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From the Hebrew Commonwealth to Party Politics: Rousseau's Legacy and the Nation-State in Nineteenth-Century Political Thought

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When, why and how did the subjects of individual and national self-determination come to overlap and what were the effects of this overlap when it occurred? Usually in the history of European political thought, the subject of self-determination is associated with the concept of autonomy, while the subject of national self-determination is associated with the concept of the nation-state. The aim of this article is to examine the relationship between these two concepts mainly in the light of an earlier tension between the concepts of the people and of the nation as agents of political authorization and between Roman law and the legacy of Monarchomach thought particularly, but not exclusively, in eighteenth-century France. It is designed to show of how this cluster of tensions was described and discussed first by Rousseau, Kant and Hegel, and then, in the nineteenth and twentieth centuries, by such figures as Mill, Tocqueville, Bluntschli, Bosanquet, Hauriou, Schmitt and Strauss. The point of the article is to suggest that the modern, two-sided, relationship between parties and states is more of a continuation of the earlier conceptual relationship between nations and peoples than is usually assumed.

Introduction

Among the various ways of thinking about self-determination in the nineteenth century—in the context, for example, of nations and empires, or church and state, or men and women—two sets of concepts stood out. One set began with Jean-Jacques Rousseau and Immanuel Kant and focused on the concept of autonomy and the related idea of individual self-determination. The other set began much later in the nineteenth century and focused on the relationship between the concept of the nation-state and an earlier array of calls for national self-determination centered, for example, on the Dutch revolt of the sixteenth century, the Catalan rebellion of the seventeenth century, or German resistance to the Napoleonic empire in the early nineteenth century. The most immediate aim of this article is to uncover some of the different layers of political argument buried beneath these different concepts of self-determination and, by doing so, to begin to explain how and why these initially separate sets of concepts—and the range

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of different subjects to which they referred—came to be connected.¹ It is designed to build on, and modify, the parallel examinations of nations, nationalism and nation-states made a generation ago by Reinhart Koselleck and Istvan Hont by adding the concepts of autonomy and individual self-determination to those that they associated with the concepts of nationality and national self-determination.² In both their examinations, the initial historical and analytical focus fell on the difference between the concepts of the people and the nation as agents collectively responsible for authorizing and legitimating political authority and power. Drawing on a widely recognized distinction in early modern European legal and political thought, both Koselleck and Hont emphasized the legal and political quality of the concept of the people as an agent of authorization and, by contrast, the cultural and ethnic attributes of the concept of a nation as a natural and non-political part of society. In this early modern idiom, empires and states could house many different nations, but sovereignty and law would still make—or be the work of—one people. Nations, in short, were natural communities, but peoples were the products of empires, states and law.

This distinction, which had its origins in legal justifications of authority over the proliferating array of nations subject to Roman rule under both the Roman Republic and the Roman Empire, is not hard to grasp. It is more difficult, however, to identify something more specific to the concepts of either a nation or a people that assigns either the one or the other to the political and the nonpolitical parts of a society. One way of trying to do so is to claim that nations are natural entities because they are communities of descent, while peoples are artificial entities because they are generated by empires, states and law. Here too the difference is not hard to grasp, but time and events make it more difficult to explain why one

¹In working this out, I am particularly grateful to Tracie Matysik, Iain McDaniel and Béla Kapossy, as well as to James Alexander, Graham Clure, John Dunn, Dan Edelstein, Michael Freeden, Ross Harrison, Charlotte Johann, Duncan Kelly, Thomas Lalevee, Eva Piirimäe, Steven Sawyer and Alexander Schmidt for their help and guidance. For earlier and still salient studies see George Cogordan, *La nationalité au point de vue des rapports internationaux* (Paris, 1890); Eugène Baie, ed., *Le principe des nationalités* (Paris, 1915); J. A. R. Marriott, *The European Commonwealth: Problems Historical and Diplomatic* (Oxford, 1918); Robert Redslob, *Le principe des nationalités* (Paris, 1930); Charles H. Pouthas, *Le mouvement des nationalités en Europe dans la première moitié du XIX siècle*, 2 vols. (Paris, 1946–7); Alfred Cobban, *National Self-Determination* (Oxford, 1945); Hans Kohn, *The Idea of Nationalism: A Study in Its Origins and Background* (New York, 1944), reprinted with a new introduction by Craig Calhoun (New Brunswick, 2005); and Kohn, *Prelude to Nation-States: The French and German Experience, 1789–1815* (Princeton, 1967).

²For these two remarkably congruent examinations see the entry headed “Volk, Nation, Nationalismus, Masse,” edited and partly written by Reinhart Koselleck, in Otto Brunner, Werner Conze and Reinhart Koselleck, eds., *Geschichtliche Grundbegriffe: Historische Lexikon zur Politisch-sozialen Sprache in Deutschland*, 7 vols. (Stuttgart, 1972–97), 7: 141–431; and the memorable footnote number 131 by István Hont in his *Jealousy of Trade: International Competition and the Nation State in Historical Perspective* (Cambridge, MA, 2005), 523–25 (as well as the chapter on “The Permanent Crisis of a Divided Mankind” in which that footnote appears). Compare to Michael Oakshott, *Lectures in the History of Political Thought* (Exeter, 2006), 401–12; Jocelyne Couture, Kai Neilsen and Michel Seymour, eds., *Rethinking Nationalism* (Calgary, 1996); Anthony D. Smith, *Nationalism* (Cambridge, 2001); and Thomas Pink, *Self-Determination: The Ethics of Action* (Oxford, 2016). For a helpful way into the subject of autonomy see Véronique Ranouil, *L'autonomie de la volonté: Naissance et évolution d'un concept* (Paris, 1980).

name rather than the other should be applied to the political rather than the non-political side of society. Peoples can be authorizing agents, but so too can nations. Peoples could, originally, be made up of isolated individuals, like Robinson Crusoe, while nations might, more intuitively, have a common or collective dimension, but it is not clear whether this difference provides any clearer or more stable criteria for distinguishing between the political and nonpolitical parts of a society. In nineteenth-century France, for example, both names had their champions, with the emphasis on the people as the political part of society falling most memorably on the side of the people in Jules Michelet's *Le peuple* of 1846 and more firmly on the side of the nation in Ernest Renan's *Qu'est-ce qu'une nation?* (What Is a Nation?) of 1882. The names, in short, are less important than the underlying distinction. Irrespective of whether the name of the authorizing agent is a people or a nation, what matters substantively is who gives authority to whom, and over what, because this is the demarcation that is the basis of the fuzzy, but still real, distinction between the political and nonpolitical parts of a society that in the late nineteenth century became the curious conceptual hybrid which, initially in the anglophone world but subsequently in many other European societies and languages, was called a nation-state, an *état-nation* or a *Nationalstaat*.³

Usually, however, the question of who gives authority to whom, and over what, has been given a historical answer. In this respect, both Koselleck and Hont were part of a much broader stream of twentieth-century historical scholarship that singled out the beginning of the French Revolution and the substitution in 1789 of the sovereignty of the French nation for the sovereignty of the French king as a seminal moment in the history of political thought and, more fundamentally, as a turning point in both the politics of self-determination and the modern revival of ancient democracy. In this historiography, and notwithstanding the many subtleties and nuances involved in interpretations both of self-determination and of modern versions of ancient democracy, the period of the French Revolution was taken to be the moment at which the early modern, neo-Roman, distinction between the people and the nation as the political and nonpolitical parts of society began to be reversed. After 1789 and, a fortiori, after the incorporation of large tracts of Europe into the Napoleonic empire, nations began to be taken to be the real agents of political authorization and legitimation, while peoples turned into the repositories of language, culture, mores and values. In the wake of this transformation, nations both in Europe and in the Americas became the vehicles of politics and, as politics became more firmly democratic, nations became the legitimating agents of popular politics. In this setting, politics was cut slowly adrift from diplomacy, with its emphasis on the primacy of foreign policy, and turned instead into the politics of democracy, with its emphasis on the primacy of domestic policy. This meant, from the nineteenth century onwards, that politics became the politics of national self-determination or the politics of national states, nation-states, national governments and, ultimately, nationalism.⁴

³See, for example, Jacques Derrida, *L'hospitalité*, 2 vols. (Paris, 2021), 1: 186, 235 n. 2 (discussing Hannah Arendt on the nation-state).

⁴For a strong example see David A. Bell, *The Cult of the Nation in France: Inventing Nationalism, 1680–1800* (Cambridge, MA, 2001); and his more recent “Revolutionary France and the Origins of Nationalism:

This, put summarily, is the standard story. But it is not clear whether the switch from the people to the nation as the key concept in determining the nature and identity of a legitimating agent makes it a new story, a different story, or simply the same story but with a modified set of names. Substituting the nation for the people as a legitimating agent has no obvious impact on the underlying distinction between the political and nonpolitical parts of a society or, as the distinction has also been described, between the artificial and natural parts of society. This, as will be shown, is why the subject of autonomy, or a mixture of both individual and national self-determination, matters both analytically and historically. Adding autonomy to the story about national self-determination and its origins makes it possible to see that the standard story—centered as it is on a switch from the people to the nation as authorizing agents at the time of the French Revolution and Napoleonic empire—is both more complicated and more varied because it involves, first, a different set of origins; second, a longer span of time; and third, a broader range of outcomes. This, in the first instance, is because the semantic ambiguity over whether the people or the nation was the appropriate name to give to an authorizing agent was matched by a more substantive political and historical ambiguity that pre-dated the French Revolution by several hundred years. This more fundamental ambiguity was a product of the emergence in Europe in the sixteenth and seventeenth centuries, and in opposition to Renaissance and neo-Roman justifications of royal authority and imperial power, of a large, rich and powerful body of political thought produced by an assortment of critics and opponents of monarchy—or, more accurately, of various Catholic or Protestant versions of monarchy—who came to be known as Monarchomachs, or king killers.⁵

One of the aims of this article is to show that Monarchomach thought had a longer and more considerable afterlife, particularly in eighteenth-century France, than has usually been assumed. This meant that the ambiguous status of both the nation and the people as rival agents of either authority or resistance to authority had a more durable and substantial presence in eighteenth-century political thought than, again particularly in France, has usually been assumed. For much of the century, justifications both of royal authority and of opposition to royal authority continued to resonate in France either to Roman and Renaissance claims about the unity of the people or to Monarchomach claims about the rights of the nation (although sometimes, given the initial ambiguity, vice versa). The result was that, more perhaps than in Britain, the United Provinces or the Holy Roman Empire, the semantic ambiguity over the names of either the people or the nation as authorizing agents was matched by a more substantive ambiguity over their respective status and rights all the way through the eighteenth century, giving

An Old Problem Revisited,” in Lotte Jensen, ed., *The Roots of Nationalism* (Amsterdam, 2016), 67–83. See also Daniel Edelstein, *On the Spirit of Rights* (Chicago, 2019); and, for a helpful way into the subject of the status of the nation in the French Declaration of the Rights of Man, Stéphane Rials, *La déclaration des droits de l'homme et du citoyen* (Paris, 1988). For an example of the terminological complications involved in nations, states and empires see Werner Conze, *The Shaping of the German Nation: A Historical Analysis* (London, 1979), 1–33.

