sovereign Dutch republics.

The contrast between this entirely accurate observation and the ideas of Paul Buis, for instance, or the Dutch theorists who still clung to the sixteenth-century Calvinist system shows how long and arduous the road had been. At the beginning of the century, there was either a reluctance to recognize the exceptional nature of the Dutch state resulting in theories which were irrelevant, or a tendency to declare without much thought that the Netherlands was a 'free' state, freer than the monarchies in the rest of Europe. Buis did not believe in constitutions, but he did believe in the moderate sovereignty which apparently was the hallmark of aristocracy. The adherents of sixteenth-century constitutionalism praised moderate, constitutional monarchy but did not ask themselves whether such a constitution actually existed in the structure of the Dutch republic. Later on the Cartesians rejected the whole idea of a constitution because they thought it old-fashioned and oppressive, and praised absolute democracy or a broad aristocracy as the freest form of government. But what could be achieved by these philosophical arguments? What possible consequences could they have? How could absolutism and freedom be reconciled in a practical fashion? And in particular, what was the place of the Netherlands, that remarkable state with its system of 'true freedom', in the European state system? These questions remained unanswered. And without a radical change of approach, they would remain unanswerable.

It seems that only at the end of the century and viewed from a Friesian perspective was it possible to analyse Dutch society unemotionally. When Huber began his work, conditions were indeed favourable for a clearer look at the Dutch form of government. On the political front a closed oligarchy had developed rapidly under De Witt and William III and it was difficult to go on denying that power in the provinces was now in the hands of a small group of regents. Furthermore, a Friesian was probably in better position than a Hollander to recognize that the characteristic feature in most of the provinces was not 'freedom' but 'unfreedom'. Also the intellectual climate now made it easier to hazard conclusions which had previously been avoided because of confused terminology and uncertain criteria. Huber had all the pieces in his hands, all the necessary concepts at his disposal. He knew the contract theor-

ies of the Calvinists and, possibly guided by Spinoza, saw what they had not wanted to see although it was an obvious consequence of their doctrine: the sequence from monarchy via aristocracy to democracy did not lead from absolutism to constitutionalism but in precisely the opposite direction. He was therefore prepared to conclude that the Dutch form of government could not be 'freer' than in any other European country.

Huber found it essential to research thoroughly the sixteenth-century founding of the Dutch state. He obviously did not get very far with the simple theory that the States were ephors who had justly defended the people against princely tyranny and led them into rebellion. In the first place, he found it impossible to accept that the lesser magistrates had a general right to resist as the Calvinist theorists had conceived of it. It seemed to him that the magistrates were nothing more than appointed servants of the sovereign and could not possibly possess any right of resistance nor even the right to call the prince to order (p. 87). Furthermore, it must have been clear to him that while the theory might explain the Revolt it could not explain why sovereignty should afterwards have fallen to the States. Ephors, after all, are not sovereigns and, as we have already seen, when the States are regarded both as sovereign and as the defenders of the constitution against the sovereign, the whole house of cards collapses in total confusion. But there was yet another theory available on which Huber had to declare himself.

It was repeatedly claimed that in Holland, and probably in the other provinces as well, sovereignty had originally resided with the States and that in the sixteenth century they had simply taken it back. This theory certainly did not mean that the States as such were lawfully sovereign, but that for centuries they had exercised sovereignty as the representatives of the people. This was the doctrine of popular sovereignty in its aristocratic form, which Vranck had formulated in 1587. It is surprising that the absolutists in effect rejected it. De la Court would have nothing to do with it, though he was not the kind of man to spend much time on detailed criticism,⁸⁷ but Huber also found it unacceptable. Was it the fact that according to this theory the States were ultimately popular representatives and not sovereign in their own right which was objectionable to those in the second half of the century who sought consistency? Be that as it may, it was not the only reason why Huber disagreed with it. More important to him was undoubtedly the fact that it was demonstrably unhistorical.

However, before considering the special case of the Revolt, we should

⁸⁷ See above, p. 66, note 36.

enquire what precisely the right of resistance is and where it lies. Huber was extremely cautious on this crucial point. It is already clear that he denied the right of the lesser magistrates to take the lead in resisting a tyrannical prince. But that did not mean that he did not recognize any right of resistance at all. On the contrary, his attitude was similar to that of Vander Muelen even though his reasoning was more circumspect. To start with, a distinction had to be made between various forms of government. It is, for instance, quite possible for a monarchy to have a constitution which regulates the right of resistance in which case, of course, there is no problem at all. However, that is rather unusual since the people will normally have unconditionally ceded all their rights to the sovereign. Nevertheless, even in these unconstitutional states the subject retains a right to resist whenever the ruler, be it a prince, a group of aristocrats or a democratic majority, commits manifest injustice, or to be more precise, if it repeatedly, deliberately and unreasonably harms those things which the state was created to defend.

If we now take the Netherlands as an example, the situation becomes complicated. Huber appears to have been in no doubt that the pre-revolutionary form of government was constitutional, that it was an absolutism mitigated by provincial States which had to be involved in certain decisions. There had even been explicit pacts between the sovereign and the Estates, in other words constitutions, a good example of which was the agreement of 1515 between Charles v and Friesland. Huber could not resist pointing out the disastrous confusion which prevailed about these 'constitutions' and he insisted that a careful distinction be made between *leges fundamentales* and privileges (pp. 80-81). Nevertheless, given the fact that such agreements obviously existed, when they were broken by the sovereign it was possible for the States to take action against him, that is, severely admonish him to mend his ways. When he failed to do so, however, and this is where Huber parts company with traditional Calvinist theory, not only the States but individual subjects were permitted to turn against him (pp. 255, 256, 305). One can see how individualism had penetrated even Huber's theory which in other respects was still so old-fashioned.

But historical events show that the theory must have been right. For it was not the States who began the Revolt. It was individuals, a small minority mainly from the lower classes together with a few prominent names, who took up arms in 1572 when the protests of the States had no effect (pp. 256, 306). Certainly, the Revolt could only be justified by the fact that the States had apparently not approved the measures of Philip II and Alva, but the right of resistance as such was clearly shared by others who did not need to wait for

the States to summon them to do battle. Incidentally, the English Revolution of 1688 was also brought about through the initiative of a small group of private citizens.

So recent history did not justify the claim that an assembly of the estates having first appointed a prince, decided later on to depose him. Actual events did not support such an interpretation for it simply did not happen like that. There were theorists (including Perizonius against whom Huber wrote a long well-crafted treatise which was incorporated into *De jure civitatis*⁸⁸) who concluded from the fact that both the Netherlands and England abjured their rulers that the rulers could not have been anything else than trustees of the States, *casu quo* of the people. But since the States did not lead the resistance the argument is clearly unacceptable. It was not the States which dismissed a public servant, but a people made up of individuals that rose with fire and sword against a ruler who had become a tyrant. The ruler was not tied by a mandate; he was an absolute prince in his own right, even though his authority was limited by specific contracts. Even in these pre-revolutionary states, there was no question of inalienable popular sovereignty. But there is no reason to demonstrate yet again what the polemic against Althusius had already sufficiently proved.

Firstly, therefore, we must accept that the States assemblies in the Netherlands before 1581 were not sovereign, and secondly that after the abjuration sovereignty did not revert to them. So what happened in 1581? Huber was in no doubt that after the abjuration sovereignty reverted not to the States but to the people for the abjuration abolished the old state. There was no continuity between the pre- and post-revolutionary state. The year 1581 constituted a break. In 1581 a new state was created. One can only guess how it actually took place. But it is possible to build a very likely hypothesis. We can be certain of two things: we know that in 1581 the people possessed the sovereignty which Philip II had lost and we know that some time later it was in the hands of the States. Now it has already been demonstrated that sovereignty can arise in two different ways: either by conquest or by free institution. Since it is obvious that the States did not wrest sovereignty from the people in a war

⁸⁸ In his oration on the English Revolution with which Perizonius in his capacity of Rector Magnificus opened the new academic year (*Oratio de origine et natura imperii, imprimis Regii, a libero et sui juris populo simpliciter delati*, Francker 1689, he criticized some assertions made by Huber in his *De jure civitatis*. Huber replied immediately: *De jure popularis, optimatum et regalis imperii, sine vi et a sui juris populo constituti*, Francker 1689, incorporated in the new edition of *De jure civitatis*, p. 285 ff. Both texts are also in Huber's *Opera minora et varia*, 1746, vol. 1.

of conquest, we must assume that the people tacitly handed over their rights to the aristocrats. And since it is equally certain that the state after 1581 did not have a constitution by which the sovereign was bound, we must also assume that the people did not retain any rights for themselves. That means that the Dutch Revolt removed a constitutional monarchy that had degenerated into tyranny, and replaced it with a completely new and absolute aristocracy (e.g. pp. 41, 295).

This seems to have been a shocking conclusion. Even in his own lifetime Huber had to defend himself against the accusation of favouring tyranny (pp. 40, 309) and many years later in the Patriot period his opinions were again attacked.⁸⁹ This is understandable. Huber's theory conflicted with the doctrine of inalienable popular sovereignty which the sixteenth-century constitutionalists had formulated and to which Vranck had made concessions in 1587. It could easily appear that he was attacking deeply cherished traditions of freedom and substituting a highly oligarchic doctrine of aristocratic absolutism. But that was certainly not the case. Naturally, Huber was an absolutist. Yet that did not mean that he approved of his century's drift to closed, absolutist systems. On the contrary, he warned against them (p. 54; cf. p. 106). It also did not mean that he denied the possibility or desirability of constitutional government. On the contrary, he advised all peoples to define their rights with great care (pp. 54 ff.). However, his insight into theory and practice taught him that the old doctrine of inalienable popular sovereignty was untenable in both theory and practice. Its theoretical qualities, despite Althusius's considerable analytical powers, were slight, and its practical consequences were negative: it was a theory of rebellion rather than of state-building. Furthermore, the whole history of the seventeenth century showed that it had no basis in fact. The idea that the States governed only as representatives of a people which could never alienate its sovereignty was an ingenious idea at a time of need (which is not to deny its deep medieval roots); but as we have now so often seen, it was not an idea with great dynamism. Ultimately it was a hollow assertion that prevented political theorists from understanding what had happened in the Netherlands. It is evidence of Huber's courage and realism when he concluded that the Dutch state had not been built on the foundations of this theory.

Huber's absolutism was a realism based on an understanding of the Dutch state. After the vague abstractions of so many Dutch jurists it is startling to

⁸⁹ The extract from *Grondwettige Herstelling*, 1784-86, II, p. 338-9, cited by P. Geyl in *Studies en strijdschriften*, Groningen 1958, p. 56 is apparently directed against Huber.

encounter Huber's penetrating observations on the nature, dangers and advantages of aristocracy. We are already familiar with Huber's view on the rise of most aristocracies. By failing to protest about it, a sovereign people tacitly endorsed the taking and holding of sovereignty by a small group of aristocrats (pp. 30, 40, 295). Furthermore, no constitutional limitations were placed on this sovereignty (pp. 46, 293, 303). So the theoretical absolutism of the aristocracy is complete. Practical experience shows, moreover, that it is in fact more oppressive than any monarchy. One should not forget that in principle there is no difference between the powers of aristocracies and monarchies – the power of the States of Friesland is no less than that of Louis XIV (p. 233) – but the exercise of that power by an aristocracy is much more intense (*intentionior*) and absolute (*absolutior*). For a king must always temper the monarchical character of his regime by consulting the great and powerful in the kingdom; aristocrats are under no such pressure from the *plebs* (p. 54). It is possible but by no means certain that Huber adopted this crucial insight from Spinoza (TP, VIII, 3) who came to exactly the same conclusion.⁹⁰ However, their evaluation of it was quite different. Spinoza applauded this power; Huber pointed out its dangers. Cunning people, he wrote, call aristocracy *libertas*, the system of true freedom, but that can only apply to the aristocrats themselves. For the mass of the people in an aristocracy is far less free than in a monarchy. The wrath of a tyrannical prince will be turned against his greater subjects; the evil practices of the optimates aim at the oppression of the people (p. 70).

Huber's juridical analysis of aristocracy (pp. 229 ff.) need not detain us here. But we do have to follow him where he deliberately, albeit with excuses, leaves the path of public law. For he too could not leave unanswered the question of the best form of government. His reply was unhesitating. He agreed with Calvin who could see the advantages of each form of government, but deemed fortunate those who lived in an aristocracy (p. 40). However, absolute aristocracy, which Huber rated most highly of all, had to be so designed that no-one from the people should be denied the possibility to climb in a lawful manner to the level of the optimates and join their ranks. It was therefore necessary for the number of optimates to be in a fixed relationship to the total population.⁹¹ I have, Huber said, a very particular reason for re-

⁹⁰ After careful consideration T.J. Veen (*Recht en nut*, 1976, p. 202 ff.) rejected my suggestion (1960) that Huber might have taken this from Spinoza. Veen may well be right but it remains difficult to reach a firm conclusion in such matters. This is why I decided to retain the passage although more cautiously worded.

⁹¹ Cf. also Spinoza, *Tractatus Politicus* VIII, p. 2 ff.; and above, p. 83, note 77

commending this. It is my opinion that the best state is one which is governed as absolutely as possible, with as little danger as possible from either tyranny or rebellion. An absolute authority that can not degenerate into tyranny and can not be broken by the unbridled masses is the most useful and the most effective authority. In general there can be no doubt that a republic works better than a monarchy for when the Netherlands was ruled by princes it counted for nothing in the world. But now that it is free, it enjoys incomparably greater influence, and war and peace throughout Christendom depend on her decisions. (De la Court would have found all this very familiar!) This is quite understandable. A monarchy is always threatened by tyranny whereas in an aristocracy where the evil of one is counter-balanced by the good of another the threat is much less. An absolute prince, moreover, is often unable to impose his will on his subjects because they will simply not accept that everything should depend on the decision of a single man. In a broad aristocracy things are quite different. There the subjects will be much less irritated by absolute authority, or are less likely to give vent to their irritation so quickly, because the important members of the people who would normally lead their resistance now either have a share in power or can expect some share of it in the future. Furthermore, if an aristocracy is broad and open enough, the people can believe that they themselves are ruling and that the actions of those who lead the state are the actions of the people. This belief is all the more important because so many think that democracy is the original form of government (pp. 199-200).

So that is the best state. It can be improved considerably when the people foresee the dangers of oppression early enough and check it by means of a constitution (p. 54). The theory of sovereignty as well as the practice of politics lead one to this conclusion. Theory teaches that the majority in a democracy subjugates the minority; practice shows that in an aristocracy the sovereigns are never reined in by anyone. If the people want to be certain of the essential freedoms of security of life and property and the right to their own opinions, it would be wise to guarantee them explicitly in a constitution. The best state, therefore, through its unshakeable absolutism the most efficient and through its openness and constitutional guarantees the most free, is a constitutional aristocracy that is so broad that it tends to democracy.

After all this, do we need a conclusion? We have watched Dutch political theory grow from small beginnings into an impressive synthesis. In the course of the century, it became increasingly national, but from the start it was often a hymn to freedom. The concept of freedom lies at the heart of many of the

theories that have been discussed. But it was only quite late that the dangers that threatened freedom were appreciated and it was only Huber who succeeded in giving it a proper place in his state. Better than any of his predecessors he was able to explain and dissect analytically the situation which he encountered.

At the same time, moreover, he was also able to indicate how this state might develop further into a form which one can only describe as liberal; liberal because the greatest number of people have a share in its government and because the rights of all, even the minority, are carefully protected. But one thing needs repeating: the developments which we have followed show that liberalism could only acquire power and meaning after it had absorbed absolutism. Only one question remains: would the Netherlanders of the eighteenth century realize that their forefathers had already clearly and carefully spelt out, admittedly in heavy humanistic Latin, all the essential political ideas of the Enlightenment?

Part 2

Popular Sovereignty at the Beginning of the Dutch Ancien Regime

I

The Dutch Republic came into being in the sixteenth century, thanks largely to the resistance of self-styled 'true patriots' who supported William of Orange and justified their actions by appealing, among other things, to popular sovereignty and natural law. At the end of the eighteenth century, the Republic succumbed to a revolution in which once again popular sovereignty and natural law were of central importance, this time for the anti-Orangist Patriots of the period. By the eighteenth century, however, these terms had come to signify concepts very different from those of the sixteenth century, and were being used in a civil war with aims quite different from those of the Revolt. The intellectual and constitutional developments of two centuries had imbued the old terminology with a meaning so new that the Patriots of the eighteenth century needed a revolution before their conception of popular sovereignty and natural law could be realized within the framework of the powerful state which they wished to substitute for the exceedingly weak state developed by the patriots of the sixteenth century in defence of *their* conception of popular sovereignty and natural law. In the following pages an attempt will be made to present as concisely as possible a theoretical analysis of this contrast.

Nowadays it is hard to find a single historian willing to specify the causes of the Dutch Revolt. Historical phenomena of any magnitude are usually so complex and multifarious that causal explanations seem not only inadequate but pointless. In such cases, the most one can hope to do is to investigate those factors which in some way contributed to the genesis of the event in question, without any pretensions to being able to determine whether, or to what extent, they actually caused it. In the case of the Dutch Revolt, one such factor was undoubtedly the increased power of the state. In the course of the fifteenth and sixteenth centuries the state acquired more power than it had possessed in the Middle Ages in so far as it obtained and developed more effective means

of ruling larger numbers of people. Population growth, expanding trade, improvements in banking, faster and more extensive means of communication – including the growth of literacy facilitated by the new printing presses – expanded the responsibilities of rulers, enabled them to get closer to their subjects and, in general, extended the scope of government. This accretion of power was, of course, a fairly gradual process which was so difficult to observe that at the time nobody thought it necessary to examine its implications. At the start of the sixteenth century, it seemed not unlikely that the princes and the representative bodies – estates and parliaments – would share this new power. Indeed, in France, England and the Netherlands one gains the impression that in the first half of the sixteenth century both princes and estates alike were becoming more powerful without either side giving much thought to what might be the outcome.¹

By the second half of the century, however, this had become a problem. It would not be inaccurate to say that the conflict which arose over whether the power of the state appertained to the prince or whether it belonged to the representative bodies, the conflict between what was later to be called monarchical absolutism and parliamentary government, arose from the fact that there was more power to be distributed, that more taxes were being paid, that, thanks to new credit techniques, larger and better equipped mercenary armies could be deployed and that more laws could be enacted which would be comprehended by more people. The relationship between monarch and estates had been unclear even in the Middle Ages: no-one knew exactly what either could rightfully demand. In the sixteenth century, now that there was so much more power to share out, the problem became more serious and led without any clear understanding of what was happening, to bitter conflicts and civil war. The heart of the problem, therefore, was a conflict over the distribution of new power.

