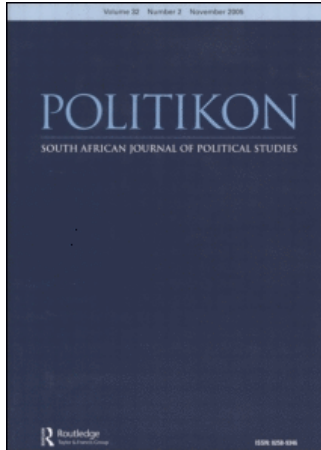


This article was downloaded by:[informa internal users]
On: 5 March 2008
Access Details: [subscription number 755239602]
Publisher: Routledge
Informa Ltd Registered in England and Wales Registered Number: 1072954
Registered office: Mortimer House, 37-41 Mortimer Street, London W1T 3JH, UK



Politikon

South African Journal of Political Studies

Publication details, including instructions for authors and subscription information:
<http://www.informaworld.com/smpp/title~content=t713442999>

The Transition from Greco-Roman and Medieval to Modern Political Theories

D.F.M. Strauss

Online Publication Date: 01 April 2007

To cite this Article: Strauss, D.F.M. (2007) 'The Transition from Greco-Roman and Medieval to Modern Political Theories', Politikon, 34:1, 53 - 65

To link to this article: DOI: 10.1080/02589340701336260

URL: <http://dx.doi.org/10.1080/02589340701336260>

PLEASE SCROLL DOWN FOR ARTICLE

Full terms and conditions of use: <http://www.informaworld.com/terms-and-conditions-of-access.pdf>

This article maybe used for research, teaching and private study purposes. Any substantial or systematic reproduction, re-distribution, re-selling, loan or sub-licensing, systematic supply or distribution in any form to anyone is expressly forbidden.

The publisher does not give any warranty express or implied or make any representation that the contents will be complete or accurate or up to date. The accuracy of any instructions, formulae and drug doses should be independently verified with primary sources. The publisher shall not be liable for any loss, actions, claims, proceedings, demand or costs or damages whatsoever or howsoever caused arising directly or indirectly in connection with or arising out of the use of this material.

The Transition from Greco-Roman and Medieval to Modern Political Theories

D.F.M. STRAUSS*

ABSTRACT *The ideal of an all-embracing education of a person in order to become a good citizen—as it was shaped in the Paideia ideal of classical Greek culture—underwent important transformations during the medieval and early modern period. This article starts with the Greco-Roman conceptions of the Stoa, Cicero and Seneca and subsequently focuses on the split present in the development of medieval views—both within the domain of theoretical reflection and the practical relations between church and state. In addition attention is given to the totalitarian position of Machiavelli, Bodin and Hobbes—placed within the context that even the later theories of Locke and Rousseau merely advanced formal theories of the just state without proving material guarantees for such a state.*

The Greek background: constant legal principles versus human arbitrariness

Early Greek philosophy developed the idea that nature in its entirety is governed by a punishing justice (*dikè*). In the B Fragment 1 of Anaximander it is said that everything taking on a *limited form* is doomed to return to its formless origin (*Archè*). Having a definite form was seen as a violation against the *formless Archè*—and therefore, only losing this form could rectify the injustice done. This tension between matter and form kept alive the question whether or not law and justice (in a jural sense) are based on an eternal order. Protagoras and the Sophists claimed the opposite, for according to this trend of thought legal customs and law are seen as completely arbitrary, merely serving what people consider to be (in) their interest.

It was the Stoa—with Zeno from Cyprus (336–264 BC) as its founder—who radicalised the underlying idea of natural law. The prevailing contrast between Hellenic people and savages is now challenged. The ripened Greek conception allowed only the free Greek to participate in political decision-making and jurisprudence and thus come to a fulfilled life within the *polis* (city-state). The Stoa accepted a macro *polis*, universally embracing all gods and humans (as equals)

alike. To be sure, this new view is linked to the empire of Alexander the Great, which terminated the independent existence of the Greek *polis*. The Stoa attempted to unify the opposing poles of matter and form directing Greek thought. Whatever there is, was supposed to participate in the Divine Reason (*Nous*) through the *logoi spermatikoi* (germ-like rational particles). The Stoic epistemology (theory of knowledge) anticipates the British empiricist philosophers of the 17th century by assuming that the human spirit at birth is a clean slate (a *tabula rasa*). Yet, in their view that knowledge acquired through the senses cannot guarantee truth because the latter is dependent on inborn concepts, the Stoics also anticipated the views of Descartes (1596–1650) and Kant (1724–1804). The Stoa accepts *nomos* as a universal natural moral law.