⁵The word “Monarchomach” was coined by William Barclay, the author of *De Regno et Regali Potestate* (On the King and Royal Power) of 1600: see Sarah Mortimer, *Reformation, Resistance, and Reason of State* (Oxford, 2021), 214.

political argument in France between the reigns of Louis XIV and Louis XVI much of its conceptually inconclusive character.⁶ Another of the aims of this article is, accordingly, to suggest that the problems built into deciding whether the people or the nation was the right name for the elusive agent generated much of the motivation to try to identify something less ambiguous, as had been done in other, largely Protestant, parts of Europe in the seventeenth century. In the context of eighteenth-century France, setting the rival concepts of the people and the nation against one another was simply a formula for intellectual and practical stasis. In the light of this dilemma, there had to be an alternative to both.

The obvious eighteenth-century alternative to both the people and the nation as sources of legal authority and political power was the concept of a social contract. As a concept, a social contract did not presuppose the imposition of unity from above, as was the case with conquest and empire, but it also did not presuppose the existence of unity from below, as was the case with the idea of a natural community of descent. It is easy to forget, however, that the concept of a social contract had no real intellectual presence in eighteenth-century France until the time of Jean-Jacques Rousseau. It is also easy to forget that Rousseau's eponymous book was, in the first instance, an intervention in Genevan rather than French politics and was published in 1762 initially in the context of Genevan politics towards the end of the Seven Years War. Something, however, about Rousseau's version of a social contract seems to have given it a more striking salience in a French context than anything already available from the earlier array of social-contract theories produced by Hobbes, Pufendorf and Locke. This extra quality was connected to the way in which Rousseau's theory of a social contract was based on, and was designed to secure, a concept of individual self-determination, or what Kant was to call autonomy. Although the name itself was not present in the *Social Contract*, the concept of autonomy certainly was.⁷ "Each of us," Rousseau wrote in Book 1,

⁶On these political arguments see Julian Swann, *Politics and the Parlement of Paris under Louis XV, 1754–1774* (Cambridge, 1995); and, more recently, Alain Lemaitre, ed., *Le monde parlementaire au XVIIIe siècle* (Rennes, 2010). See, more fully, Dale van Kley, *The Jansenists and the Expulsion of the Jesuits from France, 1757–65* (New Haven, 1975); Van Kley, *The Damiens Affair and the Unravelling of the Old Regime* (Princeton, 1984); Van Kley, "Pierre Nicole, Jansenism, and the Morality of Enlightened Self-Interest," in Alan Charles Kors and Paul J. Korshin, eds., *Anticipations of the Enlightenment in England, France and Germany* (Philadelphia, 1987), 69–85; Van Kley, "The Jansenist Constitutional Legacy in the French Pre-revolution," in Keith Michael Baker, ed., *The Political Culture of the Old Regime* (Oxford, 1987), 169–201; Van Kley, "The French Estates-General as Ecumenical Council," *Journal of Modern History* 61 (1989), 1–52; Van Kley, *The Religious Origins of the French Revolution* (New Haven, 1996); Van Kley, "Christianity as Casualty and Chrysalis of Modernity: The Problem of Dechristianization in the French Revolution," *American Historical Review* 108 (2003), 1081–1103; and Van Kley, ed., *The French Idea of Freedom* (Stanford, 1994). On the high politics of the eighteenth-century French monarchy see John Hardman, *French Politics 1774–1789: From the Accession of Louis XVI to the Fall of the Bastille* (London, 1995); and, particularly, Munro Price, *The Fall of the French Monarchy* (London, 2002). On the broader intellectual history of eighteenth-century France see, notably, Keith Michael Baker, *Inventing the French Revolution: Essays on French Political Culture in the Eighteenth Century* (Cambridge, 1990).

⁷On Rousseau as a theorist of autonomy see Frederick Neuhouser, *Rousseau's Theodicy of Self-Love: Evil, Rationality and the Drive for Recognition* (Oxford, 2008); and his later *Rousseau's Critique of Inequality: Reconstructing the Second Discourse* (Cambridge, 2014), together with Michael Sonenscher, *Jean-Jacques Rousseau: The Division of the Labour, the Politics of the Imagination and the Concept of Federal*

Chapter 6, of his book, “puts his person and his full power in common under the supreme direction of the general will: and in a body we receive each member as an indivisible part of the whole.” This formula, he went on to explain at the beginning of Chapter 7, “shows that the act of association involves a reciprocal engagement between the public and private individuals and that each individual, by contracting, so to speak, with himself, finds himself engaged in a two-fold relation: namely, as member of the Sovereign towards private individuals, and as a member of the state toward the Sovereign.”⁸ In addition to the imaginative division involved in making a contract with oneself, there was also a recognizable practical division because, as Rousseau explained, each individual had an active relationship with other individuals as a member of the sovereign, but also had a passive relationship with the same sovereign as a member of the state. The two sides of the division could accordingly form a framework for thinking about how national and individual self-determination could become the basis of a clear distinction between the political and nonpolitical parts of society. More individual autonomy implied less collective authority, whether from the people, the nation, the church or any other external agency, while less collective authority left more room for individual autonomy, from composing music to rearing pigeons, or, like Rousseau, practising botany. Rousseau’s concept of a social contract had, in short, two different sides. One side was formed by the sovereign, the other by the state. From one perspective, this new distinction appeared to rule out the older distinction between the people and the nation because both seemed to be subsumed by the democratic quality of Rousseau’s concept of sovereignty. From another perspective, however, it actually established a way to make the older distinction clearer and, by doing so, to keep its two sides more strongly in place because it introduced a new and different authorizing agent into the relationship between the people and the nation. Rousseau called this third authorizing agent the general will.

The significance of the concept of the general will in this version of social-contract theory helped to give Rousseau’s moral and political thought a genuinely pivotal presence in the long conceptual arc formed by the overlapping subjects of nations and peoples in Roman law; kings and magistrates in sixteenth- and seventeenth-century Monarchomach theory; popular sovereignty and representative

Government (Leiden, 2020), 112–14. See also Richard Rorty, *Pragmatism as Anti-authoritarianism* (Cambridge, MA, 2021), 24–46.

⁸Jean-Jacques Rousseau, *On the Social Contract* (1762), in Rousseau, *Collected Writings*, ed. Christopher Kelly, Roger D. Masters, Philip Stewart, et al., 14 vols. (Hanover, NH and London, 1987–2007), 4: 139 (the italics are in the original). I have used this edition of Rousseau’s works because it contains cross-references to Jean-Jacques Rousseau, *Oeuvres complètes*, 5 vols. (Paris, 1958–96), which is still the standard French-language edition of Rousseau’s works. Unless otherwise indicated, further references to the translation will be to Rousseau, *CW*, followed by the volume and page numbers. On Rousseau and the general will see, classically, Patrick Riley, *The General Will before Rousseau: The Transformation of the Divine into the Civic* (Princeton, 1986); and, more recently, James Farr and David Lay Williams, eds., *The General Will: The Evolution of a Concept* (Cambridge, 2015); Janusz Grygiel, *General Will in Political Philosophy* (Exeter, 2013); and Andrew Levine, *The General Will* (Cambridge, 1993). On the broader subject of autonomy and its intellectual ramifications see Michael Sonenscher, “Liberty, Autonomy and Republican Historiography: Civic Humanism in Context,” in Béla Kapossy, Isaac Nakhimovsky, Sophus A. Reinert and Richard Whatmore, eds., *Markets, Morals, Politics: Jealousy of Trade and the History of Political Thought. Essays in Honor of István Hont* (Cambridge, MA, 2018), 161–210.

government in the period of the French Revolution and the German *Vormärz*; and, more recently, the interplay between party politics, elected governments and sovereign states in the nineteenth and twentieth centuries. The overall aim of this article is, accordingly, to describe the component parts of that presence in fuller detail and, by doing so, to show how, sequentially and cumulatively, the conceptual ingredients of both the presence and its legacy came to be articulated. This, in the first instance, means looking back from Rousseau to the legacy of Roman law on the one hand and the political thought of the Monarchomachs on the other hand. It then, in the second place, means describing the reception of Rousseau's concept of the general will and getting the measure of its significance as a bridge between the political and nonpolitical sides of society in the thought of Sieyès, Kant and Hegel. It means, finally, highlighting the two-sided nature not only of Rousseau's concept of society but also of Rousseau's intellectual legacy in the nineteenth and twentieth centuries.⁹

This final step had a rather surprising outcome. Combining individual self-determination with national self-determination, as Rousseau's concept of the general will was designed to do, meant that the two sides of society, one political and the other nonpolitical, had no final destination or ultimate goal. Presupposing or imposing a goal on one side or the other threatened to rule out the indeterminacy underlying the distinction between the two. Their only goal was another goal, and their only destination a further destination, because this was the very radical indeterminacy that came not only with freedom but more specifically with party politics, periodic elections and individual voting. In this sense, Rousseau's thought formed a link between the old relation of nations to empires to the new relation of parties to nations. Just as nations were once parts of empires, parties became, as the name now means, parts of nations. Where nations were once to empires, because they were smaller parts of a larger whole, parties now took on the same relation to nations, states and, more emphatically, nation-states. As will be shown in the final section of this article, party politics was, ultimately, Rousseau's legacy.