The two parties to the conflict, however, refused to acknowledge this. The princely party simply asserted that there was no problem since power, i.e. sovereignty, was by definition indivisible. The parliamentary party, for its part, asserted that there was no cause for conflict because, far from seeking innovation, it stood firmly by tradition and merely wanted a return to the good old order. To formulate this in an admittedly rather abstract though not

¹ I have attempted to present this phenomenon in a somewhat different light in 'The Singularity of Absolutism', R. Hatton ed., *Louis XIV and Absolutism*, London 1976, p. 6 ff. Reprinted in my *Politieke theorie en geschiedenis*, Amsterdam 1987, p. 127-138.

unhelpful way, one might say that the constitutional conflict in the Revolt was bound up with the mutual denial that any problem existed.

However, when its existence could no longer be denied, both sides attempted to justify theoretically the positions which circumstances had forced them to take up. That this proved to be exceedingly difficult is indicated not only by the endless stream of publications but also by the failure of royalists and rebels alike to produce a systematic exposition of their respective standpoints. It is well-known that neither a royalist nor a parliamentary constitutional theory was worked out coherently in either the Netherlands or Spain. In contrast to this, in France, Bodin's great work, *Les six Livres de la République* (1576), provided the royalist cause with a broader foundation than it received in the Spanish world, while the parliamentary opposition obtained a more coherent defence in Hotman's *Francogallia* (1573), the *Vindiciae contra tyrannos* (1579) and the unsurpassed *Politica methodice digesta* of Johannes Althusius (1603) than the Dutch pamphleteers, with all their application and ingenuity, were ever able to produce.

Without any shadow of doubt, it is quite justifiable to define the theoretical conflicts of 1570 and afterwards as a battle between the doctrines of princely sovereignty on the one hand, and popular sovereignty on the other. This may be to simplify the complexities of reality to the level of a school text-book, but it is not incorrect. The confusion only arises when one tries to determine exactly what was understood by these terms at that time. The terms themselves were in use in the sixteenth century: men wrote confidently about *majestas populi* and *souveraineté du peuple* and clearly expected the reader to understand what was meant. The difficulty for posterity is that since then their meaning has changed. So it is not impossible that Rousseau read into sixteenth-century writings much more than they actually contained. Otto Gierke, in his influential study of 1880, tried to show that Rousseau drew heavily on Althusius's theory of contract and popular sovereignty for some important steps in his political reasoning.² Many have accepted Gierke's argument, including the subtle

² Otto Gierke, *Johannes Althusius und die Entwicklung der naturrechtlichen Staatstheorien*, 2nd ed., Breslau 1902, p. 9, 201, 322. This edition was an unaltered reprint of the 1880 edition to which Gierke added a number of appendices, including an extract from Rousseau's *Lettres écrites de la Montagne* which he believed to confirm his hypothesis. In fact it proves little more than that Rousseau had heard of Althusius. However, Gierke drew the conclusion that 'after this, there can be no doubt that Rousseau's theory was directly influenced by the political ideas of Althusius'.

Robert Derathé³ and, more recently, R.F. Beerling.⁴ But even if there were sufficient grounds for supposing that Rousseau had borrowed some of his ideas from sixteenth- and early seventeenth-century constitutional theory (without acknowledgement, of course, for that was not his style), it would by no means prove that he had correctly interpreted his supposed fore-runners. If he had found inspiration in Althusius it would have been the result of misunderstanding, and not, as Gierke and his followers believe, because of any real affinity. They and many others – perhaps even Rousseau himself – are the victims of the ambiguity of political concepts. For the purposes of this article it is important to emphasize this point⁵ because the misunderstanding is not confined to abstract political theory but also occurs in the political realities of the Dutch Republic. It occurred when the late-eighteenth-century Patriots acted under the misapprehension that they were continuing the tradition of the sixteenth-century Revolt.

In the political literature of the sixteenth century and in Althusius, there are countless passages which show that these authors had a different conception of 'the people' from that of Rousseau and the eighteenth-century Patriots. The author of the *Vindiciae* in 1579 made a distinction between the 'populace, ceste beste qui porte un million de testes, se mutine et acoure en desordre' and 'tout le peuple' who were those 'qui avont en main l'autorité de par le peuple, asavoir les Magistrats qui sont inferieurs au Roy, et que le peuple a deleguez, ou establis ... comme consorts de l'empire et controlleurs des Rois, et qui representent tout le corps du peuple'.⁶ Althusius, who usually employed

³ Robert Derathé, *Jean-Jacques Rousseau et la science politique de son temps*, 2nd ed., Paris 1970, p. 92-9. Derathé modifies Gierke's assumption considerably but writes nevertheless (p. 99): 'A cent cinquante ans de distance, Althusius et Rousseau ont soutenu l'un et l'autre la même lutte pour le triomphe des idées démocratiques. C'est au nom du même idéal politique que l'un s'est mesuré avec Bodin et que l'autre a lutté contre l'absolutisme de Hobbes, Grotius et Pufendorf.' C.J. Friedrich, in his *Johannes Althusius und sein Werk im Rahmen der Entwicklung der Theorie von der Politik*, Berlin 1975, p. 67 note 56, declares himself convinced of the correctness of Derathé's view.

⁴ R.F. Beerling, *Het cultuurprotest van Jean-Jacques Rousseau. Studies over het thema pathos en nostalgie*, Deventer 1977, p. 194-6.

⁵ Some time ago I tried to do this in 'Bodin, Althusius en Parker, of: Over de moderniteit van de Nederlandse Opstand', 1958, reprinted in *Politieke theorie en geschiedenis*, p. 93-110. An excellent treatment of these problems, in my opinion, is J. Dennert's introduction to a German translation of various monarchomach writings: *Beza, Brutus, Hotman. Calvinistische Monarchomachen*, trans. H. Klingelhöfer, Cologne, 1968, p. xlv ff.

⁶ Stephanus Junius Brutus [Ph. Duplessis-Mornay], *Vindiciae contra tyrannos*, Edinburgh 1579. The quotation is from the Paris edition of 1631, p. 61 ff.

the word 'populus' in the sense in which the *Vindiciae* spoke of 'le peuple', at times also needed it to allude to what the French termed 'la populace' and then differentiated it clearly from what in his system he called the 'corpus consociatum'. In such instances, the people were no more than the 'plebs promiscua', the masses, who, as the classical authors had long before observed, were fickle, ready in adversity to follow slavishly anyone promising deliverance but in good times mutinous; always envious, fearful, blind, without judgement or wisdom, spurred on by emotion, recklessness and uncontrolled outbursts, credulous, untamed, susceptible to the wildest rumours, easily incited to revolt and so on, and so on. One has here, in the words of Gustave le Bon, a veritable 'psychologie des foules'.⁷

It is clear that sovereignty can not rest in the hands of such a 'multitude', to use an equivalent English term. For the proponents of popular sovereignty, sovereignty belonged to the whole people, that is the organized people, or in Althusius's restless terminology, to the 'regnum', the 'corpus consociatum', the 'corpus unum regni seu Reip. unitum', the 'populus universus', the 'universalis consociatio', the 'corpus politicae consociationis', the 'universalis symbiosis', the 'membra regni';⁸ in short, sovereignty belongs not to people, but to *the* people. It belongs not to the individuals who together make up society but to society as a whole, to a structured set of interrelationships with a historical identity which, because it is rooted in the very order of creation, may not, indeed in the deepest sense can not be changed. For these writers, therefore, 'the people' does not indicate a group of independent individuals who somehow or other have united themselves together, but rather the permanent social framework by which they are united. Their 'people' are no quantifiable collection of real living beings who have desires and together make decisions; they would merely be a 'populace', a 'plebs promiscua'; no, their 'people' comprise a network of ancient institutions, of councils, parliaments, colleges and estates, and, secondarily, those who have a place in them. Furthermore, the prince himself should be regarded as but one of 'the people' in that he holds office and fulfils a function within the constitutional framework by which so often the people are defined.

When, therefore, sixteenth-century writers referred to the sovereignty of

⁷ J. Althusius, *Politica methodice digesta*, 1614 edition, ed. C.J. Friedrich, Harvard University Press 1932, book xxiii, p. 19-37, p. 202-6. Earlier on, in his *Politicorum seu civilis doctrinae libri sex* of 1589, Justus Lipsius had culled from the classical authors a depressing catalogue of the less attractive qualities of the masses (*Opera Omnia* vii, Antwerp 1623, p. 84-6).

⁸ Cf. my 'Bodin, Althusius en Parker', p. 104.

the people, their use of the word 'people' was clearly not what ours would be. But what about the word 'sovereignty'? In the Dutch writings of the sixteenth century there appears at first sight to be considerable confusion. The word was used freely alongside innumerable other terms which apparently were treated as synonyms. Sovereignty, power, dominion, supremacy, empire, absolute rule, supreme lordship: one finds these and similar expressions in the literature though, not surprisingly in light of the prevailing political chaos, it is not always clear exactly what they mean. Nevertheless, there was one thing about which the rebels were absolutely clear: whatever else these terms might mean, the Spanish interpretation was wrong. For their opposition was not simply directed against particular Spanish measures considered by the Netherlanders to be unjust; theirs was a struggle against the inherently erroneous premises upon which an entire system of power had been erected and justified. Hence conflict over the distribution of the extra power which had accrued to the state up to the sixteenth century evolved into a conflict between two conceptions of the state. Naturally, no-one in the 1560s could have foreseen this; however, in the 1570s and '80s it could no longer be doubted that the anti-Spanish opposition had taken up a position fundamentally different from that of Spain, not only in relation to the all-pervading problem of religion, but also on the level of political theory which in the late sixteenth century centred around the definition of sovereignty.

But here we are faced with a serious difficulty in that the Spanish party never worked out its ideas; it merely demanded that subjects obey their sovereign because God had so willed it, and assumed that only the prince was in a position to promote the material and spiritual welfare of his subjects. Their fierce and unrelenting struggle against heretics and rebels was only matched by the laxity and tediousness of their propaganda. The propositions which they defined remained extremely simple: 'clichés without real content', wrote Geurts.⁹ It is therefore hardly possible to speak of a Spanish 'theory' which is anything more than a simple call to the duty of obedience. Unfortunately, this also affects our understanding of the rebels' position. For the best way to define their concept of sovereignty with some precision would be to set it against a clearly formulated antithesis; something which the Spanish writings manifestly fail to provide. Far better qualified for this task than any of the Spanish writers is Jean Bodin, but as he was decidedly unsympathetic to the Spanish cause, considerable caution is required if, for the purposes of this

⁹ P.A.M. Geurts O.F.M., *De Nederlandse Opstand in de pamfletten, 1566-1584*, Nijmegen 1956, p. 190.

paper, we are to call on him to play the role of devil's advocate.

Bodin's *Les six livres de la République* of 1576 was a tremendous success. Within four years it had been reprinted eight times; in the 1580s there were seven more reprints and in the 1590s a further five. The Latin edition of 1586 was also reprinted a number of times before the turn of the century. In 1588 there appeared an Italian translation, in 1590 a Spanish, in 1592 a German and in 1606 an English version. In total, the compilers of Bodin's bibliography have counted no fewer than 65 different editions or versions between 1576 and 1973.¹⁰ This is all the more impressive when compared with Althusius's achievement whose *Politica* was reprinted seven times during the seventeenth century and not at all in the eighteenth.¹¹ Bodin's work must, therefore, have had a particularly wide appeal in spite of the fact that its densely packed, encyclopedic approach hardly makes for easy reading. Moreover, the man himself was as complex as his work. The modern reader is continually baffled by the nature of his thoughts and feelings which, apparently, were comprehensible to contemporaries but to us appear in many respects to be confused, contradictory, unsystematic and dominated by unresolved tensions between dogmatic self-confidence, sceptical rationalism and a passionate, almost mystical, longing for insight into the unity of an unfathomable universe. Yet Bodin's many-sided intellectual pursuits were, it seems, directed to but one single goal. Horst Denzer, in his survey of the proceedings of an excellent conference on Bodin held at Munich, suggested that the constant factor in Bodin's thought was his conception of order in nature and in the state, an order which 'was seen as harmony in diversity under the dominion of the One'.¹²

Bodin imbued his political ideas with cosmic proportions, probably to a greater extent than was then customary in political rhetoric. He attempted to comprehend the state as a universe; he saw its institutions, bodies and corporations as planets and stars, bound together and held in their courses not by their similarity of motion but by the fact that their movements were in opposition to each other. Order in nature is a harmony of contrasts, an equilibrium, a 'concordia discors'. It is set, by divine decree, within a 'scala naturae', a chain of being in which opposing extremes are bound together by a series of inter-

¹⁰ Horst Denzer ed., *Jean Bodin. Verhandlungen der internationalen Bodin Tagung in München*, Munich 1973, p. 494-496. (Hereafter referred to as *Jean Bodin*.)

¹¹ H.-U. Scupin and U. Scheuner eds., *Althusius-Bibliographie*, 2 vols, Berlin 1973, vol 1, p. 2-5.

¹² *Jean Bodin*, p. x. On Bodin, see also Helmut Quaritsch, *Staat und Souveränität* 1, Frankfurt 1970, p. 243-394.

mediate links. Good and evil, rich and poor, wisdom and foolishness, strong and weak are held together by everything which lies between them, connecting the highest with the lowest.¹³ In Bodin's work one encounters an ordered pluralism; his emphasis is not primarily upon unity itself but rather upon the contrasts which, owing to the harmony imposed on them, together make up a single whole. This is essentially conservative thinking; it is not the thought process of seventeenth-century absolutism. In this connexion, it is of some interest to note that in the great crisis of French absolutism during the Frondes, Omer Talon, a conservative spokesman of the party defending the Paris Parlement against Mazarin's assault upon its powers, illustrated his baroque concept of the state with the cosmic imagery which Bodin had used and which, indeed, he must have borrowed from Bodin.¹⁴

If nature is a self-regulating equilibrium of opposing forces, it is because God has willed it. Much has been written about Bodin's religious beliefs; but whatever else one might say, God is an indispensable part of Bodin's system. This God is an omnipotent will who regulates the universe of contrasts in such a manner as to ensure an impressive degree of cohesion and unity. Without His will there would be no order in nature; outside his sovereignty lies chaos. God's will is the law of nature. However, God is not bound by his own created order. He can intervene against all the rules to cause comets to appear in the heavens as an indication of his wrath; his earth and his heaven are inhabited by mysterious spirits and demons whose nature our reason can neither perceive nor comprehend.¹⁵ Four years after his *République*, Bodin wrote the learned *Demonomanie des sorciers* which was reprinted eleven times in twenty years. The title of the German translation accurately reflects the character of the book: 'Daemonomania or a detailed account of the furious devil raging in witches and sorcerers.'

A universe full of conflicting forces, full of wonders and mysteries, but regulated by a harmony which was in itself an astonishing phenomenon amid such inscrutable conflict, was for Bodin only conceivable if one saw God's will constantly at work within it. And so, too, was it with the state. When Bodin published his *Methodus ad facilem historiarum cognitionem* in 1566, his position was

¹³ See the final passage of the *République*, cited in W.H. Greenleaf, 'Bodin and the Idea of Order', *Jean Bodin*, p. 27 note 17. For the history of the chain of being, naturally, A.O. Lovejoy, *The Great Chain of Being*, Harvard U.P. 1936.

¹⁴ Omer Talon, *Mémoires*, ed. Michaud and Poujoulat, Paris 1839, p. 260. Cf. E.H. Kossmann, *La Fronde*, Leiden 1954, p. 27-8.

¹⁵ M.I. Parente, 'Le volontarisme de Bodin: Maïmonide ou Duns Scot?', *Jean Bodin*, p. 39-51.

still close to that of nearly all contemporary French jurists who conceived of France as a limited monarchy in which the prince, admittedly, was considered to possess so-called absolute power, but nevertheless was bound by the ancient legal order embodied, *Inter alia*, in the Paris parlement. In the *République* of 1576 he had changed his opinion. Harmony had been disrupted by the religious wars; the state was no longer in self-regulating equilibrium; Protestant publications like the *Francogallia* of 1573, the *Reveille-Matin des François* of 1574 and Beza's *De jure magistratuum* of 1574 had subordinated the monarchy to 'the people', which is to say the structured social and political framework preserved in and by the assemblies of estates. In Bodin's view it was quite erroneous to draw this conclusion from the constitutional premises which he himself had still accepted in 1566. So the *République* which was originally intended to be a learned study, independent of contemporary events, turned into a refutation of the political conceptions of the Protestants. He did not do this by analysing their concept of 'the people'; his great innovation was a new definition of sovereignty, derived from the general philosophy which has been sketched above.

The core of Bodin's definition was not that sovereignty was absolute. Of course it was that; but that had been said earlier. The central feature of his system was, firstly, that all political power was wielded by the sovereign, and secondly that this power derived from the right to legislate. Before Bodin it had been customary to describe sovereignty in terms of the rights, perhaps even absolute rights, which appertained to the sovereign such as the right of jurisdiction, coinage etc., and to assume that he had no right to what was not comprised or implied in this list. Bodin reasoned from the other direction: he attributed to the sovereign all powers which were not specifically excepted. In the context of the sixteenth century when so much more power was becoming available to the state, this was a dramatic innovation whose consequences were incalculable. Bodin himself denied the accusation that he was an absolutist by stressing the limitations which he had placed upon the exercise of sovereignty. In his opinion, the sovereign should not transgress divine, natural or fundamental laws nor, for example, levy taxes arbitrarily. But however much Bodin might have wished to contain his definition within the contours of a tempered monarchy, it does not alter the fact that his departure from traditional principles opened up the possibility of a new, centralized concentration of political power.¹⁶

¹⁶ Cf. R.E. Giesey, 'Medieval Jurisprudence in Bodin's Concept of Sovereignty', *ibidem*, p. 167-86.