Cicero and Seneca

According to Cicero, the fluid and changeable nature of law and legislation cannot be accepted. We find that he rather adheres to the view already advanced by Plato and Aristotle, namely, that all positive law must be understood in terms of fixed legal principles, flowing from an ethical world order. The preferential designation of this order is found in the notion of a natural law, a *lex naturalis*.¹

The idea of a natural law receives alternative formulations, such as *lex naturae*, *lex naturalis*, *ius naturae* and *ius naturale*. Other phrases are *vera lex* (true law), *summa lex* (supreme law), *lex divina et humana* (divine and human law), and so on (Van Zyl, 1989, pp. 297–298). What Cicero has in mind with all of this is an immutable, incorruptible and non-arbitrary universal law that is valid *per se*. Jones points out that in addition to an objective universal order (flowing from divine reason), Cicero takes the *ius naturale* to comprise ‘those half-legal, half-ethical rules which express the principles of human justice, because they have a bearing upon the relations of men living in society and upon their duties to one another and to the gods’ (Jones, 1956, p. 99).

Cicero holds that within the moral order of the *lex naturalis* there exists *ius naturae* in a narrow sense, which differentiates between *ius divinum* (*religio*) related to the relation of dependence between the human being and God and *ius humanum* that is directed towards human communal life (*aequitas*). According to Cicero, *aequitas* finds its foundation in the following principles: the avoidance of every illegal violation of the rights of another person (*neminem laedere*) and the recognition and maintenance of private and communal life by giving to each person what legally belongs to that person (*suum quique tribuere*) (Hommes, 1981, p. 30).

It is not possible to explain Cicero’s view of the state exclusively in terms of the influence of the Stoa. Rather, it represents a fusion of the Roman view of state and law and the Stoic understanding of *ius naturale*. The peak of development found in the Roman republic after the final victory over the Carthage Empire served as a model for Cicero’s moderate view of the state. Although he distinguishes between public law (*ius publicum*) and private law (*ius privatum*), it does not entail that he succeeds in advancing a material idea of the state as a public legal

institution, because on the basis of the Stoic theory of natural law, he merely posits civil private law as a limit to state power. By viewing the interests of the community (*communis utilitas*) as constitutive for the *ius publicum* of the state, he does not really introduce any yardstick to delimit the public domain of the state.

It is, nonetheless, remarkable that Cicero—by using the arguments of Aristotle—still defends the institution of slavery. Seneca, by contrast, in accepting the Stoic doctrine of the equality of all people, relativises slavery with his view that it only has an effect on the human body and does not take hold of the human spirit. Seneca envisaged an absolute natural law before the fall into sin with equality for all, communal ownership, and an absence of governmental authority. After the fall, there is only a relative natural law with slavery, private property and the state. Jellinek links the view that the territory of the state has a public-legal character in the sense that it is not a *dominium* but an *imperium* to the thought of Seneca (Jellinek, 1966, p. 399).

Cicero conceives the individual in a twofold way: as Roman citizen (*civis Romanus*), an individual participates in the Roman *populus* (the public) without having any claim on it or a subjective right in respect of it. As a private person, an individual disposes over an inviolable personal legal sphere. The legal sphere of the *familia* with its house-head, the *pater familias*, provides the starting point for the way in which Cicero accounts for subjective private law. The family is still an undifferentiated unit that functions as a miniature state.² Through the expansion of the Roman Empire, a need emerged to make legal provision for non-Romans within the empire. This need generated the development of the *ius gentium*, which should not be seen as the starting point of the law of nations, but rather as the point of departure of what we know as *civil private law*—a legal sphere destined to protect the personal freedom of the individual within the differentiated legal intercourse in a society.

The theory of natural law advanced by Cicero strongly influenced the classical Roman jurists—such as Gaius, Ulpianus, Modestinus and others—as could be seen from their definitions of *justice* and *natural law*.

The turmoil of the Middle Ages

The mere fact that the early Christians had to find their way within the context of the (pagan) Roman *imperium* already provides a starting point for a negative appreciation of the *imperium* (the ‘state’). The rapid growth of the first Christian groups did not escape the attention of the Roman Empire. Soon the increasing number of Christians started to threaten the status of the emperor (and, with it, the empire). The persecution of Christians during the reign of Nero in AD 64 (who reigned from AD 54–68) assumed a brutal and cruel shape also found in the actions taken by Emperor Domitian (AD 81–96). Yet, given these agonising experiences, one of the earliest known prayers (AD 96) for the office of government is all the more remarkable since it still honoured it (Rahner, 1961, pp. 40–41). Schippers points out that the Christians who sung this prayer knew the ruling emperor Domitian as a person persecuting Christians and that they certainly

also knew about the persecution that took place during the reign of Nero (see Schippers, 1941, p. 85). Undoubtedly, this prayer shows that the early Christians already had the insight that in spite of the sinful abuse of power, the office of government remains a divine institution.