The two sides of that intellectual legacy remained alive until well into the twentieth century. To one of Rousseau's most committed followers, the British political philosopher Bernard Bosanquet, Rousseau's thought was the basis of the new concept of a nation-state, a concept that, as Bosanquet described it, was best understood as a scaled-up version of a city-state. Here, like its ancient Aristotelian or Platonic counterpart, a nation-state was designed to provide its members with as wide a range as possible of the material and cultural resources needed to enable them to play as full a part as possible in the political and cultural life of what one of Bosanquet's later followers, an American political scientist named Mary Parker Follett, called "the new state."¹⁰ To another of Rousseau's admirers, however, the French legal theorist Maurice Hauriou, writing, like Bosanquet, in the late nineteenth and early twentieth centuries, Rousseau's thought was the starting point of a new way of thinking about the relationship between a property system and an electoral system and, most importantly, was the key to establishing a more effective set

⁹For an initial indication of this aspect of Rousseau's legacy see Sonenscher, *Jean-Jacques Rousseau*, 159.

¹⁰On Mary Parker Follett and her book *The New State* (New York, 1918; reprinted London, 1920, and, posthumously, University Park, 1998) see Joan C. Tonn, *Mary P. Follett: Creating Democracy, Transforming Management* (New Haven, 2003), at 8, 304, 308, 322 on Bosanquet.

of constitutional, legal and political provisions for keeping the two systems as separate as possible from one another.

In light of these two assessments, it could be said that both Bosanquet and Hauriou inadvertently revealed that Rousseau's legacy was radically Janus-faced. If, as Bosanquet argued, national self-determination called for a nation-state and a scaled-up version of a city-state, then Rousseau could be aligned with a range of fiscal, financial and constitutional policies and arrangements that favored social and political integration. But if, as Hauriou argued, individual self-determination called for as clear as possible a separation between a property system and an electoral system, then Rousseau could also be aligned with a range of policies and arrangements that favored social and political differentiation. Both options, it should be emphasized, were compatible with Rousseau's political thought. But the incompatible quality of the two options themselves seems to mean that Rousseau's thought was, in a yet-to-be-specified sense, also compatible with party politics and, more fundamentally, with the recurrent, electorally generated, switches between government and opposition that have become one of the more identifiable—but also one of the more precarious—hallmarks of the politics of the modern world. This, in fact, was the conclusion drawn by several of Rousseau's early readers, including Sieyès, Kant and Hegel. There was, it would seem, a surprisingly close relationship between party politics and the general will.

Roman law and Monarchomach politics

The unusual version of a social contract that was the basis of Rousseau's concept of the general will gave his moral and political thought a genuinely bipolar temporal quality. On one side it looked forward to German idealism and the concept of autonomy in the thought of Kant, Fichte, Schelling and Hegel. On the other side, however, it looked back either to the thought of Niccolò Machiavelli and Roman law or, alternatively, to the politics of the Monarchomachs and the idea of a Hebrew Commonwealth. Evidence of the first is not hard to find. Evidence of the second, however, is more difficult to locate, but can be found somewhat unexpectedly in Rousseau's examination of the subject of monarchy in Book 3, Chapter 6, of his *Social Contract*. The peculiar property of this form of government, Rousseau wrote there, was that it was, by nature, constituted by its "physical unity" rather than by "the moral unity which constitutes the prince," as was the case with a democracy or an aristocracy. In these latter two forms of government, Rousseau pointed out, all the natural human faculties involved in, for example, feeling, reasoning, considering and deciding were united artificially by the law. In a monarchy, he explained, "all the faculties that the law unites in the others are found at once united" in a real person. The resulting combination of the physical and the moral meant that "the will of the people and the will of the prince, and the public force of the state and the individual force of the government, all combine in one chief mover," thus "making it impossible to imagine any kind of constitution in which the least effort would produce a more considerable action." Monarchy from this perspective was what Rousseau described as the human equivalent of Archimedes' lever, equipped with a power to produce the maximum effect with the minimum effort.

The problem, however, was that this very concentration of power was also the source of the abuse of power. The absence of the fundamental procedural mediation by the law meant that monarchy was a system of government that had to rely solely on human arrangements, motivation, judgment and ability. In a monarchy the personal was political simply because the combination of sovereignty and government housed by something like the modern French monarchy left no real room for the impersonal and legal. If, Rousseau observed, a monarch happened to be endowed with “all the virtues he can have occasion for” and was “always the very thing he ought to be,” there could be no doubt that, under these conditions, “the regal government must appear evidently the best of all because it is incontestably the strongest and only wants a will more conformable to the general will to give it the superiority over all others.” The odds, however, were stacked against this possibility because the physical and moral unity of royal government, the hierarchy of its chain of command and the centralized and personal quality of its system of accountability all worked together to make monarchy more of a menace than a promise. “Samuel,” Rousseau concluded, “represented this in the strongest manner to the Hebrews, and Machiavel has proved it by incontestable evidence. Indeed this celebrated politician, while he pretends to be giving lessons to kings, gives the noblest lesson to the people and *The Prince* of Machiavel is the book of republicans.”¹¹

The juxtaposition of the name of the Hebrew patriarch Samuel alongside the better-known figure of Machiavelli in Rousseau’s assessment of monarchy has not been widely noticed.¹² In making a connection between the two figures, Rousseau was rehearsing a famous episode in the Old Testament at 1 Samuel 8, where Samuel, in his old age, had made his sons judges over Israel. The sons, however, lacked Samuel’s moral qualities, and the elders of Israel turned to the Hebrew patriarch and pleaded with him, as the passage in Scripture put it, to “give us a king, to judge us, like all other nations.” God, however, was greatly displeased by this appeal because it amounted to ending divine authority over the Israelites’ temporal affairs. God, accordingly, ordered Samuel to tell the people of Israel,

These are the terms on which a king shall reign over you. Your sons he will take and make his charioteers and his horsemen and runners before his chariots. He will make of them captains over thousands, captains over hundreds, captains over fifties, and captains over tens. He will take of them to till his grounds and reap his harvests; to make his weapons of war and the furniture of his chariots. Your daughters he will take to be ointment-makers, cooks and bakers. The best of your fields, vineyards and olive-yards, he will take and give

¹¹Rousseau, *On the Social Contract*, 177 (which also translates a very positive footnote on Machiavelli added to the posthumously published, 1782, edition of Rousseau’s *Oeuvres*). I have quoted these passages, in the order that they appear in this paragraph, from John-James Rousseau, *An Inquiry into the Nature of the Social Contract, or Principles of Political Right* (Dublin, 1791), 152–3, 163–4, 155.

¹²It is not mentioned, for example, in Eric Nelson, *The Hebrew Republic: Jewish Sources and the Transformation of European Thought* (Cambridge, MA, 2010). It is unlikely, however, that I would have noticed the name, or seen its significance, but for Nelson’s remarkable book. For initial commentary see the editorial note on both the passage and earlier interpretations of it by Hobbes and Sidney in Jean-Jacques Rousseau, *Oeuvres complètes*, 5 vols. (Paris, 1958–96), 3: 409, 1480–81.

to his servants. The choicest and best of your men servants and of your maid servants, of your cattle and of your asses, he will take and put to his own work. Your very flocks he will tithe; and his servants you shall be.¹³

The episode acquired an emblematic status in Monarchomach thought in the sixteenth century, particularly in the frequently reprinted *Vindiciae contra Tyrannos* of 1579. It continued to resonate into the eighteenth century as part of a range of different assessments of royal power associated either with Grotius, Hobbes and, ultimately, Rome and Roman law or, on the other hand, with the politics of the Monarchomachs, the idea of a Hebrew Commonwealth and a covenant between God and the people of Israel that was violated when the Hebrews chose to establish a king. In the first formulation, the people was usually taken to be the name of the agent authorizing royal power. In the second formulation, however, the nation could be set alongside the people as the name of the agent objecting to the abuse of royal power. The two names were used almost interchangeably in the *Vindiciae contra Tyrannos*, but as another Monarchomach, Theodore Beza, had put it a little earlier in his *Du droit des magistrats* of 1574, “as long as right and justice have prevailed no nation has either elected or approved its kings without laying down specific conditions,” and, if these conditions were not met, those who “had the power to confer this authority have retained no less power again to divest them of that authority.”¹⁴

Rousseau’s usage was something like a synthesis of these two ascriptions of authorization. A social contract, he wrote in Book 1, Chapter 6 of his eponymous book, had the effect of creating something called a body politic, or *republic*, that was called *state* when it was passive, *sovereign* when active, or *power* when compared to other states. “As for the associates,” Rousseau continued, “they collectively take the name *people*; and individually are called *citizens*, as participants in the sovereign authority, and *subjects* as subject to the laws of the state.”¹⁵ Nations, in this usage, were not relevant to the contractual side of political life because, as Rousseau went on to show in his examination of the legislator in Book 2, Chapter 7, of the *Social Contract*, nations existed before peoples and citizens. “The discovery of the best rules of society suited to nations,” he wrote there, “would require a superior intelligence who saw all of men’s passions yet experienced none of them.” A legislator was neither a sovereign nor a magistrate and had no legislative right but was still able to achieve “an undertaking beyond human force” using “an authority that amounts to nothing.” The role called, therefore, for abilities that were even more extraordinary than those of a great prince. A

¹³For the passage see *The Holy Bible*, ed. Alexander Geddes, 2 vols. (London, 1797), 2: 58–9. On its significance see Nelson, *Hebrew Republic*, 26–35. See too Flavius Josephus, *Works*, ed. William Whiston (London, 1860), 107–8.