In the famous and oft-quoted eighth chapter of his first book, Bodin wrote that it was necessary to provide a definition of sovereignty because no jurist or political philosopher had ever done so before. The numerous and familiar passages in which Bodin then demonstrates the plenitude of sovereignty in terms of power, responsibility and time, all carry the argument forward to the point where he is able to conclude that 'le poinct principal de la maiesté souveraine, et puissance absoluë, gist principalement à donner loy aux sugets en general sans leur consentement... Car si la lustice est la fin de la loy, la loy oeuvre du prince, le prince est image de Dieu, il faut par mesme suite de raison, que la loy du prince soit faicte au modèle de la loy de Dieu'. Then again in the tenth chapter which analyses the 'vrayes marques de souveraineté', he reiterates emphatically his conviction that 'la première marque du prince souverain, c'est la puissance de donner loy à tous en general, et à chacun en particulier: mais ce n'est pas assez, car il faut adioster, sans le consentement de plus grand, ny de pareil, ny de moindre que soy...'

This then is the doctrine of legislative sovereignty which succeeding generations have always regarded as the real significance of the entire work. It was, indeed, not only new in its political content, but also of exceptional importance for a continent of states laboriously striving for internal cohesion. The sovereign, who for centuries had been regarded primarily as a judge, whose function was to uphold the existing, essentially immutable legal order, grew under Bodin's hands into a law-maker, that is to say an autonomous power which was primarily and most clearly manifested in the unfettered creation of new law. Whereas before 1576 sovereignty was usually interpreted as a stabilizing and conserving force, it was now seen as a dynamic and creative function, a free will comparable to that of God. It is quite obvious that sovereignty so defined, cannot be an attribute of a 'people' comprising, if the Protestants had their way, nothing more than a fundamentally immutable social framework. Bodin's argumentation amounted to a refutation of the monarchomach doctrine of popular sovereignty.

This did not mean, of course, that Bodin denied the reality of state structures other than the monarchical. In theory, it was certainly possible for a number of individuals, or even for all individuals simultaneously, to possess indivisible sovereignty. However, as a confirmed royalist, Bodin did not look upon aristocracy or democracy with any favour. However, can one then claim that his views provided the best conceivable defence for the monarchist position in the sixteenth century, and thereby for that of the Spanish party in the Netherlands? To this question only a very cautious answer can be given. It is certainly the case that in the long run all monarchists came to appreciate the

value of Bodin's definition of sovereignty and to use it themselves; juridically, the proponents of a powerful state found it most fruitful. Nevertheless, for traditional monarchists it also contained one extremely dubious element: in the *République* Bodin was prepared for purely tactical political reasons to accept the principle of religious toleration. Indeed, it is clear that it was precisely his defence of the edicts of toleration promulgated by the French monarchy which helped him to comprehend more clearly the nature of royal sovereignty. For if the legislative function of sovereignty was manifested anywhere, then it was surely in this area where the prince, solely by virtue of his creative omnipotence, imposed upon his subjects a new law (viz. toleration) which could not be justified by any tradition. It should be pointed out that in this work, Bodin still saw toleration as no more than a necessary concession to particular circumstances, a means of restoring order which, while juridically justifiable, in itself possessed no moral or intellectual worth. In his last work, however, which he probably completed in 1593 but was not published until the nineteenth century, *Colloquium Heptaplomeres de aditis rerum sublimium arcanis*, Bodin succeeded in attributing a positive value to religious diversity as an element of that cosmic pluralism which underlay its harmony.¹⁷ His spirit inhabited a world which was far removed from that of the Spanish heretic-hunters; it was the world of William of Orange rather than of Philip II.

Nevertheless, even though in that respect it would be wrong to see Bodin's concept of the state as the best conceivable defence of the Spanish system, we are certainly justified in regarding it as the best possible polemic against the Calvinist theories. In Bodin, Calvinist political theory met its most redoubtable opponent. This immediately raises two further questions: firstly, what did the Calvinist constitutionalists understand by sovereignty in the period before Bodin published his highly successful interpretation; and secondly, how did they react to what must have seemed to them to be his extremely provocative argumentation?

Although the Dutch rebels never presented their cause in a single coherent text, it is possible to deduce from their scattered writings a logical conception of the state which is internally consistent. Its basic premise was, naturally, that the Netherlands possessed a comprehensive system of rights and privileges which we may, with an easy conscience, call a constitution and which it was the bounden duty of the sovereign to defend and uphold. After all, according to the traditional theory so carefully rehearsed by the rebels, the primary

¹⁷ G. Roellenbleck, 'Der Schluss des "Heptaplomeres" und die Begründung der Toleranz bei Bodin', *ibidem*, p. 53-67.

function of the sovereign was that of judge, and a judge must enforce the law as it exists, in order to protect the social order as established by custom and recorded tradition. The sovereign who fails to act as supreme judge violates the ancient laws, places himself outside the constitution, and thus outside the state, and thereby becomes a tyrant, an external foe, to be resisted by the people whose duty it is to defend the constitution against him. But if this is the primary task of the sovereign, if the essence of sovereignty is the defence of the constitution, then the two concepts are contiguous. For the highest to which the sovereign can aspire is to be the personification of the constitution. In the Dutch pamphlets one can see this identification taking place, even though no single writer bethought himself to employ such abstract terminology.¹⁸

As we know, it took years for the Dutch opposition to declare openly that Philip II had abandoned the constitution and thereby his sovereign authority. Although it was already apparent by the late 1570s, only in 1581 was it officially announced. It has been observed often enough that the Act of Abjuration was not, nor was intended to be a declaration of independence. All that the States attempted to demonstrate was that it was their duty no longer to recognize Philip as their sovereign; they said nothing about what had happened to this sovereignty which had been, as it were, released by Philip's dereliction of duty. Nevertheless, already in 1580 the States had reached an accord with the Duke of Anjou, which was ratified in the Treaty of Bordeaux of January 1581, by which Anjou was pronounced 'prince et seigneur' of the Netherlands. Does this mean that Philip's sovereignty, even before the formal abjuration of July 1581, had been handed over to Anjou by the States General? And if so, did the States General believe that they, as representatives of the people, were empowered to take up and transfer the sovereign authority which for some years and certainly since 1579, Philip had been losing as a result of his violation of the constitution? Such a construction, if correct, would imply an effective popular sovereignty over which the States General had certain powers of disposition. H.A. Enno van Gelder, together with many others, believed that this was the case and that the States General in 1580, like the English Parliament in the 1640s, were and wished to be 'the highest organ of government, the sovereign power as representatives of the nation'.¹⁹ But if so, it is curious that right up to 1586 there appears to be no record whatsoever

¹⁸ E.H. Kossmann and A.F. Mellink, *Texts concerning the Revolt of the Netherlands*, Cambridge 1974, p. 16, 33 and *passim*.

¹⁹ H.A. Enno van Gelder, *De Nederlandse Staten en het Engelse Parlement in verzet tegen vorstenmacht en gevestigde kerk*, Brussels 1960, p. 58.

of their ever having made such a claim. Were they afraid to do so, or was it that they were not yet prepared for such a step?

If one reads carefully the documentation assembled with great insight by G. Griffiths,²⁰ one is inclined to opt for the latter explanation. Certainly, we know that everything the States General said and did in 1580 and 1581 prepared the way for independence and a republican form of government. However, we also know that between 1581 and 1586, when for the first time it was declared more or less officially that sovereignty rested with the organs of the provincial States,²¹ a number of highly dramatic events occurred – the deaths of Anjou and Orange, the requests for assistance from Henry III of France and Queen Elizabeth of England, the fall of Antwerp, Leicester's mission – which repeatedly compelled the Dutch to renew their efforts to shore up their position in one way or another. This required more than merely drawing conclusions from what had gone before; it meant constant changes of direction and the desperate application of remedies which were doomed to failure. Only when there was no alternative but to continue the struggle by their own efforts and under their own flag, did the States accept the apparently inevitable and finally acknowledge that they possessed sovereignty.

Neither in 1580-81 nor in their negotiations with Henry III and Elizabeth after the deaths of Anjou and Orange, did the States General claim to be offering to foreign princes a sovereignty which they themselves possessed or exercised. They did something quite different: they asked for assistance in defending their country's freedoms, that is to say, its constitution. It would, of course, have been exceedingly tactless if the States had approached Henry III or Elizabeth with the communication that they were being offered sovereignty. Any self-respecting prince in the sixteenth century took it for granted that his position emanated from God and not by commission from the people. But it would be doing the States an injustice to regard their choice of words merely as a tactical veil for their real wishes and pretensions. What they did and said was completely in keeping with the entire theory of the Revolt. Philip II had failed as a sovereign in the traditional sense of the word as upholder and defender of the constitution. It was therefore necessary to seek a new protector. The candidates were therefore not offered sovereignty in the sense of 'power'; they were invited to defend the constitution. And to the extent that sovereignty and constitution tended to merge in the minds of the Dutch, they were, in

²⁰ G. Griffiths, *Representative government in Western Europe in the sixteenth century*, Oxford 1968, p. 477-505.

²¹ Kossmann and Mellink, *Texts*, p. 58.

effect, being offered the constitution. It is perfectly clear that in doing this, the States General had no need to claim sovereignty for themselves.

They were, moreover, very conscious that strange things were happening to the word 'sovereignty' during this period. In 1580 when they were negotiating the terms of the treaty with Anjou, their proposed wording for the first article was crystal clear: the States will *accept* Anjou as 'prince et seigneur'. Anjou, with Bodin as one of his advisers, rejected this formulation and altered it to: the States will elect and acclaim Anjou as 'prince et seigneur', and he got his way. But Anjou wanted more; he wished to be called 'prince et seigneur *souverain*'. The Dutch negotiators refused. They argued 'que ce n'estoit la coustume du Pays-Bas d'user de ce terme allendroit de leurs princes, mesmes d'autant que tous les contractans usoient de la langue thioise, en laquelle on ne pouvoit proprement exprimer ce mot de *souverain*, ains l'on estoit accoustume d'user des motz ou *genadighe heere* ou *geduchte heere*, et que le mot *souverain* estoit ambigu, pour ce que, estant prins pour *supreme*, auxquelsens nous disons *opperste heere*, il ne signifioit aultre chose que le premier; et, estant prins pour ung mot signifiant puissance absolute, les pays qui se gouvernoient par leurs loix, coustumes et privileges, ne le pouvoient tenir sinon pour suspect...' ²² This was very skilfully argued and Anjou accepted defeat. But the argument was only partially true: the terms 'sovereign' and 'sovereignty' were most certainly not unknown in the Netherlands. On 5 July 1581, William of Orange placed his seal upon his 'Letter of Acceptance of the Supreme Governance and *Sovereignty* of Holland and Zeeland'. And when Anjou died in 1584, the States turned to his brother Henry III with the communication that they were now prepared to give proofs of their humble obedience 'comme à bons vassaux et subjects appartient de faire à leur Souverain Seigneur'. ²³

Nevertheless, right up to the late 1580s, the Dutch by and large, were able to embrace a traditional doctrine of sovereignty without having any serious intellectual difficulties in reconciling their actual policies with their theoretical premises. This would probably need no further explanation were it not for the fact that the parallel wars of religion in France did give rise to new insights into the nature of society, the state and sovereignty. It raises the question why the need for a modern definition of sovereignty should have been felt in France but not in the Netherlands. For the purposes of this article only one contributory factor needs emphasis: the problem of religious toleration.

²² Griffiths, *Representative Government*, p. 497.

²³ J.K. Oudendijk, *Het 'contract' in de wordingsgeschiedenis van de Republiek der Verenigde Nederlanden*, Leiden 1961, p. 55.

Official reactions to religious dissent in France and the Netherlands differed markedly. From the 1560s onward, the French monarchy regularly promulgated edicts of toleration; the Spanish refused to adopt such a policy. They therefore had no cause to seek justification for that type of legislative activity; in France, Bodin considered it to be essential. Furthermore, even the Dutch Protestants did not seek toleration by means of new legislation; on the one occasion that William of Orange mooted the suggestion it was rejected by the States. Although the problem of toleration was no less urgent in the Netherlands than in France, neither side expected the sovereign to deal with it in such a manner as to make it necessary to justify his religious policies by redefining his powers.

The second question which must be answered is: what happened to the traditional concept of sovereignty when it was no longer possible to ignore Bodin's writings? Far and away the best way of doing this is to study Althusius's *Politica methodice digesta*. For not only does it provide indisputably the best summary of sixteenth-century resistance theory, but it also goes much further than its predecessors in one important respect: it cites and uses the writings of Bodin. It could hardly be otherwise; when it first appeared in 1603 Bodin's *République* had become an authority whose theoretical implications could no longer be ignored. The sixteenth-century anti-absolutists had achieved a measure of theoretical coherence by virtually integrating three concepts: the People, the Constitution and Sovereignty. Each had been defined in such a manner that they differed only slightly and appeared merely to reflect three facets of the social order. Which of these terms was actually used to designate the social order depended upon the context. Bodin had no time for this kind of conceptual confusion. In his work sovereignty was something quite different from the constitution and the people were quite different from the ancient laws or the traditional social framework. If Althusius was to provide the seventeenth century with a meaningful defence of Calvinist constitutional doctrines he could no longer make do with old terms and definitions which Bodin had shown to be insufficiently precise. He had to incorporate Bodin's results into his own work.

When one reads through the *Politica* and its modern commentaries, it turns out to be far from easy to decide whether Althusius was actually successful. In the first place, this is undoubtedly owing to the ambiguous character of the work itself; but it also arises from the ambivalence of his commentators. In general the commentaries are of a very high standard. Friedrich's solid and profound introduction to the *Politica* in 1932²⁴ and its useful, if careless,

²⁴ See above, note 7.

German version of 1975,²⁵ the sparkling chapter of Mesnard,²⁶ the books of Antholz²⁷ and Winters,²⁸ an article by Scupin²⁹ are all not only valuable but, indeed, absorbing contributions. Nevertheless, the reader remains confronted by unresolved contradictions. Friedrich, for instance, states that Althusius may be regarded as a forerunner both of parliamentary sovereignty and of Rousseau because he succeeded in transforming Bodin's concept of sovereignty into the theory of popular sovereignty.³⁰ At the same time, however, he also shows that Althusius differed fundamentally from Bodin in his interpretation of sovereignty (and so presumably could not have been much help to the English anti-royalists in the 1640s), while for Rousseau people and sovereignty meant something quite different again.³¹

Winters, on the other hand, has found Althusius's heirs among the conservatives rather than the revolutionaries;³² here it is Burke and Hegel who appear as his disciples. This does not mean that Althusius was old-fashioned. On the contrary, Winters believes, although it requires a neck-breaking chronological turn, that 'Bodin's princely sovereignty and Rousseau's popular sovereignty are taken up and synthesized in Althusius's idea of the sovereignty of the State.'³³ By placing Althusius much further away from Rousseau than Friedrich and others have done, Winters presents him as an even greater innovator. Scupin, on the other hand, sees Althusius, together with Bodin, as a precursor of Montesquieu, although on the basis of Gierke's work and a doctoral dissertation written in 1922, he considers that Rousseau also borrowed much from him.³⁴

Such disagreement between experts is somewhat disheartening particularly because, as so often happens in debates between historians, – it seems to be part and parcel of the profession – they appear to be arguing past each

²⁵ See above, note 3.

²⁶ P. Mesnard, *L'essor de la philosophie politique au XVII^e siècle*, 2nd ed., Paris 1952, p. 567-616.

²⁷ H. Antholz, *Die politische Wirksamkeit des Johannes Althusius in Emden*, Aurich 1955.

²⁸ P.J. Winters, *Die 'Politik' des Johannes Althusius und ihre zeitgenössischen Quellen*, Freiburg, 1963. Winters begins his book with a brief survey of the debate about Althusius since Gierke.

²⁹ H.-U. Scupin, 'Der Begriff der Souveränität bei Johannes Althusius und bei Jean Bodin', *Der Staat* IV, 1965, p. 1-26.

³⁰ Friedrich, *Althusius und sein Werk*, p.67 and *passim*.

³¹ *Ibidem*, p. 123, 137 and *passim*.

³² Winters, 'Politik', p. 225.

³³ *Ibidem*, p. 260.

³⁴ Scupin, 'Begriff der Souveränität', p. 3. The dissertation was from Breslau: W. Bucholz, *Rousseau und Althusius*.

other rather than engaging in meaningful dialogue. For this reason, it is also quite impossible even to determine the current state of the debate, let alone construct a synthesis. Fortunately, the limited aims of this discussion allow us to ignore substantial parts of the various interpretations as it does not greatly matter whether or not Althusius pointed the way forward to Cromwell, Montesquieu, Rousseau, Burke or Hegel, none of whom probably ever read him. We are here solely concerned with what he did with Bodin's concept of sovereignty, for it is perfectly clear that he had read Bodin's *Methodus* and *République* thoroughly.

Even though Althusius's writings appear difficult to interpret, at least his character and personality do not leave an impression of impenetrability on the modern reader in the way that Bodin does. His books are more clearly constructed; his reasoning is more rigorous and his world-view more peaceful. He is a man of certainties; his learning is ordered. The universe in which he moved lacks the restlessness and dynamism which distinguished that of Bodin. And his world – the county of Nassau where he was professor, the city of Emden where he served as syndic from 1604 until his death in 1638 – was smaller, more compact than France during the Wars of Religion. Furthermore, in his years at Emden, during which new and substantially expanded editions of his *Politica* appeared (1610 and 1614), he was an active statesman involved daily with the concrete, practical problems of political society. The two qualities which dominated Bodin's theory of sovereignty, the harmony of violent contrasts and his emphasis on the freedom of will pertaining to both the divine and human ruler, in short, voluntarism, were lacking in Althusius's much calmer system.³⁵ Where Bodin saw sharp contrasts and arbitrary volitional power, the orthodox Calvinist saw intimately interconnected communities and unshakable divine predestination. We may perhaps take for granted that he felt no need to populate the world between God and Man with Bodin's spirits and demons; he seems, in any case, to have been an opponent of witchcraft trials.³⁶

In the dedication to the States of Friesland with which Althusius commenced his edition of 1610, his position seems to be clear enough. He denies Bodin's assertion that the rights of sovereignty appertain to the prince or supreme magistrate and backs this up with reference to the States of the Netherlands. When they embarked upon their war with the king of Spain they

³⁵ Althusius certainly acknowledges the necessity for diversity and harmony (cf. I, p. 34 ff.) but despite the obvious parallels with Bodin, his system is much more tranquil.