When Constantine took over the reign of the western and eastern parts of the Roman Empire on 1 May AD 305, Christianity was soon put on an equal footing with heathendom by AD 313, and by AD 380, the Christian church acquired the status of imperial church. Under the influence of neo-Platonism, the relationship between church and state was construed in terms of the relation between soul and body. Particularly in the western part of the Empire a significant power struggle between the pope and the emperor took shape. It is noteworthy that already in AD 390, Emperor Theodosius has subjected himself to Bishop Ambrose in penance (Servatius, 1977, p. 43). With Charlemagne the Great, the goal of the 'worldly power' was to rule over the church. The thought pattern of the Germanic tribe, which in the meantime turned Christian, inspired Charlemagne to describe himself as king and priest (*res et sacerdos*). This confirmed the power of the *Sacrum Romanum Imperium* (the Holy Roman Empire) over the church (Stüttler, 1969, p. 28).

The tendency, operative since the 5th century, to depreciate the authority of the state, eventually led to an explicit depreciation of governmental authority as such. Just consider the following words taken from a letter that Pope Gregory VII wrote to Bishop Metz (15 March 1081):

Who does not know that kings and princes are sprung from those who unmindful of God, urged on, in fact, by the devil, the prince of the world, and by pride, plunder, treachery, murders and by almost every crime, have striven with blind cupidity and intolerable presumption to dominate over their equals, that is to say over men? (Ehler and Morrall, 1954, p. 33).

The famous 'two-sword' doctrine took shape just in the previous year, in the reaction of King Henry IV to his dethronement and excommunication (in February 1076). Henry IV complains that Hildebrand attempted to deprive him of his royal power:³ 'this he did because he saw that I wanted to hold my rule from God and not from him who had not constituted me king; at the same time he menaced me that he would take away from me my kingdom and my soul, neither of which he had granted' (Ehler and Morrall, 1954, p. 46). King Henry argues that the kingdom and priesthood ought to be separate:

The saviour Himself imitated this symbolically in His Passion as the meaning of the sufficiency of the two swords. When they told Him: 'Behold, Lord, here are two swords', He replied: 'It is enough'. He meant by this sufficing duality that a spiritual and a carnal sword has to be wielded inside the Church by which all the harmful things should be cut off and amputated; by the sacerdotal sword, namely in order that the king, for God's sake, should be obeyed; by the royal one in order that the external enemies of Christ should be defeated and that internally all people should be bound to obey the priesthood (Ehler and Morrall, 1954, p. 46).

At the beginning of the 13th century Pope Innocent III improved the position of the church and paved the way for the eventual formulation of the famous papal writing, *Unam Sanctam* (1302), in which it is declared that outside the Roman papacy there is no salvation (Ehler and Morrall, 1954, p. 92). Against this historical background, we now turn briefly to the political theories of the medieval period.

Medieval political theories

The brief sketch of the struggle between state and church actually highlights the way in which the integral meaning of creation in biblical Christianity was dualistically torn apart by the new ground-motive of the Middle Ages, that of nature and grace. The fundamental dualism operative within Greek thought, namely, between matter and form, became absorbed within the great synthesis of the medieval era. Both Augustine and Thomas Aquinas attempted to accommodate the Greek ground-motive to the biblical ground motive of creation, fall and redemption.

In the 3rd century, Plotinus took up the basic thrust of Plato's dialogue, *Parmenides*. He developed a completely negative approach to the postulated 'One' as (form-giving) origin. It is not possible to affirm (that is, to say anything positive about) the nature of the 'One'—the only option is to say what it is *not*. Yet Plotinus still had to use positive predications in spite of this intention to pursue the road of a negative theology. In fact, without the (unintended) aid of such positive affirmations, Plotinus would not have been able to articulate the radical opposition in his thought between the 'One' and matter. The former is good, the latter bad; the former is first, the latter is last [cf. *En.* (= *Enneads*) 1,8,13; V,3,11; VI,7,25; and VI,9,2]. To these minimal positive affirmations, he even adds further qualifications. For example, he designates the *One* as the primary beauty (*En.* I,6,9,40 and 43). Similarly, the *One* is exchanged with terms such as absolute beauty and the absolute good (*En.* I,8,13,10).

The second level, emanating from the 'One', is occupied by the *Nous* (Reason); the third by the Soul (*Psychè*); the fourth by matter.⁴ The Platonic world of ideas is accommodated in the second hypostasis, Reason, designated by Plotinus as the one-many (*hen-polla*).