¹⁴See, for example, the various ascriptions of authority and entitlement in Harold Laski, ed., *A Defence of Liberty against Tyrants: A Translation of the Vindiciae Contra Tyrannos by Junius Brutus* (London, 1924), 72–4, 87–91, 162, 174, 190–91, 208, 220, 228. For the quotation from Beza see Mortimer, *Reformation, Resistance, and Reason of State*, 165. On its later resonance see William E. H. Lecky, *Rationalism in Europe* (1865), ed. Archibald Robinson, 2 parts (London, 1946), Part II, 70–72.

¹⁵Rousseau, *On the Social Contract*, 139. For recognition of these distinctions before Koselleck and Hont see Kohn, *Idea of Nationalism*, 580–81 n. 9.

legislator was “the mechanic who invents the machine,” but even the greatest of princes was “only the workman who puts it together and starts it running.”¹⁶

As Rousseau went on to write in his posthumously published *Considerations on the Government of Poland*, the archetype of a legislator was Moses because a legislator could turn many nations into a single people, as Moses had done. He had “formed and executed the astonishing enterprise of founding into the body of a nation a swarm of unfortunate fugitives without arts, without arms, without talents, without virtues, without courage, and who, not having a single inch of ground of their own, made up an alien band on the face of the earth.” He turned “a servile troop” into “a free people” and “gave it that durable institution ... which still continues to exist today in all its force, even though the body of the nation no longer exists.”¹⁷ But, as Rousseau went on to indicate, particularly—but not only—in a Polish context, some of the ingredients of a nation, such as its culture, music, language, history and emotion, had a bearing on its existence as a people and, by extension, on its life within a state. “National institutions,” he wrote, also in his *Considerations on the Government of Poland*, “are what form the genius, character, tastes and morals of a people, what make it itself and not another, what inspire in it that ardent love of the fatherland [*patrie*] founded on habits impossible to uproot.”¹⁸

The names of the two authorizing agents were, therefore, quite hard to distinguish. The first was a product of the Roman and Latin terminology associated from the sixteenth century onwards with the concept of a state. In Roman law, and in both republican and imperial Rome, legislation was the work of the SPQR or the *Senatus Populus Que Romanus*. Here, law was authorized by the Roman Senate and Roman *people*, not the Roman *nation*, because the Roman people was made up of many different nations (Etruscans, Umbrians, Sabines, Samnites, Latins, Campagnians, Lucanians and so on) and, in this legal context, this terminology survived into the nineteenth century. In this idiom of authority, and in every major European language, the concept of the people, *peuple*, *popolo* or *Volk* was standardly associated with the legal and political side of the state while the concept of the nation was associated with its cultural or ethnic side. This means as well that what has usually been taken to be a rather specialized German-language distinction between a *Volkstaat* and a *Nationalstaat* was part of a more generic distinction between different characterizations of the agents or sources of sovereign power. In this more general usage, the people of Great Britain could be said to consist of the English, Welsh, Scots or Irish nations, just as the people of France was sometimes said to consist of a number of nations (Breton, Provençal, Burgundian or Occitan, for example) united under the rule of a single sovereign. As John Locke’s correspondent the early eighteenth-century historian of the French monarchy Jean-Baptiste Dubos put it in 1734 in his *Histoire de l’établissement de la monarchie française dans les Gaules* (History of the Establishment of the French Monarchy in Gaul), the extension of royal sovereignty over previously independent regions like Brittany or the Languedoc now meant that the French monarch ruled

¹⁶Rousseau, *On the Social Contract*, 154–7.

¹⁷Jean-Jacques Rousseau, *Considerations on the Government of Poland*, in Rousseau, *CW*, 11: 171–2.

¹⁸*Ibid.*, 174.

over one people made up of several different nations. The monarchy with its laws and institutions was responsible for the unitary character of the French people, while the traditions and culture of its various provinces meant that France still housed several different nations.¹⁹ The France of Louis XIV was, in short, a *Volkstaat*, not a *Nationalstaat*.

In the neo-Roman usage followed by Dubos, the people was the artificial entity because it was the entity that was subject to the rule of law and the authority of the state. The nation, on the other hand, was the natural entity because it was the product of its own language, culture and history. Roman law helped to make the distinctions clearer. On its terms, a people was subject to *imperium* or the commands of a ruler, while a nation could still have possession of its *dominium* or domain over the territory and goods that it occupied. These distinctions meant that, before the nineteenth century, the real counterconcept of a nation was not a state, but an empire, because an empire could combine *dominium* and *imperium* to give the phrase “the king’s state” a very literal meaning, as was the case in seventeenth-century France.²⁰ Nations could have their own status, estates or states, either within or without empires, but empires could sometimes swallow up nations or interfere with their existence to a point at which national survival might be threatened by a foreign empire and an alien people. In these circumstances nations could—and did—assert their sovereignty. This was the usage underlying the Dutch revolt of the sixteenth century and its invocation of the distinctive rights or privileges of the ancient Batavian nation. It was still the usage underlying late eighteenth-century Polish resistance to imperial partition and its invocation of the rights or privileges of the ancient Sarmatian nation, and, arguably, remained the usage of the American Revolution of the eighteenth century.²¹

Nations were natural, but peoples were more complicated because they owed their existence as much to laws and states as to customs and culture. Nations, from this perspective, provided a moral compass to peoples. In the many later interpretations of what 1 Samuel 8 was supposed to mean, the biblical text was,

¹⁹See, as illustrations, the headings of Chs. 3 and 4 of Bk VI of Jean-Baptiste Dubos, *Histoire de l'établissement de la monarchie française dans les Gaules*, entitled respectively “De la division du Peuple en plusieurs Nations, laquelle avoit lieu dans la Monarchie Française sous la première et sous la seconde Race. Du nom de Barbares donné aux Francs” and “Des différentes Nations qui composaient le Peuple de la Monarchie et de la Nation des Francs en particulier.” On this usage see Johnson Kent Wright, “National Sovereignty and the General Will: The Political Program of the Declaration of Rights,” in Van Kley, *The French Idea of Freedom*, 199–233.

²⁰Herbert H. Rowen, *The King's State: Proprietary Dynasticism in Early Modern France* (New Brunswick, 1980).

²¹On this subject see, notably, Nelson, *Hebrew Republic*; and, more recently, Philip Gorski, *American Covenant: A History of Civil Religion from the Puritans to the Present* (Princeton, 2017); as well as his earlier “The Mosaic Moment: An Early Modernist Critique of Modernist Theories of Nationalism,” *American Journal of Sociology* 105 (2000), 1428–68. Compare these to Eric Nelson, *The Royalist Revolution: Monarchy and the American Founding* (Cambridge, MA, 2014). For further illumination see Lea Campos Boralevi, “Introduction,” in Petrus Cunaeus, *De republica Hebraeorum libri tres* (Florence, 1996); and Gordon Schochet, Fania Oz-Salzberger and Meirav Jones, eds., *Political Hebraism: Judaic Sources in Early Modern Political Thought* (Jerusalem and New York, 2008). The subject is also visible, although not explicitly discussed, in Colin Kidd, *British Identities before Nationalism: Ethnicity and Nationhood in the Atlantic World, 1600–1800* (Cambridge, 1999); and his later *The Forging of Races: Race and Scripture in the Protestant Atlantic World, 1600–2000* (Cambridge, 2006).

accordingly, taken to be either a mandate for tyrants, an admonition to monarchs to uphold the rule of law or an authorization or incitement to nations to destroy arbitrary power and, if necessary, in the terminology of early modern Europe, to become Monarchomachs. To Jacques-Bénigne Bossuet, the very orthodox late seventeenth-century French bishop, the passage from Samuel was simply a description of absolute royal sovereignty. To the American Founders, on the other hand, the seal chosen to head the official publications of the United States was designed to carry the inscription, “Rebellion to Tyrants Is Obedience to God,” under an image of Moses parting the Red Sea to enable the Israelites to recover their freedom.²²

This tradition of Monarchomach thought was also still alive and was referred to regularly in eighteenth-century France. It was rehearsed repeatedly in the many reprints of the anonymous, but famous, sixteenth-century tract *Vindiciae contra Tyrannos* (or *A Defence of Liberty against Tyrants*, as the English translation was entitled), that were published in the seventeenth and eighteenth centuries. It was a feature of the story known as the *History of the Troglodytes* that was part of Montesquieu’s *Persian Letters*, where it became a commentary on both the English Revolution of 1688 and the implications of a possible Jacobite restoration.²³ It was, more recurrently, a component of the many conflicts that took place over the course of the eighteenth century between the French royal government and one or other of the thirteen French *parlements* and their Jansenist magistrates. Whenever, asserted the magistrates of the *parlement* of Brittany in 1757, “it is a matter of general laws that interest the nation, it is the nation that has to be consulted.”²⁴ Accordingly, the scriptural passage was given a prominent presence in the Jansenist lawyer Claude Mey’s *Maximes du droit public français* of 1775. There, after an extended commentary on the relationship between the Hebrew, Latin and French versions of the passage in Samuel, Mey concluded that it was an outrage to the idea of divine justice and the many other divine perfections to imagine that God had created twenty million inhabitants in a kingdom to become the plaything of a single individual entitled to dispose of them arbitrarily.²⁵ The whole point of the scriptural story, Mey explained, referring to an interpretation of the passage in Samuel by the sixteenth-century French jurist Antoine Loiseau, was to give kings a warning and provide them with a set of guidelines about how to avoid jeopardizing their thrones. The many different interpretations of the story were described and discussed even more extensively in a huge three-part compilation entitled

²²Jacques-Bénigne Bossuet, *Politics Drawn from Holy Scripture* (1709), ed. Patrick Riley (Cambridge, 1990), xlii–xliv, 43, 46, 59, 256, 371–3; and Oscar Solomon Straus, *The Origin of Republican Form of Government in the United States of America* (New York, 1885), 139–40. This latter publication seems to have been overlooked in all the more recent studies of the Hebrew commonwealth (as Straus called it). On Straus see Naomi W. Cohen, *A Dual Heritage: The Public Career of Oscar S. Straus* (Philadelphia, 1969); and for a critical assessment of the book see the interestingly historicist review of its 2nd (1901) edition by William A. Dunning in *Political Science Quarterly* 16 (1901), 515–17.