³⁶ Friedrich, *Althusius und sein Werk*, p. 108.

certainly did not think that sovereignty was so inseparable from his person that they could not exist without him: 'when you relieved him of its exercise and reclaimed what was your own, you declared that these rights of sovereignty belonged rightfully to the united multitude and people of the several provinces'. Although, as we know, matters were not so straightforward in the 1580s, by 1610 this interpretation was no longer adventurous. Moreover, it is crystal clear: according to Althusius, indivisible and inalienable sovereignty belonged to the people as the Dutch Revolt had demonstrated. In the course of the book, the reader is repeatedly informed that the ruler acquires his authority through a contract with the people which lays down binding regulations about its form and content (xix, 6). There is not a single state, past or present, which is not based upon some such agreement (xix, 15). However, this contract is in fact always extraordinarily one-sided, for if the ruler fails to abide by it, the people may withhold their obedience. On the other hand, if the ruler observes that the people, his subjects, are violating the agreement on a large scale, there are virtually no sanctions available to him since his power derives exclusively from that people. In other words, it is only in a purely formal sense that the prince acquires power by means of a contract. In reality it is based upon a temporary and revokable mandate.

So what does this series of assertions actually add up to? Essentially one thing: the laws are made by the people, which in Althusius's system means that they make the constitution and appoint an executive with the right to dismiss him if he fails to fulfil his duties satisfactorily. The inalienable and indivisible legislative sovereignty which Bodin used to legitimize the new dynamic needed to create order in a chaotic world, was transformed by Althusius in the course of his polemic against Bodin into a right exercised on behalf of the people by bodies whose *raison d'être* it was to ensure that the ruler should not abuse his power. The people, of course, as we have already seen, are not the masses but 'the people united in one body', the 'body of the universal association' (*corpus universalis consociationis*), itself. They comprise therefore the 'respublica', the 'regnum', the state. (cf. ix, 22) This is the doctrine of the sovereignty of the state. But it is certainly not modern, for this sovereignty is concerned not with the structure of power but the control of power, which is to say, a constitution. The reader who rambles captivated and astonished through Althusius's complex system may well wonder in that case what the source of that power is, which must be controlled so diligently. To that question there is no answer.

No matter how impressive the work of Althusius or profound the commentaries might be, it remains a system with serious, and in some respects

disastrous, lacunae and contradictions; although it is no less interesting for all that. Two elements help to explain why the modern reader has the impression that in spite of his erudition and bold analyses, Althusius so often has to make do with circular reasoning. The first point is that his book while intended to be an objective description and analysis of past and present political reality, was also and to an equal degree normative and dogmatic. This, of course, is the case with much political literature and one should not reproach Althusius for it. Nevertheless, this intermixture was a greater handicap for him than for English and French writers simply because of the political situation in which he found himself. The political reality with which he was familiar and which formed the most obvious and immediate object of analysis as well as the starting point for his generalizations was the Holy Roman Empire, a structure which already in his own life-time was showing an inflexible, perhaps even a somewhat dilapidated appearance, and was certainly unsuitable as a basis for theoretical conclusions about wider contemporary European developments. So when Althusius set about interpreting the structure of the Empire in such a manner as to encompass both his basic premise – popular sovereignty – as well as every conceivable form of state outside Germany within it, he faced an impossible task. The organized people who appointed the government became the electoral princes; the supreme magistrate became the emperor; the ephors (a central institution in the Calvinist system) were again the electoral princes. But when imperial power has to represent all monarchical power, when the example of electoral princes and imperial estates is used to indicate how popular sovereignty is to function anywhere in the world, and when finally this situation is presented as the norm and any deviation from it as unacceptable, then it becomes clear that his system has failed in its primary task which is to refute Bodin. For it is impossible either to deny or to reject the growth of absolute power in France or elsewhere on the grounds that such a development is impossible or unthinkable in the Empire. All too often, however, Althusius gives the impression that he is doing just that.

It would be short-sighted to dismiss Althusius's book on these grounds as being an old-fashioned and irrelevant piece of writing. His work contains many other extremely interesting insights which are well worth studying. His analysis of society, his analysis of tyranny (xxxviii, 28 ff.) which he expands into what we would broadly describe as bad government, that is government which either exceeds its limits or which is too weak and lax, his plea for a highly developed system of checks and balances, all contain observations which have lost none of their immediacy and which he rightly considered to be of vital importance both for his own time as well as for the future. How-

ever, his conception of sovereignty, despite his emphatic and detailed presentation, seems continually to fall short of the target and nowhere does it even approach what it was to become in the eighteenth century, in the hands of Rousseau and the men of the American, French and Batavian Revolutions. For unlike Althusius, but like Bodin, they saw the People as the living members of the entire community and not as institutions such as the Estates, or their members;³⁷ and by sovereignty they did not mean the control of power, but power itself.

II

The foregoing interpretation of Calvinist political thought differs radically from that given by Quentin Skinner in his masterly book, *The Foundations of Modern Political Thought*.³⁸ As it is a work of exceptional quality and an ornament of modern intellectual history, my case would hardly be convincing if I were to pass it over without attempting to refute his interpretation. Two elements of Skinner's thesis in particular are central to the issue: firstly, his view of the Calvinist revolution itself and, secondly, his perception of the relationship existing between sixteenth-century revolutionary thought and the constitutional theories of John Locke.

It was not Skinner's intention merely to analyse the development of political theory from the thirteenth to the seventeenth century. As the title of his book indicates, he also set out to demonstrate that during this period the modern conception of the state was formed and the foundations of modern political theory were laid. As he sees it, the origins of the modern idea of the state coincided with the formulation of political radicalism, when citizens came to realize that some form of popular sovereignty could be used to justify revolutionary resistance to the prince. Only then were the conditions created in which politics could achieve full independence: it emancipated itself from

³⁷ It is true that Althusius was prepared to regard the members of these assemblies as comprising 'the people'; he tends to describe them as the 'optimates'. But to avoid any misunderstanding it should be pointed out that when an eighteenth-century Patriot – none other than Van der Capellen – distinguishes between the masses and 'the distinguished, honourable and esteemed part of the Nation' (M. de Jong Hzn., *Joan Derk van der Capellen*, Groningen 1921, p. 218), he is asserting something different from Althusius. Van der Capellen is referring to individuals (or *privati*, to use Althusius's terminology) whereas Althusius is thinking of institutions and their members: in his scheme, the *privati* have no say in politics.

³⁸ Quentin Skinner, *The foundations of modern political thought*, 2 vols, Cambridge 1978.

the age-old tutelage of religion both as an object of study and as a practical activity. Furthermore, it thereby became a matter in which, in principle, every individual was involved. In order to demonstrate this, Skinner makes the point that Locke was able to use sixteenth-century constitutional theory with its popular sovereignty and 'right to revolution' as the basis for his modern doctrine. Consequently, the book reads in some respects like a pre-history of English seventeenth-century radicalism.

According to Skinner, therefore, Calvinist political theory was the first that can be called modern, and he accordingly devotes nearly 170 pages of the second volume to analysing it. This he does brilliantly. Not that he attributes great originality to the Calvinist doctrine; on the contrary, thanks to his painstaking analysis of the many political theories which preceded the Calvinist system, he is able to show how un-original, how derivative, how eclectic it in fact was. What made it so important was not the novelty of its content but the revolutionary implications of its function. Owing to the peculiar position in which they found themselves in the sixteenth century, the Calvinists in France and the Netherlands ended up by reshaping various elements taken from earlier theorizing into a justification of revolutionary action, thereby discovering the formulae which, a century later, Locke was simply to take over when he began to design his liberal theory of the state.

In his foreword, (I, p. xv) Skinner confesses to having been surprised at the fact that the Calvinist – and, indeed the Lutheran – radicals drew heavily on Roman law and scholastic political philosophy. He would possibly have been less struck by it, and consequently would have felt less need to stress the originality of his own interpretation, if he had been able to consult Reibstein's *Johannes Althusius als Fortsetzer der Schule von Salamanca*³⁹ which was published many years ago. It is almost tragic that, probably because it is only available in German, he did not use a work which could have played a central role in his argument. Be that as it may, the compelling power of his argumentation is doubtless due in large measure to the fact that he had to find his own way through the material without much guidance.

The Calvinists, Skinner argues, borrowed the two central points of their theory, the right of resistance and constitutionalism, from their predecessors. From 1530 onwards the Lutherans had been defending the right of resistance which the Calvinists in France and the Netherlands only began to propagate

³⁹ Ernst Reibstein, *Johannes Althusius als Fortsetzer der Schule von Salamanca, Untersuchungen zur Ideengeschichte des Rechtsstaats und zur altprotestantischen Naturrechtslehre*, Karlsruhe 1955. See also his *Die Anfänge des neueren Natur- und Völkerrechts*, Bern 1949.

in the 1560s and 1570s. Of course, the Lutherans also had adapted older material to their own needs. For example, the civil law ruling that in certain circumstances force might be met by force even when that force was exercised by an (unjust) magistrate, had long been regarded within scholastic tradition as applicable to the relationship between the subject and a tyrannical prince (II, pp. 125-126, 197ff). At the same time, the Lutherans also developed the particularist interpretation of the Empire, attributing to the imperial princes an autonomous power which permitted them to oppose the Emperor. In this connection, Martin Bucer in 1530 assigned to organs which he called the inferior magistrates, the obligation to defend the people, by force if necessary, against an ungodly superior magistrate (II, pp. 205-206). Thus early on in the century we see the appearance in Protestant circles of that constitutional theory to which the Calvinists, several decades later, were to appeal so frequently. Eventually, they themselves added one or two new elements. By far the most important of them was that, thanks to their interpretation of fore-runners like Melancthon and Zwingli (II, p. 231), the Calvinists were able to indicate with some precision which agencies had the duty to decide whether or not the superior magistrate was ruling according to God's commands: these were, of course, the colleges of ephors. While the Lutherans regarded all powers in the state, whether superior or inferior, as having been necessarily established directly by God – a conception which fitted their basic premises closely but later gave rise to serious logical difficulties –, in the Calvinist elaboration of the Lutheran position the ephors emerged as a college elected by the people, thereby giving to the theory of resistance a more democratic character than it had previously possessed. As far as the sixteenth-century monarchies were concerned, it was, according to Calvin, probably the Estates which would have to function as ephors. He noted down the idea very briefly in the *Institutes* as early as the 1530s, though it was some time before his followers made use of it.⁴⁰

Skinner places some emphasis on this development. However, one may well wonder whether he emphasizes it sufficiently. In his demonstration of the Calvinists' lack of originality and the essentially revolutionary nature of the Lutheran theory, there lies an omission which one would not expect in this book. For one of the guiding principles of Skinner's work is that the historian

⁴⁰ Calvin referred to the ephors in Sparta, the tribunes in Rome, the demarchs in Athens, who were instituted to restrain arbitrary action on the part of the rulers, 'comme sont, possible, aujourd'hui, en chascun Royaume les trois estatz quand ils sont assemblez. A ceux qui seroient constituez en tel estat, tellement je ne deffendrois de s'opposer et résister à l'intempérance ou crudelité des Roys, selon le devoir de leur office'.

of political ideas must consider the objects of his study in their historical context and not as isolated philosophical systems. Skinner is both political scientist and philosopher; we may be grateful that he applies this approach with so much vigour and insight. However, in this particular case he seems not to have done so. The point is that Lutheran resistance theory attempted to account for the armed opposition of the Estates to the Emperor, that is, the opposition of established, independent powers to a person whom they did not wish to acknowledge as being inherently superior. Calvinist resistance theory, on the other hand, attempted to demonstrate that some agencies within the state had the obligation to oppose their legitimate king, which is to say that groups of people who normally regarded themselves as subjects had suddenly to take action as autonomous authorities. This went much further than the Lutherans with their emphasis on the federal structure of the Empire and the relatively independent status of the imperial princes and cities; for it meant actually leading a rising of subjects. Although many of the Calvinist ideas were undoubtedly borrowed from earlier theories, their intellectual and practical significance was very different from that of the Lutheran position. Calvin's reference to the ephors has already proved it, for in a unified France, the theory had to be applied in a manner uniquely its own. Their historical situation compelled the Calvinists to develop a more far-reaching – if you will, a more revolutionary – theory than the Lutherans had needed.

Calvin, Skinner continues, was extremely cautious when he weighed the possibility of regarding the three estates as the modern ephors. Nevertheless, this step was of real importance because he appeared to be assigning a central position to the assembly of estates, which was in some way or other at least partially elected and, moreover, could be considered a representative body in so far as it was instituted by the people and not primarily by God. This aspect of the theory was elaborated further during the second half of the sixteenth century. The Calvinists, drawing now from both the humanist and the scholastic traditions, developed a system of popular sovereignty which went far beyond anything contained in the Lutheran theories. Skinner has taken great pains to understand the history of scholastic thinking on the nature of the state. His chapters on the subject (II, pp. 113-185) are among the best in the book. For the Calvinists, the need to expand their theory grew steadily more urgent as time went by. As a small minority in a predominantly Catholic population – this applies, of course, to France and the Netherlands and not to England or Scotland – they could only make very limited use of the resistance theory in its original form since, in essence, it amounted to nothing more than that the ephors had the duty to resist, or call for resistance to, a prince who

persecuted the true religion, i.e. Calvinism. It was therefore necessary to develop this religious duty of resistance into a political right of resistance in which the non-Calvinist population might share. The Huguenots succeeded in doing this.

They followed the humanist view of the history of law. By the sixteenth century, humanist scholars had shown that Roman law ought not to be regarded as universal, but should be studied as a system of jurisprudence which was valid for a particular geographical area and a particular historical situation. In other countries at other times, other systems had obtained, and they too merited thorough analysis. Thus there arose a great interest in national legal traditions; in France extensive studies were undertaken with considerable historical insight. It is well-known what far-reaching political consequences this kind of work had when François Hotman, a humanist-trained expert on old French law, placed his expertise at the service of Calvinist propaganda. His *Francogallia* (1573) was an impressive and erudite disquisition on the traditional, democratic constitution of France which, according to him, had been violated by absolutist monarchs. From ancient times, argued Hotman, sovereignty had resided in the people and had been exercised by the States General. This was not perceived, writes Skinner, as a situation obtaining merely during conflict between the prince and the people; it was 'a theory of absolute popular control, not a mere theory about the possibility of restraining a king *in extremis*' (II, p. 313). In this way the historical element in the political debate was given a heavy emphasis which it was to retain for a long time. This is, of course, also true of Dutch history. The ancient constitution, the old rights and privileges, the long Dutch tradition of popular sovereignty were rehearsed endlessly in the political propaganda.

To this humanist-historical analysis, the extremely eclectic Calvinists were to attach the scholastic tradition of natural law. This was old and complex. In some of its manifestations it possessed a sharp democratic edge which had been finely honed in the famous debates within the Church over the relationship between papacy and councils. In the *Vindiciae contra tyrannos* there are repeated references to Aquinas, Bartolus, Baldus and resolutions of the councils of Constance and Basel. It was owing to these influences that the Calvinists were able to develop their theories about the original liberty of men and their decision to unite in a political community based on contract, the inalienability of their natural rights and the fundamental nature of popular sovereignty. These theories also served to present the Calvinist revolution to the non-Calvinist population as justified by the natural rights of the citizen in general, and certainly not just by the absolute truth which God had revealed to the

few. But whatever its presentation, whatever its derivation, the whole theory, both in terms of positive as well as natural law, was extremely radical, extremely revolutionary and extremely democratic. It was almost totally modern. Locke was to complete it, for he no longer limited the right of resistance to the lesser magistrates and particular elected representatives of the people (the *ephors*), but made it available to the 'body of the people or any single man ... deprived of their right'.⁴¹

Summarized thus, Skinner's thesis probably sounds convincing. But however impressively reasoned and substantiated it may be, the case still seems inconclusive. In the first place, the terminology, at least to Dutch ears, is somewhat extravagant. Words like 'revolutionary' and 'popular' are used in a manner which Dutch historians find startling, accustomed as they are to endless, and admittedly fruitless, debates about whether the Revolt was a revolution or whether it was progressive or not. None of them would dare to assert that the Huguenots wrote 'a defence of popular revolution' (II, p. 338) or that the Calvinists in general were radical revolutionaries. Such vocabulary is perhaps acceptable in a work of social history which attempts to employ the terms in an objective, scientific sense, but hard to comprehend in a book about intellectual history, when we know that the doctrines in question were put forward by the authors themselves as very far from revolutionary, and indeed as highly conservative. May one then tacitly set aside these claims, as Skinner does? Did the Calvinists deliberately conceal their revolutionary nature out of caution, so as not to offend and to attract the support of as many gullible people as possible? Or did they in some degree really believe that it was they who were defending the old order against the tyrants? These are extremely simple questions which can probably be answered by commonplaces. But may one, not without a certain amount of intellectual arrogance, neglect even to ask them and thereby create the impression that the conservative style of the French and Dutch Calvinists theorists was merely a rhetorical ploy and a means of propaganda?

Skinner makes as little effort to penetrate to the heart of the concepts which were employed as he does to enter into the psychological motives of their authors whom he otherwise subjects to such acute analysis. Terms like 'people' and 'sovereignty' remain in most cases virtually undefined, so that while we can discover where the various writers wished to locate sovereignty – with the people or their representatives or with the prince –, we are not told

⁴¹ Skinner, *Foundations* II, p. 338. Citing John Locke, *Two Treatises of Government* (ed. P. Laslett, 2nd ed., Cambridge 1967), p. 397.

what they understood by 'sovereignty', 'people' or 'representation'. The curious result of all this is that one can wholeheartedly accept Skinner's exposition, not merely out of respect for the quality of his work but even with complete conviction, without actually agreeing with him. There is, after all, nothing to prevent anyone from asserting that the Calvinists were revolutionary, because according to modern sociological theory they acted in a revolutionary manner; there is even less to prevent one from claiming that their theory was modern since their revolutionary actions were supported, and in their eyes justified, by their conception of popular sovereignty. However, when one attempts to determine in what sense these words were actually used, and should be used, then the opportunities for disagreement are greatly increased. This is apparent from the contrast between the first section of this article and the summary of Skinner in the second.

To set the problem raised by Skinner's book in a different perspective, it may be useful to draw a comparison between Althusius and Locke. Skinner does not deal with Althusius, perhaps because his work was not published until three years after the turn of the century.⁴² Moreover, he does not know him well enough: his suggestion (II, p. 346) that Althusius was unable to accept the Aristotelian view of man as a social being, proves it. However, he does claim that Althusius produced 'the most systematic statement of revolutionary Calvinist political thought' (II, p. 341). So it would without doubt be completely in accordance with Skinner's premises to devote some time to contrasting the work of Althusius and Locke.