Although Augustine had to give an account of the biblical distinction between the kingdom of God and the kingdom of darkness, the path chosen by him in his famous work *Civitas Dei* (The City of God) opted for a quasi-Platonic dualistic position. He viewed the earthly world as what is temporal (and therefore changeful), and deduced from that view the conclusion that as such it must evince an inherent defect in relation to God. In addition the earthly state was conceived in terms of the typical totalitarian perspective of the classical Greek understanding of the polis (the city state as the perfect human community). By applying the Platonic scheme of an example (arch-typical master-piece) with its copy Augustine fused the good-bad distinction with this copy-scheme. Church and state thus emerged in his thought as two totalitarian domains opposed to each other in terms of the directional antithesis between good and bad. Thus in

Civitas Dei the earthly world is interpreted as the temporal and changeable, which, as such, already displays an inherent defect in relation to God. In this dispensation, both are related and mixed.⁵

Thomas Aquinas developed a view of society in which he attempted a synthesis between Aristotle's philosophy and biblical Christianity. What Aristotle called the *substantial form* (the soul) of the human body was conceived in such a way that the human being was seen to depend on the community for the satisfaction of its needs. Although he took over Aristotle's idea of the perfect society, he had to add a distinction between two manifestations of this idea of a perfect society (*societas perfecta*), for according to him the state merely serves as the (natural) portal for the supernatural encompassing position of the church. The position taken by Thomas Aquinas does not acknowledge any structural differences between the various societal collectivities. Rather, all societal institutions are considered in terms of the scheme of a hierarchical ordering according to the relationship of a means to an end, of matter to form.

In his understanding of law, Thomas Aquinas still continues the Greek legacy. Justice is viewed as one of the four moral virtues (alongside wisdom, temperance and courage). Justice is taken to be a 'tribute' to someone of what legally belongs to that person. Thomas also continues the Aristotelian distinction between commutative and distributive justice where equality is understood both in terms of an arithmetical and of a geometrical measure. What he added to the Aristotelian view is what he calls legal justice (*iustitia legalis*).⁶ Natural law forms the basis of all positive law, and whenever a positive legal stipulation contradicts this natural law, it loses its legal validity. It is possible to deduce objective natural law (valid for humanity as a whole) from the teleological ethical basic principle: 'Do what is good, and avoid what is bad'. Subjective natural law embraces those legal competencies that belong to a person by virtue of objective natural law (such as the right on life, integrity, acquisition of property, etc.).⁷

Transition to the modern era

By the end of the 13th and the beginning of the 14th centuries, the nominalistic movement questioned Thomas' position. William of Occam (1290–1350) opposes the preference Thomas Aquinas has for the primacy of the intellect by opting for the primacy of the will. Only within the human mind (*mente humana*) does Occam acknowledge the subjective existence of universals—encompassing both words (*voces*) and general concepts (*conceptus*). Since every universal is a purely mental quality, no universal can really exist outside the mind (Occam, *Summa logicae* I, 14).⁸ Universals are simply substitutes, referring in a signifying way to the multiplicity of individual things. In reality, nothing but individual things exist. Science, however, is concerned with universals (as the subjective universal image of the real individual entities). As opposed to the realistic conception of truth (*adequatio intellectus et rei*—the correspondence of thought and being), nominalism introduces a criterion applicable only to the thoughts present in the human mind—truth concerns the compatibility of

concepts. In this way, Occam contradicts the realistic view of reality, including its appraisal of the church as a supernatural (*universalistic*) institute of grace—communal forms within human society are simply *universalia* representing a mere collection of truly existing individuals. Consequently, the reality of the church is reduced to a mere collection of believers (*congregatio fidelium*).⁹

The upshot of this nominalistic orientation was that it paved the way for a new individualistic (atomistic) mode of thought—not only undermining the dominant position of the church but also opening up the rise of new theories of the state. However, the first manifestations of this new spirit resulted in explicitly totalitarian and absolutistic theories of the state.

Modern Humanism

Descartes certainly is one of the most prominent transitional figures between medieval philosophy and the modern era. In spite of this fact, his thought in numerous ways still remains connected to that of medieval philosophy and even Greek philosophy. Yet, with Descartes, a new spiritual climate manifested itself—among other things to be seen from the way in which he used the idea of God to provide certainty to his deified mathematical thinking. This new mode of reflection is only capable of recovering the surrounding world as an object of self-assured human thinking, which has to rule over it autonomously.

The way to this new spiritual orientation was paved by the above-mentioned nominalistic movement of late scholasticism—wherein the thought of John the Scott and William of Occam were particularly influential. The latter, as we have noted, denies the reality of anything universal outside the human mind. The Greek conception of universal forms (Plato's 'transcendent ideas' and Aristotle's 'immanent substantial forms') is now radically questioned. Where Plato would have said that a concrete entity is a copy of a transcendent eternal form (*eidos*) and where Aristotle believed that when this house burns down, house-ness (as the universal substantial form of being-a-house) does not burn down, Occam merely acknowledges concrete individual things (outside the human mind). This nominalistic orientation in fact determined the major perspective operative in Western civilisation during the past 500 years. The nominalistic movement opened the way for a totally new attitude emerging during the Renaissance and the post-Renaissance era.