²³On Junius Brutus and the Troglodyte history as a Monarchomach text see Michael Sonenscher, *After Kant: The Romans, the Germans, and the History of Modern Political Thought* (Princeton, 2023), 35–41. See also Mortimer, *Reformation, Resistance, and Reason of State*, 162–9.

²⁴For this and many other examples see Roger Bickart, *Les parlements et la notion de souveraineté nationale au XVIIIe siècle* (Paris, 1932), 75. See also Pierre Barral, *Maximes sur le devoir des rois et le bon usage de leur autorité, tirées des auteurs anciens* (n.p. other than “en France,” 1754).

²⁵Claude Mey, *Maximes du droit public français*, 2nd edn, 2 vols. (Amsterdam, 1775), 1: 69–70.

Origine et étendue de la puissance royale suivant les livres saints et la tradition (The Origin and Extent of Royal Power According to the Gospel and Tradition) that was published in 1789 by one of Mey's Jansenist collaborators, Gabriel-Nicolas Maulrot. In the context of the developing argument over the royal debt and the relatively recent precedent of a royal debt default, its message was curiously ambivalent. If defaulting on a debt was obviously arbitrary, allowing a debt to grow was potentially unjust.²⁶ Either course of action revealed the underlying danger of entrusting a king with absolute power.

The passage about Samuel had a more general resonance throughout the eighteenth century. Rousseau's reference to it in 1762 was matched in 1765 in the Abbé Gabriel Bonnot de Mably's *Observations sur l'histoire de France*, where, Mably wrote sarcastically, the bishops of France,

understanding Samuel no better than they understood Saint Paul, believed that the essence of a king was to be able to do everything he wanted, that any failure to show blind respect towards all his caprices was a sin and, finally, that God, in the most incomprehensible of all his mysteries, would think ill of men who, having made one of their equals their head in order to enforce the observation of law by obeying the law himself, should dare to call that king to account for an administration with which he had been entrusted for the public good.²⁷

The word "king," Antoine-Adrien Lamourette (famous both as a constitutional bishop and for the irony of his fraternal kiss of peace at the beginning of a particularly divisive period of the French Revolution) announced in a sermon in 1790, was associated so strongly with paganism among the ancient Hebrews that their sacred writers never used the word "king" without also referring to the miseries of idolatry because, to Abraham's progeny, the word was taken to be the equivalent of a *satellite*, *licitor* or *tyrant*. "In those days," Lamourette explained, picking up the theme of Samuel and God's warning to the Hebrews about what would happen if they established a king, "the judges and elders who governed the state were no more than executors of the law that God had placed on deposit with the body of the nation. The people was all and everything was for the people."²⁸ Unsurprisingly, the passage about Samuel resurfaced in the French periodical press soon after the overthrow of the French monarchy on 10 August 1792 and the proclamation of the first French republic a month later.²⁹ From this perspective, there was

²⁶Gabriel-Nicolas Maulrot, *Origine et étendue de la puissance royale suivant les livres saints et la tradition*, 2 vols. (Paris, 1789). On Mey and Maulrot see Dale van Kley, "The Estates General as Ecumenical Council: The Constitutionalism of Corporate Consensus and the 'Parlements' Ruling of September 25, 1788," *Journal of Modern History* 61 (1989), 1–52. It is worth noting, however, that the scriptural story about Samuel and the dangers of choosing a king is entirely absent from the large and impressive corpus of Van Kley's publications.

²⁷Gabriel Bonnot de Mably, *Observations sur l'histoire de France*, 2 vols. (Geneva, 1765), 1: 42–3.

²⁸Antoine-Adrien Lamourette, *Prônes civiques* (Paris, 1790), 17–18. On Lamourette see Robert Darnton, *The Kiss of Lamourette* (London, 1990), xii–xiv, 17–18.

²⁹See *Auditeur national: Journal de la législation, de politique et de littérature* 6/339 (1792), 8. The story also resurfaced in 1848: see *L'Ami du peuple: Journal de atelier, de la ferme et du presbytère* 5 (29 June 1848), 3.

nothing very new in the article (Article 38) that, in April 1793, Lamourette's fellow former member of the Academy of Arras, Maximilian Robespierre, proposed as an addition to the new Declaration of the Rights of Man of the first French Republic. "Kings, aristocrats and tyrants whoever they are," the article announced, were "slaves in rebellion against the sovereign of the earth, which is the human race, and against the legislator of the universe, which is nature."³⁰ Here, the novelty was not so much the rejection of monarchy, but its application to the whole of humanity. Robespierre might well have been the first modern socialist, as he began to be described in France after 1830, but he certainly was the last Monarchomach.

The sovereignty of the people and the sovereignty of the nation

There was, however, a further significance to Robespierre's draft Declaration of the Rights of Man of 1793. Article 3 of the original Declaration of the Rights of Man of August 1789 had, famously, asserted that the "principle of all sovereignty resides in the nation." Article 14 of Robespierre's draft declaration asserted that "the people is sovereign; the government is its work and its property; public officials are its agents [*commis*]."³¹ This switch back from the nation to the people in Robespierre's declaration of the rights of man was matched by the fact that aristocrats and tyrants were not particularly visible in God's admonition to Samuel about the dangers of kings and, more generally, were not conspicuously prominent features of Monarchomach thought. Their joint presence in Robespierre's pronouncement, coupled with the additional articles on property that he proposed in his draft declaration of the rights of man, helps to throw new light on the relation of both national and individual self-determination to the politics of the French Revolution and, more broadly, to the complicated mixture of the old and the new involved in the modern concept of self-determination. It does so because it indicates that adding individual self-determination to national self-determination injected a new and potentially intractable problem into the question whether a people or a nation was the proper subject of sovereign authority.

Peoples and nations are not straightforward physical entities like stones or trees. Usually they have to be identified indirectly by means, for example, of a language, a flag or a map. Individuals also seem to have a more than purely physical quality, and this too calls for indirect identification, such as a smile, a walk or a laugh. But this is as far as the analogy can go because individuals are simply more finite, particular and concrete than peoples or nations can be partly because they have more radically time-bound lives than those of peoples and nations. This was one of the points of Rousseau's examination of the origin of inequality and his account

³⁰For the text see Maximilien Robespierre, *Oeuvres*, ed. Albert Laponneraye (Paris, 1840), 355; and Robespierre, speech to the Convention, 24 April 1793, reprinted in his *Oeuvres*, 11 vols., ed. Victor Barbier, Marc Bouloiseau, Jean Dautry, Gustave Laurent, Georges Lefebvre, Georges Michon, Albert Soboul, Charles Vellay and Florence Gauthier (Paris, 1910–2007), 9: 469.

³¹Robespierre, *Oeuvres*, 9: 466. On Robespierre as the first modern socialist see Marion Pouffary, "La construction de la légende dorée de Robespierre par les républicains entre le début de la monarchie de Juillet et le milieu du xix^e siècle," *Annales historiques de la Révolution française* 414 (2023), 107–28; and her *Robespierre, monstre ou héros?* (Lille, 2023). See also Michael Sonenscher, "Capitalism and the French Revolution," *French Historical Studies*, forthcoming (2024).

of how social interaction added the relative qualities of strong or weak, rich or poor, powerful or powerless and rulers or ruled to the absolute and purely physical differences that exist among individuals. In this respect, Robespierre's insistence on the people, not the nation, as the subject of sovereignty, together with the further clauses on the subject of property that he proposed as additions to the Declaration of the Rights of Man in 1793, captured the logic of Rousseau's account of the origin of inequality quite effectively. But Rousseau's solution to the resulting problem was radically different from Robespierre's. Where Robespierre proposed something analogous to the multiple councils of established republics like Florence, Venice and Geneva as the basis of the new system of government of the first French Republic, Rousseau referred consistently to a very different system of government, one that certainly had some features in common with the government of republican Rome, but also had qualities that were more apparent in modern Poland and Corsica. These qualities were the basis of the system of government that Rousseau called an elective aristocracy with its foundation in the combination of administration and election that he called "gradated promotion."

Robespierre's assertion in 1793 of the sovereignty of the people in place of the sovereignty of the nation was in fact the third in a sequence of more or less contingent switches to take place during the French Revolution. Cumulatively, they had the effect of complicating the earlier neo-Roman distinction between the concept of the people as a legal and political agent and the nation as a nonpolitical repository of language, culture and everyday life. The first was the refusal, late in 1788, by France's first two estates, the clergy and nobility, to form a single deliberative assembly by joining and voting with the representatives of the third estate in the forthcoming French Estates General. This refusal meant that the previously comprehensive concept of the people now seemed to apply only to that part of the people that was neither noble nor clergy but simply the third estate. In the ensuing deadlock, and after considerable terminological uncertainty, the representatives of the third estate and most of the lower clergy decided to drop the term "people" from their unilateral proclamation of sovereign power and, on the recommendation of Emmanuel Joseph Sieyès, to replace it by the more neutral and inclusive term "nation." The second contingent event was the unexpected appropriation of Rousseau's political thought by Sieyès and his political allies and its application both to the system of gradated promotion and to the new concept of the nation as the ultimate source of political authority and legitimacy. The result was a protracted fight over Rousseau's intellectual and political legacy which, in the context of the dynamics of revolutionary politics, gave rise to the third contingent event, now centered on Robespierre's reinstatement of the people, in conjunction with the concepts of a republic, the rights of man and conciliar government as the ultimate sources of political authority and legitimacy.