It must, therefore, be demonstrated that Locke did something different from the monarchomachs and, more particularly, that the sense of his argument differed from what Althusius had in mind when he summarized the monarchomach theory. But before doing so, it may be helpful to make some observations on the relationship between the Catholic theory of natural law and the Calvinist system which, as Skinner also shows, displayed a close affinity to it. The ideas on natural law which developed within scholasticism were not used by the Calvinists merely as a relatively abstract philosophy but were applied by them in a concrete manner to an actual political structure. The grandiose hypotheses about man's natural right to good government were given pointed political significance by the Calvinists because they, unlike their predecessors, specified the institutions which, as representatives of the

⁴² On the other hand, it is striking that Skinner does devote considerable attention to Francisco Suárez's principal work *Tractatus de Legibus ac Deo Legislatore* which appeared in 1612, nine years after the first edition of Althusius's *Politica*.

sovereign people, had to ensure that government was conducted correctly, had to criticize the government, correct it and even dismiss it when it failed. At the heart of their ideas lay the proposition that the parlements or the estates were the representatives of the sovereign people. The Calvinists, therefore, did more than take over the Catholic theory of natural law; they added to it the idea of a representative system which first appeared in Beza's *Du droit des magistrats sur leurs sujets* in 1574.

More than enough was said in the first section of this article about the Calvinist interpretation of the concepts 'people' and 'sovereignty'. In the context of the debate with Skinner a further comment must be added on the concept of representation. As a political scientist, Skinner naturally realizes better than anyone that this is an exceedingly difficult concept to describe. But since he makes no attempt to define it anywhere in his book, he appears, perhaps unintentionally, to suggest that during the period with which he deals, it meant more or less the same as we understand by it when we use the word without thinking. (If we do start to think about it our interpretation becomes extremely uncertain.) Now that is imprudent. We would then surely have to assume that the monarchomachs considered the estates to be representing the will of the individual members of the community. This, however, they could not do. It becomes immediately apparent when we take account of the fact that by 'the people' they did not mean a group of individuals but a set of relationships, a coherent order. It becomes even clearer when we realize that the meaning which we now attach to the concept of representation is modern and was not current either in classical or medieval times. Hasso Hofmann has recently produced a systematic demonstration of this in a book on the history of the word and concept of representation⁴³ which, though unfortunately exceptionally difficult to read, has been unjustifiably ignored by Skinner.

The crux of the matter, in Althusius's work as well, is that the word 'representation' continues to be dominated by its Latin root *praesens*. So if it is said of a college of ephors that it represents the people – and Althusius speaks of the 'ephoros populum totum corporum consociatorum repraesentantes'⁴⁴ – then the people are regarded as being in some way 'present' in the ephors, which is to say that they embody the social bond which unites people in society. In the Dutch pamphlets of the 1570s the representative function of the

⁴³ H. Hofmann, *Repräsentation. Studien zur Wort- und Begriffsgeschichte von der Antike bis ins 19. Jahrhundert*, Berlin 1974.

⁴⁴ *Politica*, xix, p. 18; cf. Hofmann, p. 364.

estates is pointed out repeatedly, as are the implications of this function; namely, the defence of ancient rights and privileges and of the traditional social order.⁴⁵ Quite clearly, therefore, the formula does *not* mean that these assemblies are appointed by the people to give expression to the popular will.

If this is the case, the Calvinists' institutionalization of natural law theory produced a remarkable effect. For the conception which they took over implied that men were by nature free and equal, that they founded the state to defend their freedom more effectively and that the sole purpose of the state was therefore to protect their natural rights. Before the Calvinists made their appearance, it had been unclear what should happen if the state violated these natural rights and failed to fulfil the purposes for which the people had created it. The Calvinists now asserted that the original popular sovereignty of the state of nature had been preserved in the inferior magistrates and, in particular, the estates who were thereby obliged to correct their rulers whenever they failed to further the ends of the state. But somewhere in their chain of argument an important conceptual shift occurred. For by the time they reached their conclusion it was no longer a question of defending the natural rights of free and equal men, but of defending the positive laws which made up the traditional social order. And that social order, as clearly emerges from the work of Althusius, is a corporative order in which the function and status of every individual is firmly established. It is self-evident that the assemblies of estates were not defending the rights of free and equal individuals: they were defending the obligations of individuals who differed greatly from each other because they lived and worked in widely differing social positions.

These assumptions are particularly marked in Althusius. His analysis served to demonstrate not just that political society, for reasons of utility and security, was often indispensable, but also that it emanated from the most fundamental needs of human nature. He describes the place of the individual in the various communities to which he belongs. He portrays man continuously and exclusively in his social role. He follows him on his journey through society. He studies him as a member of the family, the guild, the local community, the province and the state; in other words, as a social being in the enormous complex of social functions which he must fulfil simultaneously. Althusius naturally tried to give a precise definition of the rights and obligations of the individual in all his various roles, but again the code of rights and duties is consistently presented in the context of the community to which the individual belongs. Of course the political community is useful to the individual in

⁴⁵ Cf. examples in Kossmann and Mellink, *Texts*, p. 120, 139, 185.

so far as it offers him shelter; if it did not do so it would lose its *raison d'être*. But there is no question that the existence of the political community is itself in any way dependent upon the decisions of individual wills; it is quite simply a necessity. The point which must be emphasized, as Friedrich has argued so cogently,⁴⁶ is that the conscious will of the individual has no creative significance in Althusius's system, either in the founding or in the administration of the community.

It seems to me that these ideas are far removed from those of Locke. One can perhaps best show this by briefly analysing three elements which are unimportant to Althusius but for Locke are quintessential: individualism, voluntarism and democracy. It goes without saying that Locke's system is individualistic. His polemic in the *First Treatise of Government* against the absolutist- patriarchal hypotheses of Robert Filmer is that of the individualist versus the collectivist. Had Althusius been able to follow the debate, he would have totally rejected Filmer's royal absolutism but would have supported his vision of a natural and intimate bond between men living in society. Locke, on the other hand, he would not have understood. Locke accuses Filmer repeatedly of failing to explain why and in what circumstances an individual should obey an organ of government: 'For were I never so fully persuaded that there ought to be magistracy and rule in the world, yet I am nevertheless at liberty still, till it appears who is the person that has right to my obedience'.⁴⁷ Political theory, in Locke's eyes, was essentially concerned with determining the nature and extent of the individual's duty to obey authority, and he set himself the task of showing that such an obligation could emanate from nothing else than the consent of the individual himself living within the state. He stated emphatically that in the state of nature all men live as completely free individuals 'till by their own consent they make themselves members of some politic body'.⁴⁸ And what would Althusius have made of Locke's famous dictum that 'Law, in its true notion, is not so much the limitation as the direction of a free and intelligent agent to his proper interest',⁴⁹ or of his proposition that every young man entering adulthood must be presumed to decide for himself whether or not to enter the political community to which his father belongs: 'For every man's children being by nature as free as himself, or any of his ancestors ever were, may, whilst they are in that freedom, choose what society they will join them-

⁴⁶ In his introduction to the *Politica*, p. LXIX-LXXX.

⁴⁷ Locke, *Two Treatises*, p. 220.

⁴⁸ *Ibidem*, p. 296.

⁴⁹ *Ibidem*, p. 323.

selves to, what commonwealth they will put themselves under'.⁵⁰

There seems little point in piling quotation upon quotation to illustrate the world of difference which exists between Locke and Althusius. Essentially it boils down to this: in the first place, Locke had a voluntaristic conception of the power of the state. For him, law was not a purely objective datum established in the Divine order; it was the product of a decision of will. To him it was self-evident that sovereignty was characterized by its ability to make law. He had written this in his early, rather un-original and extremely un-liberal political reflections of 1660 and the next few years; it is naturally also reflected in the fact that his *Second Treatise* refers to the supreme power simply as the 'legislative'.⁵¹ In other words, the citizen does not obey because the law embodies eternal, rational truth, but because it is willed by a legitimate higher authority, the legislative. Secondly, up to the end of his disquisition Locke employs those individualistic premises of natural law theory which the Calvinist writers had abandoned at the point in their argument where they ascribed the representative function to the estates. By means of this principle of representation they transformed the individualistic theory of natural law into a conservative theory of an immutable, traditional constitution. Locke, on the other hand, attached far less importance to representation. For him there was no question of identifying the representative bodies with the people, or the people with the social structure; consequently, it was quite possible for the people, or an individual member of the people, to offer resistance to parliament. Admittedly Locke's reasoning is not always consistent; his terminology is confusing (words like multitude, people, society, individual are not clearly defined);⁵² his concessions to the old communal theories are as considerable as they are ingenious.⁵³ Nevertheless, his individualism permeates the entire system thereby destroying the old but durable medieval corporative elements which formed the core

⁵⁰ *Ibidem*, p. 333; cf. p. 364 ff.

⁵¹ John Locke, *Two Tracts on Government* (ed. Philip Abrams, Cambridge 1967): 'Per magistratum ... intelligimus illum ... cui ... condendarum abrogandarumque legum delegata est potestas ...' (p. 187) and *Two Treatises*, p. 286: 'Political power ... I take to be a right of making law ...' On Locke's voluntarism see Abrams' introduction to *Two Tracts*, p. 70 ff.

⁵² See e.g. p. 429 where he says that when 'the Government visibly ceases ... the People become a confused Multitude' while in the following paragraph we read that 'when the Government is dissolved, the People are at liberty to provide for themselves ...'.

⁵³ One might cite for example the ambivalent sentence in § 77 of the *Second Treatise* (p. 336): 'God having made Man such a Creature, that, *in his own Judgment*, it was not good for him to be alone, put him under strong *Obligations of Necessity, Convenience, and Inclination* to drive him into Society ...' (my italics).

of the Calvinist theory – indeed the argumentation seems at times to approach anarchism.

Of course, it also approaches a form of democracy. It is interesting to observe how Locke's attitude towards the phenomenon of 'the people' evolved during his lifetime. The short, unpublished tract which he wrote in 1660 repeats the age-old commonplaces about the imperfection of the masses: 'the multitude that are as impatient of restraint as the sea ... always craving, never satisfied ... a confused multitude ... whom knowing men have always found and therefore called beasts'.⁵⁴ Twenty years later, in the *Second Treatise*, he rejects such generalizations: 'Perhaps it will be said, that the People [are] ignorant and always discontented ... To this I answer ... People are not so easily got out of their old Forms as some are apt to suggest ... Revolutions happen not upon every little mismanagement ... Great mistakes ... many wrong and inconvenient laws and all the slips of humane frailty will be borne by the People without mutiny or murmur'.⁵⁵ Abrams finds an explanation for this radical change of attitude in the growth of Locke's ideas about the possibility and impossibility of knowledge.⁵⁶ During the 1660s he began to lose his belief in human rationality and the existence of a class of wise men elevated high above the bestial multitude. It is very striking how, exactly at this time, a closely parallel development was taking place in the Netherlands. The brothers De la Court and Spinoza, writing in the 1660s and 1670s, took issue with the traditionally-held contempt for the masses because they refused to believe that men of higher birth or superior education were any less swayed by their passions than the common man.⁵⁷ Whereas Locke changed his view of the masses as a result of his study of human understanding, De la Court and Spinoza were inspired by the study of psychology as outlined in Descartes' *Passions de l'Ame*. In both cases their anti-humanist and anti-Calvinist psychology brought them to a new appreciation of the people.

It hardly seems necessary to write a conclusion. Althusius's theories differ from Locke's on so many points, in their spirit, intention and effect, that it is quite meaningless to see in one the forerunner of the other – though this is the necessary consequence of Skinner's interpretative framework. On the contrary, the comparison demonstrates just how far the Calvinist system was from being

⁵⁴ *Two Tracts*, p. 158.

⁵⁵ *Second Treatise*, p. 432-3.

⁵⁶ *Two Tracts*, p. 96-97. Cf. too Raynond Polin, *La politique morale de John Locke*, Paris 1960, p. 155-163.

⁵⁷ See above p. 69 ff., p. 77 ff.

'modern' – at least in Skinner's definition of the word. Indeed, it could hardly be otherwise as I should like to demonstrate by returning briefly to some of the points touched on at the beginning of this article.

III

In present-day Western society, those who describe themselves as revolutionaries have little need of a political theory before getting involved in every conceivable form of civil disobedience. They apparently take their right of resistance for granted and, indeed, only in the most extreme cases of armed political terrorism do the authorities concerned take the trouble explicitly to deny this assumption. But when conflict does develop into violent confrontation the discussion assumes many characteristics which are strongly reminiscent of the sixteenth-century debates. For like the sixteenth-century Calvinists, the revolutionaries take the view that the legitimate authorities have become tyrants, have placed themselves outside the state and may be opposed openly by force of arms as alien foes. They declare themselves, as did the sixteenth-century Calvinists, to be the true representatives of the people's interests. For the defenders of parliamentary democracy the response to such challenges is intellectually and physically much easier now than it was for the defenders of absolute monarchy in the sixteenth century. The will of the people is, after all, assumed to find expression in the representative assemblies which generally reject revolutionary terrorism on principle. Furthermore, the means of repression are so much more efficient than during the *ancien régime* that terrorism in the Western democracies has been reduced without much effort to a peripheral phenomenon. This may explain why neither the revolutionary ideal nor its rejection in the 1960s and 1970s produced a usable political theory.

The minor manifestations of civil disobedience – the occupation of public buildings, deliberate and open defiance of the law – are justified by a theory which amounts to no more than an axiom: what we want (a democratic university, free abortion, peace in Vietnam) is better than what the state wants, and therefore the state, i.e. the people's representatives, must comply with our wishes. The underlying assumption here is that the superior quality of a minority standpoint should prevail over the presumed (but according to the opposition, manipulated) general will of the majority; a postulate which is certainly defensible but in this form cannot in any way be regarded as a political theory. In any case, here too it seems that a political theory is unnecessary, since governments enter into discussions with the occupiers and lawbreakers not about the legitimacy of their actions but about the possibility or otherwise

of meeting their demands. Hence, the right of resistance appears to be tacitly recognized even by the democratic state whose only reason for existing is that it is assumed to carry out the will of the people. Everyone sees the logical contradiction in this situation but in our present-day society there is evidently no pressing need to resolve it.

So we have good reason to be amazed at the untiring exertions of the men of the sixteenth and seventeenth centuries. What was it that drove them to speculate endlessly on the grounds and limitations of obedience? Why did they fill entire libraries with their writings? Why did they arrange and rearrange, interpret and reinterpret what were, after all, a very limited number of arguments and counter-arguments expressed in a political vocabulary of very limited range? What they produced cannot but appear to us as monotonous, rather unconvincing and scarcely necessary. It takes an effort on our part to understand their tortuous reasoning; it is even more difficult to comprehend why it was all so important to them.

The main reason for this divide between them and us is that they lived in a period when the state, which is now so all-pervasive, was still under construction, only recently established and extremely unstable. In spite of all its pretensions, the authority of the sixteenth-century state was weak and limited and did not extend much beyond the centres of government. For many people the state was incomprehensible in every respect: they could not hear its voice because it was too distant, they could not understand it because it used a foreign language, they could not decipher its decrees because they could not read. The now all-embracing authority of the state was then still very limited in scope. Nevertheless, contemporaries observed its growth and although they did not know exactly what was happening, it was clear that the state had more money and weapons at its disposal and was imposing its authority with increasing pomp on ever-increasing numbers of people. Disagreement over the distribution of the new power led to serious and prolonged conflict. The Calvinist opposition realized that the situation was extremely dangerous, for by resisting the monarch's claims to this new power it ran the risk of bringing down the entire political order, and creating anarchy in which the traditional values of society would be destroyed. That is why it was so important to have a theory of resistance which would not merely legitimize opposition but also define the limits of opposition and indicate its constructive significance. Calvinist resistance theory in the sixteenth century was no mere justification of revolt; it was designed to show how political power should be used and by whom.

If the foregoing argument is correct, a number of conclusions may be

drawn. The Calvinist constitutionalists expected the state to use its new political power in a peaceful manner. They opposed monarchical arrogation of this power because the kings intended to use it in an arbitrary fashion. Hence their deep aversion to voluntarism. They hoped to tie down the growing power of the state in institutions and constitutions. They sought continuity and permanence. Their so-called resistance theory was the opposite of a theory of revolution; it was rather an attempt to stabilize the dynamic of the state as it developed in power and scope, and to make the process of political decision-making objective. To do all that they needed a political theory. Nowadays, we have far less need of a political theory to justify resistance because, totally enclosed by the state, we have no reason to fear that it will collapse and because we only know the authority of the state as something which is objective and anonymous.

Part 3

Dutch Republicanism

In his *Utopia and Reform in the Enlightenment*, that learned and illuminating book on the problem of the republic, Franco Venturi wrote a passage which may serve as a *motto* for this paper. He compares the situation of Genoa and the Dutch Republic in the middle of the eighteenth century and finds that, of course, there were great differences, but, he goes on,

the problems of the two states were not really so dissimilar. First of all, were they to be neutral or belligerent? The argument was lively and manifold, but the conclusion was unanimous. By the middle of the eighteenth century, the old republics could survive only if they withdrew from the conflicts of the great powers. There were to be no alliances and no wars. Both Holland and Genoa ended by admitting that Venice was right. In the middle of the eighteenth century the commercial state had to be neutral. The example of the classical republics was fatal to them, the worst the modern ones could follow.¹

In an eloquent passage some pages earlier Venturi described the policies by which Austria, in the eighteenth century, sought to isolate Venice, to rob it of its commercial power and to absorb it in its own sphere of influence. Venice, he states, reacted to this 'with the typically republican reflex of immobility. It followed a policy of programmatic conservatism. It tried to withdraw from the daily course of events to contemplate itself in its perpetuity'.²

With statements like these Venturi leads us into a discussion of major proportions and of major importance. Thanks to its information and its analytic precision *Utopia and Reform* is an interesting contribution to it. More sharply than in many larger books does this small one show how fundamental the problem of the republic was in the eighteenth century, how it was constantly discussed and in what extraordinarily complicated variations it turned up in the middle of arguments about much wider issues than merely constitutional arrangements. Perfectly aware of the fact that the surviving republics in eighteenth-century Europe were on the whole 'antique and decaying ruins' many

¹ F. Venturi, *Utopia and Reform in the Enlightenment*, Cambridge 1971, p. 41.