The gateway to an understanding of modern conceptions of state and democracy requires an insight into the underpinnings of modern humanism—that self-centred life and world view that elevated the human being to become a law unto itself. As Rousseau explicitly defines freedom: 'freedom is obedience to a law which we prescribe to ourselves' (Rousseau, 1975, p. 247).

Initially, modern humanism advanced under the undisputed dominance of deified rational thought. But this thought required an instrument by means of which it could control and subdue all of reality. This instrument was found in the rising mathematical natural sciences, which were supposed to serve the purpose of a complete methodological breakdown of everything within reality.

The task of rational thought is then to create order from this resulting heap of chaos.

This new motive of logical creation, indeed, characterises the autonomy ideal and the first manifestations of the modern natural science ideal. Since the Renaissance, modern thought has explored various options in this regard—varying from ‘moving body’ (the basic denominator chosen by Hobbes in the 17th century), ‘to perceive’ (Berkeley, 18th century), ‘sensations’ (Kant, 18th century), and ‘sense-data’ (Ayer, 20th century) to mention a few philosophers.

Machiavelli

Machiavelli (1469–1527) lived in a time when tyrants and disintegrating political forces from the 14th century dominated the scene in Italy. Dante’s *Inferno* frequently refers to the terrible political circumstances of Italy in those days. Many local tyrannies went under during the 15th century, while the smaller tyrants opted to serve the more powerful ones. Even Florence evinced an ongoing process of political division and confusion. This period was characterised by this continuous power struggle, guided by amoral political practices and amazing instances of corruption, also in diplomacy. Jellinek observes that the Italian city tyrannies of the 14th and 15th centuries exhibit the image of powerful and inconsiderate communal entities (Jellinek, 1966, p. 322). Cassirer remarks that when Machiavelli writes in his *Prince* about the usual forms of government of the city-republics or of the hereditary monarchies no curiosity is aroused. But when he analyses the ‘new principalities’ he ‘speaks in an entirely different tone’ (Cassirer, 1946, p. 133). Though the city tyrannies in their absolute disposition over power displayed a continuity with the ancient state, they actually revealed the new state of modernity (Jellinek, 1966, pp. 322–323). This new state, that fascinated Machiavelli, was, in the words of Cassirer, ‘a body politic that had been created by force and was to be maintained by force’ (Cassirer, 1946, p. 135).

The ultimate humanist conviction that the human being does not have to abide by an underlying, God-given world order clearly emerged for the first time. Yet Machiavelli introduced into the literature of political philosophy an awareness of the state as such. In respect of the north Italian states of the 15th century he held the view that they are neither peoples nor tribes, neither cities nor empires, for they are the first states of the world.¹⁰ But true to the nominalistic spirit of the time these states were viewed as artificial creations—they could be constructed, altered and adapted to the needs of the day.

Until 1512, Machiavelli was trained as a diplomat in the Florentine republic. He was a contemporary of the deeds of Pope Sixtus IV who managed to bring down prominent leaders by means of profits acquired from the sale of tokens of grace, and he experienced how Pope Innocent VIII granted robbers absolution for murder and manslaughter in exchange for certain payments in coin. All of this contributed to his own political philosophy in which he distanced himself from every form of moral reliability. A contract once entered into ought not to be upheld, because the others involved in it will not keep their word either.

The upshot was that Machiavelli delivered the state to an absolutist and totalitarian power in his political theory, a typical example of a 'power-state' conception of modern humanism (Jellinek, 1966, p. 455). The basic question of humanist political theory at this preliminary stage was the following: Who possesses the highest power or competence in the state. The French thinker, Jean Bodin, was the first to introduce the term *sovereignty* in order to capture the governmental authority present within the state.¹¹ In opposition to Machiavelli, Bodin accepted that the government was bound both to natural and divine law. He, therefore, supported the classical principle of natural law, *pacta sunt servanda*, which states that contracts should be respected and kept. Yet, the weak point of his theory is found in his conviction that the state, as such, disposes of an absolute and original competence to the formation of law within the boundaries of its territory. Since Machiavelli, it is also known as the theory of the 'Staatsräson' (Meinecke, 1957, pp. 29–56).¹²

This view must, of course, be assessed against the background of the relatively undifferentiated medieval society, dominated by the Roman Catholic Church as superstructure. The medieval guilds—artificially constructed with the old Germanic sib as example—and the feudal manorial communities, which acquired various relations of super- and subordination (*villae, domaines*), displayed a marked undifferentiated character. In none of the societal forms of organisation is a centralised monopoly of the power of the sword found. Against this background, it is understandable why Bodin would have interpreted every original claim to the formation of law as a claim to original sword power that would amount to a threat to the idea of the state as a *res publica* (cf. Dooyeweerd, 1951, p. 87 ff.).