In this sequence, the important event was the synthesis that Sieyès established between Rousseau's political thought and the concept of a nation. This synthesis was inextricably bound up with the fierce political conflict that developed in France between 1789 and 1793 over, among many other things, whether the nation or the people was the ultimate authorizing agency. In the first move in this conflict, the concept of a unitary people and an indeterminate number of nations gave way to the concept of a unitary nation and an indeterminate number of people. Here,

Sieyès took over the old Monarchomach concept of the nation as a source of resistance and grafted it onto the Roman-law concept of authorization by the people as the basis of legitimate political power. The resulting substitution of the nation for the people left the old idea of a single people in something of a conceptual limbo. This initial uncertainty gave rise, for a number of specific reasons, to a popular reaction, with the old Monarchomach concept of a nation now being turned into a redefined concept of the people, now defined as a source of resistance to authority and of opposition to empire. In this second move, one associated with Jacques-Pierre Brissot, Jérôme Petion, Étienne Clavière and the politics of the Girondins, the people came to be given the name of *sans-culottes*, and politics came to be redefined as popular, demotic and domestic rather than diplomatic, royal and imperial. The third and final instalment of this sequence of moves and countermoves was a product of the earlier two. In it, Rome and its legacy lost their older royal and imperial connotations and came instead to be associated with republican government and the politics of redistribution. When, in 1794, François-Noël Babeuf decided to change his name, he chose to adopt the name of Gracchus rather than, for example, Samuel, as a symbol of his social and political allegiances.³²

The cumulative effect of this sequence of moves and countermoves was to block out much of the long afterlife of Monarchomach thought from the history and historiography of eighteenth-century French political thought and, as a result, to conceal the scale of the conceptual transformation involved in the passage from earlier Roman and royal justifications of authority to later Roman and republican justifications of *resistance* to authority. Although the Monarchomach legacy remained very visible in, for example, Thomas Paine's *Common Sense* of 1776 and, too, in the significance attached to the thought of Moses Lowman in the publications of Samuel Taylor Coleridge and William Wordsworth in Britain during the 1790s, in France the biblical story of God's warning to Samuel was slowly displaced by the moral and political legacy of republican Rome and the related subjects of agrarian laws, the Gracchi brothers and the politics of the old Roman maxim *salus populi suprema lex esto* highlighting the public safety as the supreme law.³³

By 1819, when the French skeptic François de Chasseboeuf, Comte de Volney, published his *Histoire de Samuel, inventeur du sacre des rois* (The History of Samuel, Inventor of the Royal Coronation), the Hebrew story had turned into a

³²On this sequence of moves and countermoves see Michael Sonenscher, *Sans-Culottes: An Eighteenth-Century Emblem in the French Revolution* (Princeton, 2008).

³³On the United States see Gorski, *American Covenant*; and, on Tom Paine, Nelson, *Hebrew Republic*; together with his earlier "Talmudical Commonwealthmen" and the Rise of Republican Exclusivism," *Historical Journal* 50 (2007), 809–35. On Britain and the examples of Samuel Taylor Coleridge and William Wordsworth see Nigel Leask, *The Politics of Imagination in Coleridge's Critical Thought* (London, 1988); and his "Pantisocracy and the Politics of the 'Preface' to *Lyrical Ballads*," in Allison Yarrington and Kelvin Everest, eds., *Reflections of Revolution* (London, 1993), 39–57; Malcolm Chase, "From Millennium to Anniversary: The Concept of Jubilee in Late Eighteenth- and Nineteenth-Century England," *Past and Present* 129 (1990), 132–47; and his earlier *The People's Farm: English Radical Agrarianism, 1775–1840* (Oxford, 1988); Tim Fulford, *Landscape, Liberty and Authority* (Cambridge, 1996); Simon Jarvis, "Wordsworth and Idolatry," *Studies in Romanticism* 38 (1999), 3–27. For a more scripturally oriented treatment of the subject see Patrick Delaney, *An Historical Account of the Life and Reign of David, King of Israel*, 2 vols. (London, 1740), 1: 10–17.

more anthropologically oriented account of the part played by oracles, wizards, seers or priests (for Volney the words were interchangeable) in creating and manipulating the beliefs and powers associated with the ceremony of the royal coronation. Here, the emphasis fell on the culture of the largely rural societies of the ancient Middle East which, according to Volney, were similar in character to those of modern Brittany, the Vendée or Provence because both housed the various confraternities of penitents, calculating fortune-tellers and opportunistic diviners whose values and beliefs formed a favorable environment for priestcraft. In Volney's rendition, Samuel was more of a Machiavellian than a Monarchomach.³⁴ This switch from history to anthropology and from moral realism to skeptical inquiry was almost the end of the Monarchomach story. It was still present, however, in the early publications of the anarcho-socialist Pierre-Joseph Proudhon, where the announcement that property was theft presupposed the initial logic of 1 Samuel 8 and the human appropriation of the original divine gift and divine law. There was a brief further revival of interest in the scriptural passage at the time of the centenary of the French Revolution in 1889 when Oscar Solomon Straus's examination of the Hebrew Commonwealth in his oddly entitled *The Origin of Republican Form of Government in the United States of America* was published in a French translation in 1890 with a long introductory preface by the Belgian socialist Émile de Laveleye. In his preface, however, Laveleye was careful to place the Hebrew commonwealth alongside both the Anglo-Saxon tradition of self-government and the Protestant concern with private judgment and doctrinal pluralism in making his evaluation of the moral, political and historical significance of 1789.³⁵ In this context, the Hebrew commonwealth was simply one of a number of different sets of values and arrangements.

The result of this protracted sequence of moves and countermoves was that, by the time of the centenary of the French Revolution in 1889, the close intellectual relationship between the thought of Rousseau and Sieyès which, a century earlier, had been recognized quite widely (by, for example, some of Sieyès's most important political allies, the Comte de Mirabeau and Pierre-Louis Roederer) had been pushed out of the francophone context in which it originated and had moved instead into the somewhat different context of nineteenth-century German political thought. In France, Rousseau's legacy came to be associated with Robespierre, Babeuf and Buonarroti; in Germany, it came to be associated with Kant, Fichte and Hegel. The result was a kind of bifurcation. On one side, Rousseau came to

³⁴François de Chasseboeuf, Comte de Volney, *Histoire de Samuel, inventeur du sacre des rois* (Paris, 1819), notably at 46–7, 49, 55–60, 67–9, 96, 103, 106–7, 112. For an earlier characterization of Samuel as “an imperious creator of kings” see Peter Annet, *David, or the History of the Man after God's Own Heart* (London, 1761), 6. The pamphlet was published in French translation in 1768. See also Patrick Delaney, *An Historical Account of the Life and Reign of David, King of Israel* (1740), 4th edn. 2 vols. (London, 1759), 1: 10, where “this extraordinary person” was “thus appointed to pull down and to set up kings.”

³⁵See Straus, *The Origin of Republican Form of Government in the United States of America*, 75, 139–41, and the translation, with a preface by Émile de Laveleye, published as *Les origines de la forme républicaine du gouvernement des États-unis d'Amérique* (Paris, 1890), particularly at xx, xxix, xxxv–xlv. The preface by Laveleye was subsequently published in translation in the second, 1901, edition of Straus's book. See also *Archives israélites* 51/30 (1890), 1; and Anatole Leroy-Beaulieu, *Israël chez les nations* (1893), ed. René Rémond (Paris, 1983).

be aligned with the requirements of social integration and the politics of redistribution. On the other, he came to be aligned with the requirements of social differentiation and the politics of the *Rechtsstaat*. In the early nineteenth century the two sets of requirements were symbolized by the Roman and republican connotations of Jacques-Louis David's *Oath of the Horatii* on the one hand and by the modern post-imperial connotations of the Nazarene painter Johann Friedrich Overbeck's *Italia und Germania* of 1828 on the other.³⁶ Ultimately, the two sides came together as a theory of party politics in the context of what, variously, was called a national state, a nation-state or, simply, democracy. By then, however, the origins of that theory in the unusual concept of a political society that Rousseau passed on to Sieyès had been largely forgotten.

Rousseau and Sieyès

There is strong textual evidence that Sieyès was a careful and conscientious reader of Rousseau. If, Rousseau wrote in his posthumously published *Considerations on the Government of Poland*, the Polish nation was to have “a certain force, a certain stability,” it followed that the people who “until now counted for nothing” should “finally count for something.”³⁷ The passage echoed Rousseau's earlier assessment in the *Social Contract* of the status of the French third estate. When, he wrote there, political decision making was made by the three estates of the clergy, nobility and commoners, “the assembly of these representatives is called in some countries the third estate of the nation, so that the particular interests of two orders are placed in the first and second ranks and the public interest only in the third.”³⁸ Both passages were transferred, almost verbatim, to the biting comparison between the present status of the third estate (nothing) and what it aspired to become (something) at the beginning of Sieyès's *What Is the Third Estate?*. This, Sieyès wrote, was because the third estate was a “complete nation” with all the resources and activities needed for a nation to exist. The same did not apply to the nobility. As Sieyès explained, still making use of the established distinction between a people and a nation,

is it not obvious that the noble order has privileges and exemptions—which it dares to call rights that are separate from those of the great body of citizens? As a result, it stands apart from the common order and the common law. Its own civil rights make it a people apart within the greater nation. It is truly an *imperium in imperio*.³⁹

The same recognizable level of verbal and conceptual continuity can be found in Rousseau and Sieyès on government. “A hereditary crown prevents trouble,”

³⁶On Overbeck see Lionel Gossman, “The Making of a Romantic Icon: The Religious Context of Friedrich Overbeck's ‘Italia und Germania’,” *Transactions of the American Philosophical Society*, new series 97 (2007), 1–101.