² *Ibidem*, p. 34.

observers still felt sympathy with their spirit; their admiration was not so much for republics as a form of government but for the republican morale. In the middle of the eighteenth century, Venturi tells us, 'the word republic found an echo in the minds of many people, but as a form of life, not as a political force'.³

One of the difficulties for the student of the republic was, in the eighteenth century as well as now, the problem of definition. It was, and is, not easy to make as clear a distinction between monarchy and republic as one would have liked and it is most interesting to see how for some eighteenth-century writers the word republic came to stand for moderate government generally even if it was led by a hereditary royal dynasty. In 1763 Stanislaus Leszczyński, the titular king of Poland who ruled Lorraine and who was the French king's father-in-law, divided Europe's states into two categories, the monarchies (France, Spain, Portugal, Naples, Sardinia, Denmark, Prussia and Russia) and the republics (Britain, Holland, Sweden, Poland, Venice, the Swiss cantons and Genoa). His own preference went undoubtedly to the republic. In his view republics were not moved by the 'esprit de conquête' which permeated monarchies; they felt no envy and wanted only to preserve what they possessed, including their form of government and their liberty.⁴ It is obvious what had happened here. Leszczyński equated the republic with moderate or mixed government. He was not the first nor was he the last to do so.⁵ What, however, makes his statement so interesting is that he equips the *regnum mixtum* with the characteristics often reserved for states where the absence of all royal or semi-royal power leaves the citizens free to pursue their individual interests peacefully, quietly, not disturbed by monarchical ambition.

In recent years J.G.A. Pocock has in a large number of fascinating books and articles propounded a view of the Atlantic republican tradition and of the ideology of the *regnum mixtum* which is, on the face of it, the very opposite of Leszczyński's interpretation and which does not seem to fit into the model sketched by Venturi. It is as if we, the readers of Venturi's and Pocock's publications, are put in the presence of two entirely different, incompatible, even

³ *Ibidem*, p. 71.

⁴ *Ibidem*, p. 92.

⁵ A curious example of this usage is to be found some decades later in the *Versuch über den Begriff des Republikanismus* (1796) by Friedrich Schlegel, *Werke* (ed. E. Behler, 1966) vii, p. 11 ff., as referred to by Ulrich Scheuner, *Der Beitrag der deutschen Romantik zur politischen Theorie*, Opladen 1980, p. 30 and 33. For Schlegel republicanism is moderate government; its anti-thesis is not monarchy but despotism and this may well be the despotism of a majority in a democratic republic.

hostile republican traditions, both described with great scholarship and eloquence. Venturi's republican tradition is the tradition of the peaceful commercial commonwealth, politically conservative, inclined to insist on the rights rather than the duties of its citizens whereas Pocock offers us in great and impressive detail a tradition of anti-commercial republicanism, agrarian, combative, stressing the duty of the citizens to participate in government and, above all, in warfare. In other words, Venturi's republic stands for what Benjamin Constant in 1819 called the 'liberté des modernes', that is, civil or negative liberty; Pocock's republic stands for the 'liberté des anciens', that is, political or positive liberty.

The intention of this paper is not to arbitrate between these interpretations but only, much more modestly, to consider the content of one particular republican tradition, the Dutch one, and to see if these models help to understand it. But before trying to sketch the development of Dutch republicanism it may be useful to summarize Pocock's views in some more detail. However, Pocock's methods and interpretations are so complicated and his argumentation is so flexible that summarizing his work risks distorting it. The following cannot be more than a perhaps unwarranted simplification. It deals, moreover, with only two points, deliberately leaving out a number of aspects that need not concern us at the moment. We consider, first, his thesis concerning the connection between republicanism and the rise of modern historiography and secondly, his location of English and American republicanism – or ideas about mixed government – in what he calls the Machiavellian paradigm.⁶

As far as the first point is concerned, Pocock analyses with great care the far-reaching discussion, started in late fifteenth-century Florence, about some closely connected issues of major importance. There was the question if and how the independence of a republic like Florence could be maintained. The question implied, of course, that the continuity of a republican state was by no means granted and this in turn inspired some supremely intelligent minds in fifteenth-century Florence to study in depth the history of states and forms of government, the changes which they underwent, their corruption, the means by which they might be restored thanks to bold innovation. History thus became an independent object of study which the student should try to make

⁶ J.G.A. Pocock, *The Machiavellian Moment. Florentine Political Thought and the Atlantic Tradition*, Princeton U.P. 1975. Pocock, 'The Machiavellian Moment revisited: a Study in History and Ideology' in *Journal of Modern History*, LIII, March 1981, p. 49-72. Pocock, 'Virtues, Rights and Manners: a Model for Historians of Political Thought' in *Political Theory*, ix, 1981, p. 353-68. Pocock, 'The Problem of Political Thought in the Eighteenth Century: Patriotism and Politeness' in *Theoretische Geschiedenis*, ix, Amsterdam 1982, p. 3-24.

transparent. History is about changes with causes and effects. Knowledge of these may help us to make the republic healthy. This, Pocock says, is an attitude sharply different from the medieval paradigm in which the temporal, that is, history, could never obtain such a central significance. The civic humanists in Italy studied the changes in human affairs, the historical element, and thanks to this unmedieval preoccupation they discovered or rediscovered history as a separate, independent element to be studied without reference to God. The civic humanists, aware of the vulnerability of the republican form of government, realized that human affairs were unstable and constantly changing and that historical knowledge might be of help if one wished to preserve a republic constantly threatened with corruption and decay.

As a result of this fundamental change in attitude a new paradigm developed with a new vocabulary. The pivotal terms were republic and *virtù*. Machiavelli examined the method thanks to which it would be possible to give a republic some stability. This could be achieved by making men behave as citizens who experienced their citizenship as the true fulfilment of their human capacity. Life in the state, a civic existence, was to give men their ultimate purpose in life. Such a civic existence implied that men participated actively in state affairs. The continuity of a republic, therefore, was dependent on the involvement of the citizen, on his *virtù*, his strength, his energy, his willingness to lead a *vita activa* and to serve as a soldier to defend and to aggrandize the state.

It is Pocock's thesis that this paradigm survived the collapse of the North Italian city states. In the middle of the seventeenth century it was taken up by James Harrington in his *Oceana* (1656)⁷ and then became a major issue in the British debates of the early eighteenth century. Finally it was adopted by the American Founding Fathers; these, according to Pocock, derived important elements of their thought and their ideals from the more or less republican ideology formulated about 1700 by the so-called Country Party rather than from some form of Lockean liberalism. The Machiavellian tradition was not liberal. Machiavellians want men to be virtuous and to live a full life as citizens participating in the political and military affairs of their state. Lockean liberalism makes no such claims. It does not require the subjects to take up such responsibilities; it merely wants to organize the state in such a way that the citizen can fully enjoy his right to live his own individual life. In a liberal system the citizen may well leave government and defence in the hands of

⁷ See *The Political Works of James Harrington*, edited with an Introduction by J.G.A. Pocock, Cambridge U.P., 1977.

experts appointed and controlled by him, the professional administrators and soldiers. He himself devotes the best of his time and his efforts to the cultivation of his own interests and his own development.

Although some more detail about these matters will be provided later, enough has been said to put the question which must be considered in this paper: where do we place the Dutch Republic if the Atlantic republican tradition possesses this character? This is a legitimate question, because in Pocock's history the Dutch Republic does not play a role. This is perhaps somewhat surprising. Pocock's starting point is the system of Italian republics which in the seventeenth and eighteenth centuries had become minor powers. His analysis then moves to England in the seventeenth and eighteenth centuries and England of course was, apart from a small number of years, not a republic at all. But (and this is by no means intended as a criticism of Pocock's learned and stimulating book) the greatest republic of the seventeenth and part of the eighteenth century, the Dutch Republic, is totally absent. Did it not belong to the Atlantic tradition, did it not conform to the Machiavellian paradigm? If so, what is the reason? These questions are extremely complex and it is difficult, perhaps even impossible, to answer them adequately. We must nevertheless at least try to clarify matters by considering a number of episodes in the history of Dutch republicanism chosen with the purpose of testing the relevance of Pocock's model in the Dutch case. In order to keep the argument under control it will be confined to an early seventeenth-century writer, P.C. Hooft, to the work of De la Court and Spinoza published some decades later and finally to the discussions between Patriots and Orangists in the second half of the eighteenth century. In all these cases either Machiavellianism or English political philosophy exercised such a decisive influence on the Dutch political debates that the intellectual situation seems exceptionally favourable for being interpreted in the ways proposed by Pocock. In other words, the examples are selected with the express purpose to provide Pocock's paradigms with the greatest possible credibility.

Pieter Corneliszoon Hooft (1581-1647) was a celebrated writer, the author of tragedies, fine lyrical poetry and a great historical work which formed the centre of his interests from the 1620s to his death. The best and largest part of the book was published in 1642: *Neederlandsche Histoorien*, the history of the Revolt of the Netherlands up to the assassination of William of Orange on 10 July 1584. This is a magnificent book, written in a style of singular beauty, solidly constructed on the basis of all documents then available. The theme is dramatic. But although Hooft allowed a large measure of patriotism to flow into

his narrative the book was certainly not intended as a eulogy of the Netherlands and as a heroic epic glorifying the struggle for liberty and national greatness. The book was rather intended as a dispassionate study in politics to provide lessons for 'the instruction of princes and peoples'. Now politics according to Hooft is a hard, cynical and sad affair. He was very well informed about the Italian literature on this theme. He translated parts of the famous, even notorious book by Troianus Boccalini, the *Ragguagli di Parnaso* (Venice 1612-13) which constituted one of the favourite sources of the English Machiavellian Harrington, a key-figure in Pocock's argument.⁸ Hooft wrote political aphorism in the style used since the sixteenth century to make politics into a science not unlike medical science and thus employing the literary device of Hippocrates who, four hundred years before Christ, wrote *aphorismoi*.⁹ Tacitus was the great example both for Boccalini and for Hooft. Hooft translated all his works and in his *Neederlandsche Histoerien* he tried to imitate Tacitean *brevitas*. The passage endlessly quoted in Dutch anthologies with which Hooft began his narrative is in fact a translation of Tacitus's most famous sentences – *Historiae* (I, II): 'Opus adgredior, opimum casibus, atrox proeliis, discors seditionibus, ipsa tamen pace saevom' which Machiavelli used to base his condemnation of the Roman Empire upon.¹⁰ When Hooft's book was published in 1642 his friend Govert Brasser thanked him for sending it: 'If (which God may prevent) Tacitus's *Histories* would get lost, then all his lessons could be assembled again out of your *History*'.¹¹

At first sight, it seems, one would be entitled to expect that Hooft, the author of the first original historiographical work in Dutch with literary and scientific pretensions dealing with the beginning of a new and powerful republic, would conform to what Pocock called the Machiavellian paradigm. This becomes all the more probable when one compares the *Histoerien* of his maturity with his exercises in drama written in the 1610s and particularly with his tragedy *Baeto or the origin of the Hollanders* (1617). *Baeto* stands in the tradition of the Batavian myth, that is, the idea that the Hollanders or Batavians formed an old people, destined to live forever, 'excelling in peace, in war, in everything', immensely respectable thanks to the antiquity and stability of their

⁸ *Political Works*, ed. Pocock, p. 74-5. Cf. on Boccalini: Else-Lilly Etter, *Tacitus in der Geistesgeschichte des 16. und 17. Jahrhunderts*, Basel 1966, p. 93 ff., and K.C. Schellhase, *Tacitus in Renaissance Political Thought*, Chicago 1976, p. 145 ff.

⁹ Etter, *op. cit.*, p. 19-20.

¹⁰ Schellhase, *op. cit.*, p. 70 ff.

¹¹ H.W. van Tricht, ed., *De briefwisseling van Pieter Corneliszoon Hooft*, 3 vols, Culemborg 1976-1979, vol. III, p. 455.

state.¹² *Baeto* was written seven years after the publication of Grotius's *De antiquitate reipublicae batavicae* (1610) of which the first draft dates probably from c. 1601 when the author was eighteen years old. In this work early seventeenth-century Holland was represented as the direct descendant of the Batavians who defeated the Romans and even at that time already possessed a fully developed and stable system of government. It is obvious that Pocock's interpretation of Machiavellian republicanism as an attempt to overcome or mitigate the tendency of states to become corrupted and to halt the process of decay by innovation cannot have had any meaning in the context of the sort of optimism about the perpetuity of the Batavian or Dutch Republic propagated by Grotius and Hooft. The interesting point, however, is that both authors seem to have abandoned this view later in life. In a letter to his brother of 24 January 1643 Grotius recognized that his thesis concerning the antiquity of Holland was pushed too far.¹³ In Hooft's *Histoorien* published one year before there are passages which indicate that he too had changed his point of view. There is, at any rate, in this scholarly work no trace of *Baeto* and the Batavians left. This is a book about contingencies, human drama, human triumphs and human cruelty. Hooft did not conceal the fact that not only the Spaniards but also the rebels were responsible for outrageous misdeeds. One of those who perpetrated such inexcusable horrors was Lumey, the leader of the rebel Sea Beggars. Hooft tells us how, in 1573, Prince William of Orange wanted to have him tried for his crimes. However, it turned out to be impossible to condemn him. 'The state – Hooft writes – was at that time not yet firmly enough established to allow strict discipline to be exercised' in relation to such a popular personality.¹⁴ This is characteristic. Hooft's object of study in 1642 was by no means an ancient and unchanging structure but an unstable state, a state not yet completed, a state only just beginning to adopt some sort of form. If ever there was a Machiavellian Moment in Dutch intellectual development one might suppose it was the day when Hooft started to describe the Dutch Revolt in Tacitean style.

Yet Hooft was not a republican in the manner described by Pocock. The Dutch Republic was for him not the closely-knit militant community which

¹² See for this I. Schöffers, 'The Batavian Myth during the Sixteenth and Seventeenth Centuries', in *Britain and the Netherlands* v, ed. J.S. Bromley and E.H. Kossmann, The Hague 1975, p. 78-101.

¹³ Hugo Grotius, *Epistolae*, 1687, p. 947, no. 636.

¹⁴ P.C. Hooft, *Nederlandsche Histoorien*, Amsterdam 1642, p. 289. In Dutch the sentence runs: 'De staat, dat pas, stond nog op geen' stylen, om strakke oeffening van tucht te kunnen draaghen...'.

makes the citizens devote the best of their activities to the common good and makes them participate in governing as well as in defending and expanding the state. Hooft's position was much more ambiguous. He came from the Amsterdam mercantile patriciate but his job as judge and administrator of Gooiland, Muiden, Naarden and Weesp, though not a sinecure,¹⁵ was not a function of political importance. He avoided involvement in the bitter quarrels between Gomarists and Arminians during the 1610s. He may have been a sincere Christian but, totally uninterested in dogmatic disputations, he did in any case not side with the orthodox Calvinists; politically however he tended to opt for the stadholdership, then exercised by Maurice of Nassau, rather than the grand-pensionaryship, then exercised by Oldenbarnevelt, although the former supported the Gomarists and the latter's most learned disciple and adviser was Hooft's friend Hugo Grotius. On 29 August 1618 Oldenbarnevelt and Grotius were put into prison by Maurice. A few months earlier, on 19 May 1618, Hooft sent a letter in Latin to Grotius – 'vir mihi omnium maxime' – in which he told him that not being of great practical use to the fatherland in serious affairs, he had decided to start writing a book from which the Netherlands might draw some profit: a biography of the French King Henri iv.¹⁶ The obvious purpose of the book was to show the stadholder, Maurice in the first place but specifically his brother Frederick Henry who was to succeed him in 1625, how a noble prince must govern his state. Hooft deeply admired Henri iv for rising above the political factions and for tolerating different forms of religion in his realm. Later in life Hooft revered Frederick Henry in much the same way. It would be incorrect to call Hooft a monarchist. He never expressed a clear preference for a specific form of government. If forced to choose he might in his pragmatic and eclectic way have opted for the *regnum mixtum* without bothering too much about legalistic technicalities. One should, however, not interpret his political ideas as reflecting the ideal of a constitutional monarchy based on the bourgeoisie, as has recently been done by one of the most learned Hooft scholars of this century.¹⁷ Such a form of government was surely unimaginable in a seventeenth-century intellectual and political context. For Hooft the Prince was not a constitutional monarch but a semi-

¹⁵ H.W. van Tricht, *Het leven van P.C. Hooft*, The Hague 1980, p. 114 ff.

¹⁶ *Briefwisseling*, 1, p. 330-2.

¹⁷ Van Tricht, *Leven*, p. 96 suggests this. The whole passage in which this statement occurs seems to me anachronistic. See both for Hooft's historiographical and his political principles the fine study by S. Groenveld, 'Pieter Corneliszoon Hooft en de geschiedenis van zijn eigen tijd' in *Bijdragen en Mededelingen betreffende de geschiedenis der Nederlanden*, xciii, 1978, p. 43-68.

divine Hero who, highly elevated above petty self-interest and vanity, reconciled both in war and in peace the horrible ambiguities of politics in a life of total devotion to his state and his people. In a very complicated poem Hooft once (1629) glorified Frederick Henry as such a 'perfect Hero' and later, in his *Histoorien*, he cast William of Orange into the heroic role that transferred Hooft himself, the sad and compassionate observer and reporter of all the evils in politics and society, to a realm of beauty and purity.

The Hero's task was not merely to triumph in battle; his mission was rather to end the war by winning it or, if that was unlikely, by persuading his enemies that they would not be able to win it either. The real purpose of his politics was to reach and maintain peace. Politics must serve peace. When Hooft writes about the value of peace – which in his country he did not experience, for the Republic was at war during his whole life – he does of course not follow Machiavelli but Erasmus. This point, too, shows how extremely difficult it is to place Hooft's republicanism in the model provided by Machiavelli and described by Pocock.

In 1660, eighteen years after the publication of Hooft's *Histories*, a volume appeared in Amsterdam entitled *Political Considerations and Examples concerning the Foundations of various Forms of Government*. The author who half concealed his identity behind initials – V. H. – explained in his conclusion why he had written the work. It was not, he stated, to stir revolution. It was only

to stimulate the thinking of those who in my fatherland have some part in government and who may draw conclusions from it for the benefit of the common subjects.