Within the undifferentiated structure of the late medieval substructure of society, governmental authority was still a commercial item, a *res in commercio*. The sovereign lord disposed over it freely. When private persons or corporations took hold of it, it formed part of their inviolable rights. Governmental authority was in no way as yet seen as a public office, called to serve the interests of the public (the *res publica*). It was particularly the all-encompassing nature of the guild system that precluded the realisation of a genuine state organisation.

However, the aim of Bodin's theory of sovereignty was to create an absolute monarchical power through the monopolisation of the power of the sword. This central form of governmental authority would have had an exclusive competence to the formation of positive law. What he did not realise was that such an integration of governmental authority in practice contributed to an enhancement of the process of societal differentiation that at once gave birth to distinct and independent non-political societal collectivities. But this process of differentiation, with an inner necessity, gave rise to original spheres of competence distinct from that of the state—each of them evincing an original juridical competence to form law within its own domain. In other words, the way in which Bodin envisaged the aim to be realised—namely, the differentiation of different spheres of law—in fact displayed an inherent tension with the aim itself—namely, identifying every competence to the formation of law with that of the state sovereign.

Two options thus emerged:

- (i) The *monarch* disposes over sovereignty.
- (ii) The *people* dispose over sovereignty.

These two options of popular sovereignty versus royal sovereignty provide the basis for the distinction between a republic and a monarchy, for in the former the people are sovereign and in the latter the monarch is the sovereign. This view still influenced Paul Kruger in the republic of Transvaal in the 19th century. On the one hand, he affirmed that the voice of the people was the voice of the King,¹³ and particularly on the occasions where he was elected president, he claimed that the voice of the people was the voice of God.¹⁴ Wypkema thought that Paul Kruger never combined these two statements, though he did occasionally do that: 'A truly republican principle was that the people are the voice of the king and a free voice is the voice of God' (cf. Smith, 1951, p. 18).

Although humanistic thought has had examples of thinkers who aimed at developing a theory of a just state (*regstaat*), a constitutional state under the rule of law, this starting point, which places sovereignty either in the people or the monarch, constantly hampered it. As a consequence, these theories never really exceeded the limitations of a power-state theory in a material sense. It would be sufficient to analyse the political philosophy of Hobbes in this regard, for what he said about the monarch was said by Rousseau about the 'general will'.

Hobbes

In the footsteps of Machiavelli and Bodin, the political theory of Hobbes unfolded in his impressive work, *Leviathan*, from the year 1651, explicitly aimed at a theory of the power-state (*magstaat*) (Jellinek, 1966, p. 193). Equally in the grip of the humanistic natural science-ideal, Hobbes also proceeds on the basis of the contract theory. Habermas captures this practice when he remarks:

Hobbes wants to reconstruct the classical theory of the state after the example of modern science. In doing this he wants to find a foundation for social philosophy within the physics of that period (Habermas, 1971, p. 88).

He assumes a state of nature in which every person is engaged in a battle against every other person (*bellum omnium contra omnes* — cf. Hobbes, [1651] 1968, p. 183 ff.). The social contract constitutes a transition from the original state of nature to the societal condition in which the state is established. Abiding by the autonomous humanistic urge for freedom, Hobbes proceeds from the idea that every individual freely, via the contract, enters into the new condition of the state.¹⁵ Yet the contract is not set up between the government and the people (whether or not taken separately or collectively) (Hobbes, 1968, p. 230). But whereas Machiavelli did not defend the keeping of contracts, Hobbes considered injustice to be the non-performance of conventions made (Levine, 2002, p. 37).

The people, as a mere collective name for the collection of individuals, only through the contract are bound into a real unity, which is the government in

person: 'It is a real unity of them all, in one and the same Person, made by Covenant of every man with every man' (Hobbes, 1968, p. 227).

Hobbes does not assign sovereignty to the people itself, for only the unity of the people, as represented in the ruler, is sovereign. As a result, no single person can ever complain about anything done by the ruler, since through the contract, that person actually willed what the majority 'ordained': 'And therefore if he refuses to stand thereto, or make Protestation against any of their Decrees, he does contrary to his Covenant and therefore unjustly' (Hobbes, 1968, pp. 231–232). For this reason Brecht is justified in his observation that the weaker form in which Hobbes defends the idea of natural rights entails 'that the sovereign power could disregard them without acting unjustly' (Brecht, 1970, p. 139).