³⁷Rousseau, *Considerations on the Government of Poland*, Ch. 6, 184, and Ch. 13, 226. Thanks to Thomas Lalevee of the Australian National University for initially alerting me to this overlap.

³⁸Rousseau, *On the Social Contract*, Bk III, Ch. 15, 192.

³⁹Emmanuel-Joseph Sieyès, *What Is the Third Estate?*, in Sieyès, *Political Writings*, ed. Michael Sonenscher (Indianapolis and Cambridge, MA, 2003), 97.

Rousseau observed, also in his *Considerations on the Government of Poland*, “but brings on servitude; election maintains freedom, but shakes the state with each new reign.”⁴⁰ To avoid either possibility, he proposed that Poland’s kings should be chosen by lot from among the thirty-three heads of the Polish palatinates. The names of three candidates would be selected in this way and one would then be elected king by the Polish diet. With this form, Rousseau wrote, “we combine all the advantages of election with those of hereditary succession.”⁴¹ He had originally used the phrase in 1767 in a letter to the Physiocrat founder Victor Riqueti, Marquis de Mirabeau, that was published in 1768 as part of a pamphlet by Mirabeau entitled *Précis de l’ordre légal* (An Outline of the Legal Order). The letter was then reprinted in the second, 1775, edition of another book by Mirabeau entitled *Lettres sur la législation, ou l’ordre légal dépravé, rétabli et perpétué* (Letters on Legislation, or the Legal Order Depraved, Restored and Perpetuated). The phrase resurfaced in 1791, this time in the public debate that took place between Sieyès and Tom Paine after the king’s flight from Paris and the possibility that the royal government would be replaced by a republican form of government. In this debate, Sieyès argued that something analogous to a monarchy was preferable to what he called polyarchy, or a government with a collective head of state, and that it was also possible to establish a form of election that, as he put it, was “very applicable to the first public function.” Although he did not specify how this electoral system would work, his claim that it would “unite all the advantages attributed to *hereditary* without any of its inconveniences and all the advantages of *election*, without its inconveniences” was sufficiently redolent of Rousseau to indicate that it was simply a French adaptation of the system of graded promotion that Rousseau had recommended to the Poles.⁴²

This system was one of the cornerstones of what, elsewhere, Rousseau described as “the democratic constitution.” The constitution in question was Rousseau’s plan to combine individual and collective self-determination or, as he also put it, to integrate what he called a *moi* with a *moi commun*. “The democratic constitution,” Rousseau explained in the eighth of his *Letters from the Mountain* in 1764,

has been hitherto very poorly examined. All those who have treated this subject were either ignorant of it, too little interested in it, or interested in misrepresenting it. None of them has sufficiently distinguished the sovereign from the government, the legislative power from the executive. There is no other mode of government in which these two powers are so separate, and in which they have been so much confounded, by the affectation of writers.

Some, he continued, “imagine that a democracy is a government in which the whole people is magistrate and judge,” while others “do not see liberty except in the right to elect one’s leaders and (being subject only to princes) believe that

⁴⁰Rousseau, *Considerations on the Government of Poland*, Ch. 14, in Rousseau, *CW*, 11: 230.

⁴¹*Ibid.*, 233. In this and in the preceding citation I have modified the translation.

⁴²For the text see Sieyès, *Political Writings*, 170. Sieyès subsequently placed quotation marks around these words in a later manuscript entitled “Bases de l’ordre social” that he wrote at the time of the constitutional discussions of 1795 and is now printed in Pasquale Pasquino, *Sieyès et l’invention de la constitution en France* (Paris, 1998), 181–91, at 191.

the one who commands is always the sovereign.” None of this, Rousseau implied, was correct because liberty was more than the right to elect one’s leaders while sovereignty was not only, or not always, a capacity to command. If, Rousseau wrote, the correct distinctions (between sovereignty and government and between the legislative and executive) had been fully understood, then, he wrote, “the democratic constitution is certainly the masterpiece of the political art; but the more admirable the mechanism of it, the less it belongs to common eyes to penetrate into it.”⁴³

Rousseau’s conception of this “masterpiece of the political art” had a number of different components. The first was the figure of the legislator. The second was the division of political society into a number of different, hierarchically arranged, units and subunits. The third was the connection, based on individual votes, between the constitutional proposals supplied by the first and the multiplicity of different decision-making units involved in the second. The result was a state made up of several different municipal, regional, provincial or national branches of government and a government containing several different ministries, councils, committees or agencies, while society itself would house the many different occupations, activities or levels of qualification that enabled a nation to exist. Irrespective of their various individual purposes or composition, however, each unit would have the same type of democratic constitution as the rest. This meant that decision making within each unit would be the work of a general will, but that decision making by any particular part of the larger whole would be the work of a particular will. As Rousseau emphasized at the beginning of Book 3, Chapter 5, of the *Social Contract*, both the sovereign and the government were “two quite distinct moral persons,” with “consequently two general wills, one relative to all the citizens, the other solely for the members of the administration.”⁴⁴ Sovereignty was certainly singular, but government and administration could be made up of many different levels, on the one hand with general wills within each unit, but on the other with many particular wills within the whole administrative hierarchy.

The complicated quality of the resulting hierarchical arrangement makes it possible to clarify Rousseau’s otherwise opaque assertion that in a democratic constitution nothing was more separate than the sovereign and the government and, by extension, the legislative and executive powers. The same hierarchical arrangement also helps to explain what Rousseau meant by claiming that sovereignty was something more than the power to command because, as should be obvious, that power was as much a power of government as of sovereignty. Sovereignty, or the general will, was instead what made that power legitimate because it added something extra to the idea of majority rule. It could do this because the general will was based on the more fundamental principle sanctioned by the initial, unanimous, social contract that stipulated that a majority decision would be a legitimate decision. Majorities and minorities would arise at every level of the political and administrative system, but the resulting array of more or less local differences would be given their legitimacy by the general will. At the same time, however, the sovereign and its legislative power would be pushed into the background by the multiplication of governmental and executive powers.

⁴³Jean-Jacques Rousseau, *Letters from the Mountain*, in Rousseau, *CW*, 9: 257.

⁴⁴Rousseau, *On the Social Contract*, 174. Here too see Sonenscher, *Jean-Jacques Rousseau*, 24, 71, 75, 113, 155–6, 159, 167.

Government, with Rousseau, displaced sovereignty. Sovereignty, in keeping with Rousseau's claim at the beginning of the *Social Contract*, was the power to legitimate, or the power to make something lawful, rather than the power to command. Sovereignty limited government but also reinforced government because it added legitimacy to the many decisions based on the principle of majority rule made among the many units and subunits of the whole system. On the inside, these decisions could be described as legislation, or the work of a general will, but from the outside they would, instead, be administrative decisions, straightforward decrees, or the work of particular wills. The general will was normative while government combined power with the legitimacy supplied by the general will. The array of overlapping distinctions also helps to clarify why, in Rousseau's rendition, the general will applied ultimately to individuals, while majority rule applied to collectivities. In the final analysis, however, the two would coincide because a will that was truly general would have to encompass the will of every individual, including those whose votes had gone to the other side. Here, what mattered to Rousseau was that a democratic constitution would have several different levels of scale and scope and, consequently, several different levels of decision making and government. Majorities and minorities would vary from level to level and this too was compatible with the idea of a general will. Despite its complexity, the whole system would begin and end with individual freedom. Henceforth, as Sieyès put it memorably, the old distinctions between monarchy, aristocracy and democracy could be left to fall by the wayside because the new distinctions would be centered on the differences between what Sieyès called a *ré-privé*, a *ré-total* and a *ré-publique*.⁴⁵ As the different adjectives were designed to show, only the third of these compounds favored both individual and national self-determination. In the context of the public debate that took place between Sieyès and Tom Paine in the summer of 1791 (immediately after the abortive royal flight to Varennes in one of the many turning points of the French Revolution), God's warning about the price to be paid for having a king could have looked either to be unusually salient or to belong to another age.⁴⁶ Sovereignty legitimated. Governments ruled. Under electoral conditions and majority rule, a government that was illegitimate could be replaced by one that was legitimate, leaving the subject of sovereignty undisturbed.

Hegel, Bluntschli, Bosanquet and Hauriou: the national state and the nation-state

The new terminology was redolent of Rousseau's earlier skepticism towards the old distinctions between monarchy, aristocracy and democracy. "Thus," he wrote, in Book 3, Chapter 3, of the *Social Contract*, "there is a point at which each form of government is indistinguishable from the next, and it is apparent that under these three names government really admits as many diverse forms as there are citizens in the state."⁴⁷ The problem, however, was that there was more than one criterion of legitimacy that could be applied to the combination of individual and

⁴⁵On this terminology see Sieyès, *Political Writings*, xxi.

⁴⁶On this debate see *ibid.*, 163–73.