I wrote it in such a way, he went on, that the 'most excellent and experienced inhabitants' will be able to understand it whereas to the 'rabble and common subjects' it must seem 'obscure and forbidding'.¹⁸ Yet precisely the lower orders of society – 'the humble subjects who, too, possess a rational soul'¹⁹ – should profit from these reflections if their rulers, the Dutch patricians and regents, heed the warning and prevent their system from degenerating into despotic oligarchy. Perhaps this was indeed, apart from the polemics against the stadholderate and the Orange dynasty, the main practical purpose of the book, just as it was the only conceivable practical purpose of Spinoza's political

¹⁸ *Consideratien en exempelen van Staat, omtrent de fundamente van allerley Regeringe*. Beschreven door V.H., Amsterdam 1660. I quote from the fourth edition entitled *Consideratien van Staat ofte Politieke Weegschaal*. The quoted passage is on p. 665.

¹⁹ *Ibidem*, p. 654.

philosophy – which was in many important respects derived from suggestions and questions put forward by V. H. – to persuade his readers that an aristocracy should not become too narrow. However, this work was not primarily intended to serve short term objectives. It had the ambition to renew the study of politics and in a general, scientific, objective way to restate the case of republicanism in its purest form. The literature of this group of writers pursued therefore three aims: to found a science of politics, to demonstrate that scientific research leads to the conclusion that the republic, that is, the undiluted republic, not the *regnum mixtum*, is the best form of government, and that, thirdly, to be viable, this should be nearer to a democracy than to an oligarchy.

The ‘prudentissimus Belga V.H.’ whom Spinoza quoted in his *Tractatus Politicus* (VIII, 31) was called Van Hove but is more commonly known under the original French name of this family from the Southern Netherlands which settled in Holland: De la Court. There were in fact two writers of that name, Pieter de la Court (1618-1685) and his brother Johan (1662-1660). It is generally assumed that the political work, all of it edited by Pieter after Johan’s death, was based on texts and notes prepared by the younger brother but thoroughly revised and substantially expanded by the editor. Specifically the *Considerations* met with success. The book was reprinted various times in rapid succession and each new edition was bulkier than the preceding one: the first edition of 1660 had 369 pages, the fourth of 1662 no less than 670. The title had meanwhile been changed into *Political Considerations or Political Balance*. In 1662 appeared a second work, *Political Discourses*, in two volumes, which, Pieter tells us, also derived from unfinished essays and studies jotted down by Johan.²⁰ It has long been recognized that specifically the *Political Balance* provided Spinoza with information about states, forms of government, electoral systems and other concrete matters which he needed as a basis for his *Tractatus Theologico-Politicus*, on which he worked in the mid-sixties, and for the *Tractatus Politicus* which he started in the mid-seventies but could not complete before his death in 1677. More recently various historians have tried to determine Spinoza’s dependence not only on De la Court’s factual material but also on De la Court’s theoretical argumentation.²¹ It is unnecessary here to summarize the results of these researches apart from the general conclusion that if we try to

²⁰ *Politieke discoursen handelende in ses onderscheide boeken, van steeden, landen, oorlogen, kerken, regeeringen, en zeeden*. Beschreven door D.C., Amsterdam 1662.

²¹ I may refer to my own attempt, above, p. 74 ff. E.O.G. Haitsma Mulier, *The Myth of Venice and Dutch Republican Thought in the Seventeenth Century*, Assen 1980, devoted two long

determine the place of the republicanism of these authors in the history of political thought we may study this body of work as a whole.

The authors whom De la Court and Spinoza thought most useful for their purposes were Tacitus, Machiavelli and Hobbes. De la Court, who was convinced that political theory should be firmly rooted in scientific psychology, also carefully studied Descartes's *Les passions de l'âme* (1649) and in fact followed his master's views obediently, much more obediently than Spinoza, whose psychological hypotheses differed from those of Descartes. Did De la Court also know works by Harrington? He certainly knew enough English to read them in the original. This was indeed a precondition. C. W. Schoneveld, whose *Intertraffic of the Mind* (a delightful work) contains a checklist of books translated from English into Dutch during the seventeenth century, did not find any Dutch translation of James Harrington's publications. Hobbes was undoubtedly much better known.²² His Latin *De Cive* (Paris 1642) was reprinted in 1647 in Amsterdam and published in a French translation in the same city in 1649. In 1652 a French version of *De corpore politico* (which Hobbes wrote in English) appeared in Leiden. In 1667 *Leviathan* was published in Dutch. Schoneveld supposes that Spinoza, who knew no English, may have been shown the Dutch version a few years before publication, round about 1665 when he was writing his *Tractatus Theologico-Politicus*, by the translator Abraham van Berkel.²³ Hobbes's own Latin translation of *Leviathan* came out in 1668, also in Amsterdam. In 1675 finally *De Cive* was published in Dutch. Dutch intellectuals unfamiliar with English had ample opportunity to study Hobbes in another language.

The very fact that Hobbes's work was made available to Dutch readers and Harrington's was not, suggests that the latter's influence in the Netherlands was much smaller if it existed at all. This itself is remarkable. Why should fervent Dutch republicans, radically opposed to all forms of monarchical or semi-monarchical power, have been impressed by some of Hobbes's monarchical views and even have appreciated *Leviathan* (1651) as an important contribution to political science while largely ignoring the republican ideas of

chapters to a penetrating study of De la Court and Spinoza and he succeeded in describing the intellectual connections between Machiavelli, Hobbes, De la Court and Spinoza with more precision than his predecessors. See the work of H. W. Blom mentioned above, p. 22 ff.

²² C.W. Schoneveld, *Intertraffic of the Mind. Studies in Seventeenth-Century Anglo-Dutch Translations*, Leiden 1983. His second chapter is called 'Thomas Hobbes and Holland'. It provides fascinating information.

²³ *Ibidem*, p. 40.

Harrington's *Oceana* (1656)? The reason is of course that Hobbes provided the Dutch authors with a conception of indivisible sovereignty which they could use against the stadholder. In the Netherlands the idea of constitutionalism arising out of an initial social contract between people and ruler had led to a form of government which was often rather vaguely interpreted as a *regnum mixtum*. Such a system required a stadholder as the representative of the monarchical element. From 1650 to 1672, however, when the brothers De la Court wrote their books and Spinoza published his *Tractatus Theologico-Politicus*, most of the United Provinces did not have a stadholder and specifically the province of Holland and its Grand Pensionary John de Witt wished to prevent the Orangists from preparing the appointment of a new one in the future. In their view the Dutch form of government could not be a *regnum mixtum*. One should on the other hand not exaggerate Hobbes's influence on these writers. The De la Courts were far less systematic than Hobbes and their use of his work was highly selective. What they liked in him was his radicalism. They obviously delighted in studying so uncompromising an author who dared say unpleasant truths and draw bitter conclusions. Man was indeed a creature whose main purpose in life was self-preservation and who needed stable government to realize his objectives as best he could. Stability was indeed only to be found in a state equipped with absolute and indivisible power. Yet when Hobbes opted for the monarchy his Dutch disciples parted company with him without – this is a remarkable fact – ever emphasizing that they were doing so. The stablest and most absolute state, according to them, was the more or less democratic republic. In that state alone man is able to strive after freedom, freedom however not being defined in Hobbesian terms as the absence of external impediments to do what one likes but as the victory of reason over the human passions that try to make man a slave of his irrational impulses.

One may well ask oneself if Hobbes and the Dutch republicans were really thinking of the same phenomenon when they wrote about commonwealths, states or *respublicae*. They probably were not. The Dutch thought in terms of the city state. The city state, or a league of city states, represented for them normality and tradition. The huge absolute monarchies were a fairly recent departure from a situation which, in Europe at any rate, had prevailed for centuries. The more or less democratic republic which they envisaged as the best form of government in this sad and imperfect world was a city, large certainly, with tens of thousands of inhabitants, open to foreigners and drawing its prosperity from trade and industry, but not a country seen as a 'national' unity counting its inhabitants by the million. The problem now arises if this predominantly urban republicanism which was obviously totally

alien to Hobbes can be reconciled with the civic humanism as interpreted by Harrington in his *Oceana* and other works. In his *The Myth of Venice* the Dutch historian Haitsma Mulier, inspired by recent British studies on the impact of civic humanism in England and specifically by Pocock's publications, asked himself several times whether we may suppose De la Court (and through him Spinoza) to have been influenced by the English theorist. The question is as yet unanswerable. We simply do not know if De la Court studied *Oceana*. He may have been in touch with its author before 1671, when we have proof of such a connection,²⁴ but what the nature and the extent of these contacts were remains obscure. Two things however are clear. There is, in the first place, undeniably much in the positions of Harrington and the Dutch authors which is similar: their admiration of Tacitus, Machiavelli and Boccacini, their distrust of monarchical absolutism and of mercenary armies, their option for rotation of office allowing more people to participate in political discussion and decision than was customary at the time.

Yet, and that too is obvious, the objectives which they pursued were altogether different. Harrington wanted a predominantly agrarian England, equipped with a strong militia of landowners whose civic humanism expressed itself in their willingness to expand the state. The Dutch republicans considered agrarian interests as subordinated to commerce, trade and industry, and the city militias which they preferred to the mercenary soldiery would serve only for strictly limited purposes, that is, to defend the cities against attacks. In their view the conquering spirit was one of the main and one of the most disastrous characteristics of monarchies. Moreover, whereas Harrington's ideal state was a *regnum mixtum* with a monarch deprived of absolute power, the Dutch authors rejected such a solution not only as a logical absurdity, as Bodin and Hobbes had done before them, but also as a system which was by definition unstable and constantly in danger of degenerating into despotic monarchy. Finally, and decisively, the Dutch authors, asked to answer the (for them certainly unexpected and probably amazing) question what for them mattered most, the 'liberté des anciens' to participate in civic affairs and warfare or the 'liberté des modernes' to withdraw into privacy, would have opted for the modern liberty, the ultimate purpose of the state being to enable individuals to overcome their passions and to live a free and reasonable life. All things well considered, it would seem that the republican model described by Pocock cannot be easily applied to the theories of Harrington's Dutch contemporaries.

²⁴ Haitsma Mulier, *Myth of Venice*, p. 167. The author considers this repeatedly. I agree with his conclusions.

It is one of the serious *lacunae* in the historiography of Dutch political thought that no systematic research has been done about the reception of De la Court's and Spinoza's political work by their Dutch contemporaries and by the following generations of Dutch theorists. Yet even so it is not too bold to state that their success can have been but small. The De la Courts and Spinoza wrote their major books during a period when the main provinces of the Republic, the province of Holland in the first place, had left the office of stadholder vacant, or had even abolished it altogether, after the death of William II in 1650. In the dramatic year 1672 the situation changed abruptly. William II's son, the young William III, was appointed to the dignities held by his ancestors with the result that all of the seven provinces had once again a stadholder belonging to the Orange-Nassau dynasty – William III in Holland, Zeeland, Utrecht, Overijssel and Gelderland, a descendant of another branch in Friesland and Groningen. It might thus be said that from 1672 the Republic as a whole had returned to the system of mixed government which had prevailed since the inception of the state in the late sixteenth century. It was a commonplace in Dutch political literature to equate the stadholdership with the monarchical and the assemblies of the Provincial States, of the States General and of the town councils with the aristocratic or democratic elements with the result that the Republic could be interpreted as a perfect *monarchia aristocratico-democratica*. From the point of view of pure juridical theory there was enough to be said against this thesis: for did sovereignty not reside with the Provincial States and were the stadholders not appointed by those assemblies; and if this was true, how could anyone justify the term *monarchia*? But however that might be, the usage was wide-spread. With William III's death in 1702 the situation changed once again and republicanism was allowed to establish itself as firmly and as purely as in the period from 1650 to 1672, Holland, Zeeland and Gelderland deciding not to appoint a new stadholder. However, whereas during the so-called first stadholderless period the brothers De la Court and Spinoza had been inspired to write remarkable republican treatises, the second stadholderless period, lasting from William III's death to the elevation of William IV to the stadholdership in all the Dutch provinces in 1747, produced only one book of a more or less theoretical nature in which the republican ethos was defined and praised.

The book was called *Verhandeling van de vrijheid in den burgerstaat* ('A treatise on liberty in a civil society'). It was written by Lieven de Beaufort (1675-1730), a patrician in a small town in Zeeland, and published anonymously by one of his sons in 1737. It was immediately attacked by two Orangist writers and then defended by an anonymous author who may have been the famous jurist

Cornelis van Bijnkershoek. Modern Dutch historians are very critical of the work, which justified the narrowly oligarchic system of the early eighteenth century by interpreting it as essentially a democracy allowing – in contrast with Venice and Genoa – civic virtue to produce a sober, moderate and eminently honest government.²⁵ Yet this is exactly what makes it interesting in our discussion for here we have a book clearly belonging to the Machiavellian tradition, continuing in some respects the line of thought initiated by Pieter de la Court but at the same time managing to use this apparatus with the purpose of defending the political oligarchy of the urban rentiers, that is to say, trying to do the very opposite of what Harringtonian Machiavellians were doing in England.

In the second half of the eighteenth century political conflict and political discussion in the Netherlands grew enormously both in size and subject matter. The vocabulary used in these debates and the points raised were so similar to those of the British and American political treatises of that time that it is fascinating to examine whether and, if so, in what way the Machiavellian model, as interpreted by contemporary British commentators, might be of use for defining the Dutch situation. As has been said, the Dutch system of government returned in 1747 to its ancient form. William IV was stadholder in all provinces and at his death in 1751 his son William V, born in 1748, succeeded in all his offices without serious objections being raised by the anti-Orangist forces, which were however by no means definitively defeated. This became manifest in the 1770s and 1780s when the political equilibrium was shaken by vehement conflicts between on the one hand the Orangist party, which sided with Britain and was sceptical about the value of the American Revolution, and on the other hand an opposition which was anti-Orangist, anti-British, pro-American and pro-French and which developed fairly articulate, decidedly republican and more or less democratic political programmes. This opposition adopted the name of Patriots. It is against this background that one must study the nature of Dutch Orangism and Dutch Patriotism and ask oneself whether we can understand these phenomena better by comparing them with the early-eighteenth-century English Court Party and its opponent, the Country Party, also called the Party of the Patriots.

Before doing this we must provide a short summary of Pocock's inter-

²⁵ P. Geyl, *Geschiedenis van de Nederlandse stam II*, Amsterdam 1959, p. 315, called the work a product of 'shameless hypocrisy'. In his unpublished doctor's thesis, London 1967, C.R. Emery, *The Study of Politics in the Netherlands in the Early Eighteenth Century*, p. 64 ff. gives a less severe and more balanced analysis of the book which deserves further study.

pretation of eighteenth-century developments. The British Country Party, as Pocock shows, employed the vocabulary of Machiavellian republicanism. It declared against the system of King William III and his successors, against their standing army and the public debt which enabled them to maintain it, against the tendency of the eighteenth-century monarchs to use their patronage and to fill the House of Commons with their dependents and creatures, against the adventurers, speculators and foreigners who began to form a 'monied interest',

a class of creditors who invested their capital in the regime and saw their future as bound up with the expansion of its armies and patronage, its credits and its wars.²⁶

The Country Party – to quote Pocock once again –

claimed to speak for the landed gentry whose taxes paid for the wars and guaranteed the loans; it presented them as the class who wore arms in the country militias and whose virtue was guaranteed by the independence of landed property.

This party adhered to a belief system which stressed a man's virtues as a citizen; it was called Patriotism. The Court Party on the other hand stressed the beneficial consequences of the professionalization that had been taking place in the spheres of government and defence. Thanks to the high standards thus achieved and only conceivable in a developed commercial society, it had become possible for the citizen to devote himself to refining his own culture, his 'politeness', his 'taste'. It is for this reason that Pocock calls the belief system which stresses man's sociability 'politeness'. Thus the eighteenth-century anti-thesis was one of Patriotism against politeness, or, in political terms, of a Country Party which wanted the people, that is to say the British freeholders, actively to participate in politics and therefore tended to regard the old monarchy as a mixed government in which the so-called democratic sector must be expanded, against a Court Party which was content to leave political and military matters to experts as long as the individual subjects were free to live their own life in their own fashion and to improve their social and cultural capability. Pocock analyses Andrew Fletcher's work as representative of the Patriot, republican, Machiavellian theses, whereas Defoe stands for the ideology of the Court Party.

All this is of relevance to the characterization of American political thought. It is Pocock's suggestion that the republican, Patriot ideal of the

²⁶ I use the publications summed up in note 6 and quote particularly from his essay in *Theoretische Geschichten*.

Country Party with its positive conception of freedom was adopted by the Founding Fathers and further developed although it did not long survive after the establishment of independence. The British Court Party's ideology however was eventually to grow into a political liberalism preoccupied with the rights of the citizen rather than with their virtue, that is, with the negative liberty of the citizens to live as independently as possible rather than with the civic duty fully to participate in government.

This suffices, I hope, to state the problem concerning the Netherlands. In the Netherlands we have on the one hand a true Republic and an active Patriot Party which was anti-Orangist and pro-American, which insisted on the forming of citizen militias and was led by a country gentleman, Baron Joan Derk van der Capellen, who in 1774 translated Fletcher's book of 1698 against standing armies and in a celebrated pamphlet of 1781 – I shall discuss it later – adapted Fletcher's interpretation of history to Dutch circumstances, stressing the fact that the medieval dukes, counts and lords were far from absolute, had no standing armies and had to concede much authority to the towns, the guilds, the peasants and the representative States, all inhabitants at that time being armed and more militant than people in the eighteenth century.²⁷ On the other hand we have here the equivalent of a Court Party, the anglophile supporters of the House of Orange and of the stadholder who commanded a standing army. Is it not as if we can quite easily transfer the British discussion to the Dutch Republic and show in this way why the Dutch Patriots opted for American independence and the Orangist did not? Were the Dutch Patriots indeed, and in a sense more pointedly still than the British Country Party, the representatives of the Atlantic republican tradition described by Pocock with such precision and profundity? This is not an easy question to answer but I shall nevertheless try to do so by considering briefly the positions chosen by the leader of the Patriot Party, Van der Capellen, and by the best author of the Orangist Party, Elie Luzac. It would however undoubtedly be most useful to examine much more material coming from more persons in a systematic way so as better to test Pocock's proposals than I can do now.