As a consequence of this contract theory, conceived on the basis of the humanistic natural science-ideal, Hobbes consistently defends a totalitarian and absolutist theory of the state, leaving no room for the inner freedom of any non-political societal collectivities or for any (individual) civil freedoms. Even the public freedom of the body politic is precluded because citizens are not allowed to complain about any injustice as the will of the sovereign is considered to be their own will. Cassirer summarises the stance of Hobbes's political philosophy in a striking way:

Hobbes's theory culminates in the paradoxical assertion that the legal bond between the ruler and the subjects, once it has been tied, is indissoluble. The pact of submission by which the individuals renounce all their rights and freedoms is the necessary presupposition, the first step, that leads to a social order. But it is, in a sense, also the ultimate step. Henceforth the individuals no longer exist as independent beings. They have no will of their own. The social will has become incorporated with the ruler of the state. This will is unrestricted; there is no other power beside or above the absolute sovereign (Cassirer, 1946, p. 174).

Before Western civilisation could witness the rise of (formal) theories of the just state the intermezzo of the reformation took place. Yet, although the biblical motive of freedom, in a secularised way, informed the political theories of Locke, Rousseau and Kant, these thinkers did not succeed in developing a material idea of the just state ('regstaat')—they remained stuck in a *formal* theory. But it exceeds the scope of this article to examine their theories as well.

Concluding remark

Cicero and Seneca still lived and thought within the aftermath of ancient Greek culture, wrestling with the dualistic effects of the form-matter divide. Cicero not only advanced well-articulated reflections on the nature of different kinds of law, but also thoroughly influenced the definitions of justice and natural law found amongst the classical Roman jurists—such as Gaius, Ulpianus and Modestinus. The subsequent history of the relationship between state and church during the Middle Ages as well as the synthesis views generated by Augustine and Thomas Aquinas continued the dualism of ancient Greece in the new form of the motive of nature and grace. The Roman Catholic Church was seen as the supernatural consummation of life, based upon the highest temporal form of perfection found in the

state. But the artificial synthesis between the Greek motive of form and matter and the biblical motive of creation eventually was challenged by the nominalistic movement of the late 13th and early 14th centuries. This change paved the way for the initial atomistic (individualistic) political theories of modern humanism—although the first representatives of this new spirit remained stuck in totalitarian and absolutistic theories in the material sense of the word.

Notes

- * Dean's office, Faculty of the Humanities Office, The University of the Free State, P.O. Box 339, Bloemfontein 9300, South Africa. Email: dfms@cknet.co.za
1. Compare, in this connection, his work *De Republica* (Book 3, Chap. 22) as well as his *De Officiis*.
 2. Dooyeweerd describes the nature of the *familia* as follows: 'Each familia was a family community, an economic unit, a miniature state, and a community of worship. Above all, it was the embodiment of the religious authority of the household gods, who represented the communion between the living and dead members of the familia. The head of the familia was usually the oldest male member, the pater familias, who wielded the power of life and death over all—over his wife, his children, his slaves, and his so-called clients. He also presided as the priest' (Dooyeweerd, 2003, p. 24).
 3. '... me who God called to the kingdom—not having ever called him to the priesthood' (Ehler and Morrall, 1954, p. 46).
 4. The original form-matter dualism acquires an ambiguous form in the thought of Plotinus. On the one hand, he claims that through the process of emanation the One turns into its opposite: matter. At the same time, he holds that the diminishing radiation coming from the One finds in matter its last form (En. V, 8,7,22–23).
 5. The earthly state is merely a copy of the City of God which is inherently bad—explaining why it is also designated as Babylon and why its monarch is called Diabolus. It should also be kept in mind that the City of God does not coincide with the temporal church institution, for as sacramental institute of grace, the *Corpus Christi* (Body of Christ) is elevated above all societal institutions and is intended to encompass the entire life of the Christian.
 6. This form of justice assigns certain legal duties to a person, such as military service.
 7. Since Thomas Aquinas knew the Stoic-Christian tradition of natural law he attempted to adapt the Aristotelian doctrine to it—but this does not mean that in his political philosophy Aristotle himself advocated the idea of human rights, as Trude believes (Trude, 1955, p. 170 ff.).
 8. What Aristotle designated as the primary substance refers to something individual and is, therefore, distinct from the universal secondary substance (cf. Aristotle, *Categoriae* 3 b 10 ff.), Occam thus considered his own position to be a return to the true Aristotelian one.
 9. Even the trinity of God was transposed into three independent divinities—the heresy of 'tri-theism'.
 10. Krüger remarks that Machiavelli believed that the 'oberitalienische Herrschaften des 15. Jahrhunderts' were states and he quotes Machiavelli saying: '[they are] weder Völker noch Stämme, weder Städte noch Reiche, es sind die ersten Staaten der Welt' (Krüger, 1966, p. 13).
 11. Jellinek argues that the antique idea of the state did not introduce the notion of *sovereignty* because there was no extra-political power that the state had to combat (Jellinek, 1966, pp. 453–454). The opposition between church and state and the eventual increasing differentiation of society did provide the proliferation required for this delimitation of competencies.
 12. Krüger gives the following circumscription of the idea of 'Staatsräson': 'Staat und Politik sind für ihn eine Art von natürlichen, ungegenständlichen Körpern, die nach ihren immanenten, vor allem auf Selbsterhaltung ausgehenden Gesetzen leben' (Krüger, 1966, p. 41). [In terms of the theory of the 'reason of state', 'State and politics are kinds of bodies without objects—that live according to their immanent laws, proceeding before anything else from their drive to self-maintenance.']
 13. 'Die volkstem is koningstem'.
 14. 'Die volkstem is Gods stem'.
 15. Hobbes holds that nothing 'done to a man, by his own consent can be Injury' (Hobbes, 1968, p. 207).