In his *The Dutch Republic and American Independence* Schulte Nordholt sketches a lively portrait of Van der Capellen.²⁸ Born in 1741 as a country-squire, dying in 1784 of an intestinal complaint which had been making him desperately tired for years, he succeeded in his relatively short life in causing an enormous amount

²⁷ *Staatkundige verhandeling over de noodzaakelijkheid eener welingerichte Burger-Land-Militie*, 1774.

²⁸ J.W. Schulte Nordholt, *The Dutch Republic and American Independence*, translated by H.H. Rowen, University of North Carolina Press 1982, p. 21 ff.

of trouble. After some initial hesitations Van der Capellen, who had a seat in the chamber of the nobility of the States of Overijssel, opted for policies which Stadholder William v did not want to accept. Van der Capellen wished to improve the Dutch navy whereas William v rather wanted to augment the army.

It is obvious what this means. It means that Van der Capellen objected to William v's pro-British policies and hoped that by building up a great fleet the Dutch Republic would increase its independence in relation to the superior maritime power. His mistrust of William v's army was profound. It was a standing army with a large number of foreigners both in the lower and the higher ranks, an instrument, Van der Capellen argued, in the hands of the stadholder, who derived from it his ability to act as a tyrant. During the last ten years of his life Van der Capellen defined with clarity the nature of his patriotic, and indeed nationalist, opposition to the stadholder and his clients. Instead of pro-British policies he wanted to help the Americans in their struggle for independence; instead of an army of foreigners he wanted the Dutch themselves to take up arms and defend their country, and instead of the oligarchic States in the various provinces he wanted much broader sections of the population in the towns as well as in the countryside to take some part in government. To achieve all this he proposed the organization of urban and rural militias and of unofficial assemblies of properly elected representatives of the people who, however, would not initiate a real revolution by sweeping aside the stadholder's army and the oligarchies but would act, in a very curious manner, as a sort of additional authorities to advise the established powers and of course to put pressure to bear upon them any time the need to express the popular will would arise.

All this, it is clear, is very much in the spirit of the Atlantic republican tradition or the Machiavellian paradigm. It is, moreover, not far-fetched to suppose that Van der Capellen and his friends, just like the British Patriots, were alarmed by the luxuriousness and ostentation of some of their contemporaries and inclined to praise the simplicity of former times. Not without satisfaction did Van der Capellen, not a wealthy man himself, regularly declare in his correspondence that he did not at all deplore the simple life he had to live. Another Patriot, the moderate R.J. Schimmelpennick, wrote in his Leiden doctor's thesis of 1784, *De imperio rite temperato*, that the republic was undoubtedly a viable form of government provided luxury was eliminated, equality of income maintained and the energy of the people more than was now the case directed towards agriculture, that old guarantee of equality and virtue.²⁹

²⁹ *Ibidem*, p. 270.

Finally, once or twice did Van der Capellen leave the impression that he did not expect the British system of the public debt to work properly in the future.³⁰

But notwithstanding all this, it seems to me that ultimately Van der Capellen does not really conform to this model and given the political and social circumstances in the Netherlands could not be expected to conform. There are quite a number of points on which he deviated from the Patriotism described by Pocock. In the first place, he does not make the impression of opposing the 'monied interest'; on the contrary, he associated himself with that section of the patricians in the large towns of Holland that, although not democratic at all, accepted his support because it strengthened their traditional opposition to the House of Orange. In the second place, I have not encountered in the work of Van der Capellen or other members of his party even an echo of that obsession with the ownership of land and that association of real property with republican citizenship which Pocock shows was the central issue in the minds of the British Patriots and some of the American rebels. Finally, Van der Capellen's conception of the nature of the state is, it seems to me, fundamentally different from that of the civic humanists and in some important respects much nearer to that of the liberals. In his most famous book, a vehement pamphlet anonymously published in 1781, he wrote the following passage:

O compatriots, take up arms, all of you, and take care of the affairs of the whole country, that is, of your *own* affairs. The country belongs to all of you and not to the prince with his highly placed clients who regard and treat you, all of us, the whole Dutch people, the descendants of the free Batavians, as if they were their heritable property, their oxen and sheep which they may shear or slaughter at will. The people living in a country, the inhabitants, the townsmen and peasants, the poor and the rich, the great and the small, all of them together are the real owners, the lords and masters of the country and they can say how they want things to be arranged, how and by whom they wish to be governed. A people is a big society, a 'company' and nothing else. The regents, the authorities and magistrates, the Prince, everyone who has a post in this society, all of them are no more than the directors, the administrators, the estate-stewards of this company or society and in *this* quality they are inferior to the members of that society, that is, the whole nation or the whole people. Let us take an example. The East India Company is a big society or partnership of merchants who have united to carry trade to the East Indies. Their

³⁰ *Brieven van en aan Joan Derck van der Capellen van de Poll*, ed. W. H. de Beaufort, Utrecht 1879, p. 764.

number is much too large and the distances at which they live from each other are much too big to enable them to assemble each time that would be necessary, or to administer the affairs of the company personally. Moreover, this requires abilities which all the 'participants'³¹ do certainly not possess. This is why the 'participants' act wisely when they appoint directors or administrators whom they pay for their work and whom they give exactly as much power, but nothing more, as is required for them to do what they are called, hired and appointed for. Of course, these directors have more control over the affairs of the company than one or other 'participant' separately, or even than a large number of 'participants' together as long as these do not form the majority, but if *all* the 'participants' or the absolute majority of them want the administration of the company, that is, of *their own* affairs, to be changed, then it is the duty of the directors who in *this* respect are the *servants* of the 'participants', to obey and to do what the 'participants' want. Not the directors but the 'participants' are the real owners, lords and masters of the company. The same obtains in the case of the great society of a people.

A few sentences later Van der Capellen explains that the members or 'participants' unite to form a civil society, a people or a nation 'with the purpose of promoting each other's happiness and protecting one another and enabling every one to enjoy his property and all his inherited and legally acquired rights without disturbance'.³² These quotations make it sufficiently clear, I think, that Van der Capellen's conception of the state was fundamentally different from that of Machiavelli and his eighteenth-century followers. The British and American Patriots did not, of course, regard the state as a joint-stock company.

If neither Hooft nor De la Court and Spinoza nor Van der Capellen can be easily fitted into the Machiavellian paradigm and the Atlantic republican tradition, is it then possible to detect in the Netherlands reflections of the ideology of the other group isolated by Pocock, the British Court Party? A possible Dutch candidate for honorary membership of this party is Elie Luzac. In a long career as a publisher and a publicist Luzac printed, edited and wrote such an enormous number of works that nobody has as yet succeeded in studying all this material with due care.^{32a} He lived from 1721 to 1796. In his

³¹ The Dutch text has 'participant' which means 'shareholder'; present-day Dutch also uses another term ('aandcelhouder'). I kept the original word which in the context is more relevant.

³² *Aan het volk van Nederland*, W.F. and A.H. Wertheim (ed.), Amsterdam 1966, p. 65-7.

^{32a} Cf. my 'Verlicht Conservatisme: over Elie Luzac', 1966, reprinted in *Politieke theorie en geschiedenis*, p. 234-248, and in an English version ('Enlightened Conservatism: the Case of Elie Luzac') in *Acta Historiae Neerlandicae*, VI, The Hague 1973, p. 67-82. The subject has

own time he was a well-known personality. In 1753 his essay on *Le bonheur ou nouveau système de jurisprudence* submitted as an entry to a competition by the Royal Prussian Academy won a prize and was subsequently published. In 1762 the same honour was bestowed upon him by the Stolpiaansch Legaat. The periodicals that he edited had a very long life; and the pamphlets that he wrote in the 1780s – at least sixteen volumes of them amounting in all to more than 5000 pages – appear to have had enough success for the publisher to make money out of them. But what happened to the book in which he wanted to summarize his whole philosophical and political system? In January 1796 he announced it himself in his capacity as publisher. It was called *Du droit naturel, civil et politique, en forme d'entretiens*, it would have six volumes and cost twelve Holland florins.³³ But four months later, 11 May 1796, Luzac died, and his book was not printed before 1802 when only the first part in three volumes appeared, poorly printed by a compositor who did not know French. The rest never saw the light.³⁴

The terms in which Pocock describes the ideology of the British Court Party can easily be used in the case of Luzac, too. According to Luzac the purpose of the individual is 'se conserver et vivre agréablement'.³⁵ The only way to achieve this is by organizing a harmonious state. One of the great dangers in society is 'enthusiasm', religious as well as political. In a typical passage written in the 1780s Luzac once castigated Van der Capellen for his tyrannical extremism, comparing him and his sort with the Anabaptists because, he says, zealotry is not only possible in relation to religion but also to politics.³⁶ In *Du droit naturel* occurs a passage which one would not have expected in a book for which the author was allowed to make propaganda in January 1796, exactly one year after the French had set the revolutionary process in the Netherlands in motion, and which the publishers were allowed to print in 1802 when the Republic was totally dependent on the French authorities. Man, wrote Luzac, is inclined to

been further explored by W.R.E. Velema, *Enlightenment and Conservatism in the Dutch Republic. The Political Thought of Elie Luzac (1721-1796)*, Assen 1993.

³³ See the *Programme*, dated 27 January 1796 in which he announced the work.

³⁴ H.C. Cras, 'Notice sur la vie et les écrits d'Elie Luzac' in E. Luzac, *Le Bonheur ou nouveau système de jurisprudence naturelle*, 2nd ed., Amsterdam 1820, p. 18.

³⁵ This is the formula he used in his *Du droit naturel, civil et politique*, 3 vols, Amsterdam 1802, *passim*.

³⁶ [Elie Luzac], *Reinier Vryaarts openhartige brieven*, ix, 1783, p. 26.

se livrer au mal par les impressions, que des maximes erronnées peuvent faire sur son esprit. A-t-on besoin d'en chercher d'autre preuve que cet enthousiasme, qui a menacé et menace encore de saisir et d'exalter l'esprit de tous les peuples de l'Europe et peut-être du monde entier: qui a changé en un peuple barbare la Nation qu'on regardoit comme la plus civilisée du genre humain, dont la marche actuelle est partout teinte de sang, et qui ne met point de bornes aux excès de sa persécution et de sa tyrannie? Mais à quoi attribuer cet enthousiasme, ou plutôt cette frénésie; à la jouissance de la liberté, et de l'égalité.³⁷

Luzac's reader is often given glimpses of the agreeable life which the individual is thought to be seeking: it is the life of the sophisticated prosperous middle class gathered together in civilized companionship and conversation both elegant and profound. In these circles, says Luzac, patriotism is still the old-fashioned love of one's country and not that 'patriotisme moderne', that fevered nationalism which is ruining the world.³⁸ It is not difficult to define Luzac's ideals in the vocabulary of the Court Party: politeness and manners.

Luzac was pro-British. In 1749 he dedicated his anonymous *Essai sur la liberté de produire ses sentiments* (printed, as he put it on the title page, 'au pays libre' by the publisher 'Pour le Bien Public' and 'Avec Privilège de tous les véritables Philosophes') to the 'nation anglaise [...] peuple véritablement libre'. Only in England were people free to publish their thought without obstruction: 'Peuple heureux! Qu'on vous admire: qu'on se contente de vous imiter'. The *Essai* was a somewhat exuberant defence of the total liberty of the printing press, a liberty which Luzac still thought highly valuable many years later when his political views had become openly conservative. His respect for Britain remained equally intact. It is remarkable that he took the trouble of stressing the positive economic consequences of the British system of the public debt in a period, the 1780s, when the Patriots were inclined to think that Britain was collapsing under the load of her indebtedness.³⁹ But though sympathetic to Britain, Luzac was not hostile to the rebels in North America. He was – so his biographer summarizes Luzac's views as expressed in many

³⁷ *Du droit naturel*, 1, p. 181-182; see also *ibidem*, p. 312: 'A quels excès [les hommes] ne s'abandonnent-ils pas, lorsque l'enthousiasme s'est une fois emparé de leur esprit? Jetez les yeux sur ce qui s'y passe encore. Sur les révolutions, qui ont anéanti les pays les plus beaux, les plus florissans, et les Royaumes les plus puissans de la terre; vous en trouverez la source dans un défaut de Logique'.

³⁸ Cf. the passage quoted in my article 'Enlightened Conservatism: the case of Elie Luzac', p. 83. See also *Du droit naturel* 1, p. 183.

³⁹ Elie Luzac, *Hollands Rijkdom*, 4 vols. ed. 1801, IV, p. 52 ff, 243 ff, 298 and *passim*.

learned studies in his *Annales Beligiques* published in fifteen volumes from 1772 to 1776⁴⁰ - far from

insensible à la beauté du spectacle qu'offre un peuple armé pour revendiquer ses droits; mais il insiste plus particulièrement sur les inconvénients d'une pareille situation, sur la rareté des cas où les efforts de cette nature ont été couronnés par un heureux succès, et sur les dangers de toute espèce qui accompagnent l'exagération du patriotisme.

In other words, Luzac was not at all committed to the cause of the Americans and although he acknowledged that they fought for reasons roughly similar to those which had prompted the sixteenth-century Netherlanders to rise in rebellion - no taxation without representation -, and were perfectly entitled to do so, he refused to equate the Dutch with the American Revolt and the English with the Spaniards for at no time had the British government organized in America such an abominable terror as the Spaniards had in the Netherlands.⁴¹

But not in all respects did Luzac's attitude conform with the paradigm of the British Court Party. He was an Orangist and in many of his works he laid stress on the necessity to uphold a strong stadholdership. He did not wish to transform the stadholder into a sort of monarch. He was a republican. The stadholder fitted beautifully, he thought, in the admirable system of the mixed government which since antiquity had been recognized to be the most laudable form of state and which recently had been described in totally acceptable terms by Montesquieu himself. *Regimen mixtum*, separation of powers, republican moderation formed the foundation of the good state. The difficulty here is that in the British monarchy *regimen mixtum* was a favourite conception not of the Court Party but of its adversary, the Country Party. In the Netherlands Luzac and others used the idea of mixed government to support the ideology of the stadholder and his court.

I must try to reach some sort of conclusion. I have attempted to show that the Atlantic republican tradition as described by Pocock is not easily applicable in the only major republic which was formed and which survived in early modern Europe, a mercantile and maritime republic, turned towards the sea and fully aware - if I may express myself in this way - of its non-continental nature. The Dutch political writers of the seventeenth and the eighteenth century thought that it was this maritime and mercantile character of the

⁴⁰ Cras, Notice, cit., p. [19]. I have found no trace of a periodical called *Annales Beligiques* in any library.

⁴¹ Luzac, *Hollands Rijkdom* III, p. 258-259.

nation that gave it its republican form. In their eyes a monarchy was a form of government perhaps suitable for a big state with its basis in landed property; for a commercial state the republic was the only adequate form of government. This is the very opposite of Pocock's paradigm. I do not want to suggest that Pocock's interpretation is thus wrong, far from it. His work seems to me exceptionally stimulating and enlightening. However, I wonder whether his decision to jump from the Italian city-states to late-seventeenth-century England and from there to America without taking account of the Dutch Republic has not led to too rigid a simplification of a historical development which was perhaps considerably more complex.

Is this, however, all there can be said about the problem? If so, the conclusion would be unsatisfactory for two reasons. The first is that it amounts to a truism. All of us ought to be so keenly aware of the inextricable complexity of history that we should not criticize a historian for simplifying matters. Of course he does. If he did not he would not be able to say anything meaningful. The second is that if indeed the Atlantic republican tradition does not fit the Dutch Republic, the other republican model as described by Venturi does not either. It is perfectly clear that the story of the foreign policy conducted by the Dutch from 1713 onwards is one of passivity and withdrawal into complacent neutrality comparable to Venturi's analysis of the Venetian position. Dutch republican theory in the eighteenth century, however, does not leave that impression. Elie Luzac was in many respects undoubtedly a conservative inclined to look back rather than forward and deeply suspicious of attempts at revolution. Yet even he realized there was much in the Republic which called for reform. One of his main works – *Hollands Rijkdom* – contained both a eulogy of Dutch economic greatness in the past and an exploration of the means to maintain or to restore or even to increase it. Moreover, the immemorial antiquity of the Dutch state, a favourite topic among humanist scholars and artists in the late sixteenth and the early seventeenth century, was at the end of the eighteenth century no longer an object of discussion which held much appeal for the writers and the readers. People knew all too well that history represented change. If the Dutch sought for a common theme to comment upon it was that of national decline and the way to stop it. Dutch political theory in the eighteenth century, both of the Patriots and of the Orangists, contained not only praise of the past but also proposals for reform. The Dutch eighteenth-century writers who thought deeply about their state and its future did not merely enumerate the virtues of their ancient constitution. They were much too keenly aware of symptoms of decline and they complained too loudly about this.

Should we then conclude that the Dutch republican case was unique? This, it seems to me, will not do at all. Up to a point the Dutch case was undoubtedly unique but so was Florence's or Venice's or England's. What is more important however is that the theoretical explanation and justification of Dutch republicanism was in fact firmly based on conceptions developed outside the Netherlands and deeply influenced by foreign intellectual innovation. How could it have been otherwise in a republic where so many foreign books on history and politics were printed in Latin and French? It is quite remarkable that the Dutch political theorists drew their inspiration often from foreign rather than native authorities. Apart from Grotius no Dutch authors were regularly referred to. Tacitus, Machiavelli, Bodin, Descartes, Hobbes, Locke, Pufendorf, Montesquieu, Wolff, Hume (but not Rousseau's political work) were apparently thought to have more relevance than Hooft, De la Court, Lieven de Beaufort.

As a result of this it is difficult to interpret the history of Dutch republican theory as constituting a tradition of its own, that is to say, as possessing a particular identity that we can see developing over the centuries. Dutch republican theory did not, so it seems, draw inspiration from its own intellectual past. If, because of serious political tensions or conflicts, it was felt to be necessary to provide the various standpoints that were taken up with a theoretical justification, the Dutch used vocabularies developed abroad and considered to be modern and appropriate. Of course, their use of foreign vocabularies was highly selective; they took what suited them but may in the original context have seemed to be contradictory. In other words, it was possible for them to use the two republican traditions which were available – the Venetian and the Machiavellian – simultaneously without intending to draw radical conclusions from them and thus without needing to worry about their contradictoriness. Thanks to efforts of major writers like Spinoza and Luzac the result was sometimes most interesting and rewarding. But it was never developed, as far as I can see, into a peculiarly Dutch intellectual tradition which it would be correct to define as the Dutch paradigm.

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