References

Aristotle *The Basic Works of Aristotle*, Richard McKeon (ed.), (2001) an Introduction by C.D.C. Reeve (New York: The Modern Library).

- Brecht, A. (1970), *Political Theory: The Foundations of Twentieth-Century Political Thought* (Princeton, NJ: Princeton University Press).
- Cassirer, E. (1946), *The Myth of the State* (Oxford: Oxford University Press).
- Diels, H. and Kranz, W. (1959/60), *Die Fragmente der Vorsokratiker*. Band I-III (Berlin: Weidmannsche Verlagsbuchhandlung).
- Dooyeweerd, H. (1951), 'The Contest About the Concept of Sovereignty in Modern Jurisprudence and Political Science', *Free University Quarterly*, 1(2) March, pp. 85–106.
- Dooyeweerd, H. (2003), 'Roots of Western Culture: Pagan, Secular, and Christian Options', Series B, Volume 3, in: D.F.M. Strauss (ed.), *The Collected Works of Herman Dooyeweerd* (Lewiston, NY: Mellen Press).
- Ehler, S. and Morrall, J.B. (eds and trans.) (1954), *Church and State Through the Centuries, A Collection of Historic Documents with Commentaries* (London: Burns & Oates).
- Habermas, J. (1971), *Theorie und Praxis, Sozialphilosophische Studien*, 4th revised and expanded edn. (Berlin: Suhrkamp).
- Hobbes, T. (1668 [1651]), *Leviathan* (Harmondsworth: Pelican).
- Hommers, H.J. (1981), *Hoofdlijnen van de Geschiedenis der Rechtsfilosofie*, Second impression (Deventer: Kluwer).
- Jellinek, G. (1966), *Allgemeine Staatslehr*, 3rd edn. (Zürich: Verlag Dr. Max Gehlen).
- Jones, J.W. (1956), *Historical Introduction to the Theory of Law* (Oxford: The Clarendon Press).
- Krüger, H. (1966), *Allgemeine Staatslehre* (Stuttgart: W. Kohlhammer Verlag).
- Levine, A. (2002), *Engaging Political Philosophy* (Oxford: Blackwell Publishers).
- Rahner, H. (1961), *Kirche und Staat in frühen Christentum, Dokumente aus acht Jahrhunderten und ihre Deutung* (Munich: Kösel-Verlag).
- Rousseau, J.J. (1975), *Du contrat social et autres oeuvres politiques* (Paris: Editions Garnier Frères).
- Schippers, R. (1941), 'Romeinen 13 naast Openbaring 13', in: *Vox Theologica*, Interacademiaal Theologisch Tijdschrift, Year 12, No.3, February, pp. 79–85.
- Servatius, C. (1977), in: Denzler, H. (ed.) *Kirche und Staat auf Distanz* (München: Kösel).
- Servatius, C. (1977), *Kirche und Staat im Mittelalter. Auf dem Wege nach Canossa*, in: Denzler, 1977, pp. 42–56.
- Smith, F.P. (1951), *Staatsopvattinge van Paul Kruger* (Pretoria: J.L. van Schaik).
- Stüttler, J.A. (1969), *Kirche und Staat* (Aschaffenburg: Paul Pattloch Verlag).
- Trude, P. (1955), *Der Begriff der Gerechtigkeit in der aristotelischen Rechts- und Staatsphilosophie. Neue Kölner Rechtswissenschaftliche Abhandlungen*. (Heft 3. Berlin: W. de Gruyter, 1955).
- Van Zyl, D.H. (1989), *Justice and Equity in Cicero, A Critical Evaluation in Contextual Perspective*. Unpublished Doctor Literatum Thesis, University of the Free State, 1407 pp.
- Van Zyl, D.H. (1991), *Justice and Equity in Greek and Roman Thought* (Pretoria: Academica).
- Wypkema, A. (1939), *De invloed van Nederland op ontstaan en ontwikkeling van de staatsinstellingen der Z.A. Republiek tot 1881* (Pretoria: De Bussy).