⁴⁷Rousseau, *On the Social Contract*, 172.

national self-determination produced by separating sovereignty from government as clearly and strongly as Rousseau and Sieyès appeared to envisage. From one perspective, more individual self-determination seemed to mean less government and, consequently, fewer fiscal, legal, military or religious encroachments from the outside world. From another perspective, however, more self-determination seemed to mean more egoism and, consequently, less responsiveness to the fiscal, legal, military or religious claims of the outside world. The same double bind applied to the concept of national self-determination. To maintain the element of choice involved in individual votes and secret ballots, the electoral system had to be kept separate from the property system. But to maintain the civic commitment and capacities involved in electoral politics the property system actually had to support the electoral system. The more separate the pairing of individual and national self-determination, the more room there would be for individual self-determination, but the less room there would be for national self-determination. If individual self-determination seemed to call for a strict separation between the property system and the electoral system, then national self-determination seemed to call for a closer relationship between the two. Adding the one to the other seemed to make both subjects more intractable either because it made it more difficult to see how to deal with the ensuing causal complexity or because it increased the intensity of the accompanying moral demands and expectations. The resulting mixture of causal complexity and moral intensity led in the first half of the nineteenth century to what came to be called the social question, the national question and a proliferating array of further questions centered on Judaism, Poland, Ireland, women, class or empire.⁴⁸

Unsurprisingly, all these questions were easier to ask than to answer. They remained, fundamentally, questions about political authorization and accountability and the still intractable problem of the relationship between the political and nonpolitical parts of society. The old distinction between the people and the nation was, therefore, still taken for granted by the Franco-Swiss political economist Jean-Charles-Léonard Simonde de Sismondi in a letter to a friend in 1814 in which he wrote that “political rights and the independence of government make peoples; language and common origin make nations. Thus, whether or not I want it, I belong to the Genevan people and the French nation.”⁴⁹ The abiding uncertainty over the relationship between the two concepts was still visible in a book on the constitution of the Spanish monarchy and the origins of political authority that was published in 1815. “This is how nations are formed,” it announced, “and this example shows not only what should be understood by national sovereignty but also that it is located essentially in the people.”⁵⁰ In France, the uncertainty surrounding the relationship between the two concepts merged with the rival legacies of Sieyès and Robespierre and their antagonistic identifications of the nation and

⁴⁸See, notably, Holly Case, *The Age of Questions* (Princeton, 2018).

⁴⁹The passage, from a letter by Sismondi to the Comtesse d'Albany of 1 May 1814, is quoted in Francesca Sofia, *Histoire de la correspondance de Jean-Charles-Léonard Simonde de Sismondi: Avec l'inventaire des lettres reçues et envoyées (1793–1842)* (Geneva, 2022), 51.

⁵⁰C. P. de Lasteyrie, *Catéchisme de la constitution de la monarchie espagnole* (Paris, 1815), p. 12: “C’est ainsi que se sont formées les nations, et cet exemple démontre non-seulement ce qu’on doit entendre par souveraineté nationale; mais encore que celle-ci réside essentiellement dans le peuple.”

the people as competing agents of authority or legitimation. Sharper distinctions and greater clarity began, however, to emerge from the German-speaking parts of Europe, first with the thought of Kant and Hegel and then with the adoption by a number of nineteenth-century French political thinkers of many of the most important features of Kant's and Hegel's assessments of Rousseau and Sieyès.

There is no need to rehearse all the details of this sequence here.⁵¹ To Kant, Rousseau's distinction between the general will and the will of all was matched by the difference between public and private law. Here, too, the emphasis fell on government and private law because, on Kant's terms, public law had no content of its own, apart from a constitutionally defined commitment to uphold the content of private law. To Hegel, the constitutional bridge between public and private law was reinforced by the structure of the administration and, more particularly, by the financial and fiscal resources binding the various levels of administration to both civil society and the state. The outcome of this sequence was that Hegel's thought came to have something like the same pivotal presence in the nineteenth century that Rousseau's thought had occupied in the eighteenth century.⁵² This, in part, was because of the widely recognized intellectual continuity from Rousseau to Kant and Hegel that was set out in the many examinations of their thought in the German-speaking world. But it was also because Hegel's thought provoked much the same type of bipolar reaction as had earlier been the case with Rousseau, Sieyès and Robespierre.

This further instalment of Rousseau's legacy began with a long-drawn-out discussion of Hegel and Hegelianism that ran from one end of the nineteenth century to the other. It ended, however, as the context in which the concept of a nation-state began to crystallize. The main protagonists in this discussion were Swiss, German and French, but the phrase "nation-state," if not the concept of a nation-state, was an English-language coinage that continued to rehearse the tension between social integration and social differentiation that was the hallmark of Rousseau's thought. As the discussion developed, it began to become clear that the solution to this tension was party politics. The implications of this apparently banal realization were laid out graphically by the German Jewish political exile Leo Strauss in his review of the famous Nazi Carl Schmitt's book *The Concept of the Political* in 1932. Anything, Schmitt had claimed, could become political because politics, unlike economics, music, theology or physics, has no content of its own. The content of politics was, therefore, commensurate with what Schmitt called its concept, and centered, more urgently, on decision making, contingency and power. To Strauss, however, far from exposing the limitations of liberalism, Schmitt had simply identified its real foundations.⁵³

The question of foundations was the source of the English-language term "nation-state." The term made an initial appearance in the English translation of a book entitled *The Theory of the State* that was published in 1885 by Swiss

⁵¹See Sonenscher, *Jean-Jacques Rousseau*, 13–14, 20, 47, 94, 112, 134, 141–77; and Sonenscher, *After Kant*, 46–54, 236–50, 264–76, 289–307.

⁵²For a recent and helpful way in see Richard Bourke, *Hegel's World Revolutions* (Princeton, 2023), esp. 197–288.

⁵³Carl Schmitt, *The Concept of the Political*, ed. George Schwab (1996) (Chicago, 2007), 99–122.

German law professor and political philosopher Johann Kaspar Bluntschli, who was then teaching at the University of Heidelberg. Bluntschli's original German-language term was, however, not "nation-state" but *Nationalstaat*, or "national state." From one perspective, the term was designed to be a counterconcept to Hegel's term *Volkstaat*, partly because it registered the reality of a unified German state more fully than was necessary in Hegel's lifetime but partly also because Bluntschli was a strong critic of Hegel's concept of *bürgerliche Gesellschaft* (civil society), which, Bluntschli argued, injected a fractured and divisive quality into legal and political life. To Bluntschli, the events of 1848 were real evidence of the unstable mixture of centripetal and centrifugal effects produced by the politics of civil society. In Bluntschli's rendition, and as the events of 1848 showed, Hegel's political vision led either to the anarchy of a society without a state or, in reaction, to the authority of the state at the expense of society. From another perspective, however, Bluntschli's use of the concept of a *Nationalstaat* was also designed to be compatible with the reality of a state made up of other states, as was the case with the United States of America and the German Reich after 1871. Just as the United States had a national or federal government alongside the governments of its constituent states, so too did Germany and, in this sense, the virtually synonymous pair formed by a national state and a federal state in an American context was matched by that between a *Nationalstaat* and a *Bundesstaat* in a German context. Bluntschli's anti-Hegelianism meant, however, that he dropped Hegel's use of the old distinction between peoples and nations to indicate the difference between the political and nonpolitical parts of society and, instead, adopted a new, strongly gendered set of terminological distinctions centered on the male and masculine attributes of the state and political society and the female and feminine attributes of the church, the family, the workshop and the other putatively nonpolitical parts of society. The distinction was designed to convey something more identifiable than the concepts of nation and people to capture the difference between the active and passive, or political and nonpolitical, parts of society, but it was probably not the best choice.

Bluntschli's English translators seem to have registered that there was something significant in his conceptual vocabulary, but they also seem to have found it difficult to settle on an effective set of English equivalents to indicate the relationship between the state and its members that Bluntschli had set out to describe. In its English-language guise, Bluntschli's term *Nationalstaat* was translated as a "nation-state" but, despite his objections to Hegel, Bluntschli's use of the terms *Nation* and *Volk* was given a surprisingly Hegelian inflection. "The personality of the state," his translators wrote, "is, however, only recognised by free people, and only in the civilised nation-state has attained to full efficacy." The modern state, they added opaquely, "is an organisation of the nation (*Volk*) and preserves a central unity in its authority. States are formed on a national (*national*) basis, and tend to become great in size."⁵⁴ Equivocation seems, accordingly, to have been the hallmark of the work of his translators. All of them, however, found it necessary to try to clarify the meaning of both a *Nationalstaat* and a *Volkstaat*. As one of his English translators commented, "Bluntschli himself remarked on the difference

⁵⁴Johann Kaspar Bluntschli, *The Theory of the State* (1885), 2nd edn (Oxford, 1895), 22–3, 62.

between the German and English uses of *Volk* and ‘people’, *Nation* and ‘nation’, but it will be found that he goes too far in supposing our use to be the exact converse of the German.” Other Germans, the translator pointed out, used the same words with meanings that were “the precise converse of that given by Bluntschli.”⁵⁵ “*Volkstaat*,” noted the French translator of the same book in a parallel comment, “is used elsewhere to mean the opposite of a communal, urban or patrimonial state. *Public state* does not seem to be a satisfactory translation because how can a state not be public? But *national state* is an amphibology (meaning a term that is grammatically and semantically ambiguous) while *popular state* is an oxymoron.”⁵⁶ It was not clear whether a *Nationalstaat* was single or plural.

As all his translators noted, Bluntschli seemed to have simply given up on any consistent distinction between a *Volkstaat* and a *Nationalstaat* and appeared to use both terms indiscriminately. This, however, was not because he thought that the original distinction was meaningless, but rather because he thought that the distinction had to be superseded. States, he insisted, were certainly single entities however many different interests, classes or associations they housed. This, he argued, was why the resulting combination of unity and multiplicity that was the hallmark of the modern state was best described in organic terms. Organic metaphors, he claimed, made it possible to single out and highlight the active but decentralized side of all the component parts of the life of the state in ways that could not be done as clearly and effectively by using the more causally centralized, command-oriented connotations of mechanical, physical or chemical metaphors. As with the parts of the body, all the parts of a state had a life of their own. If this was the case, then the distinction between a *Volkstaat* and a *Nationalstaat* was less important than the more fundamental question of how a state was governed because what counted was less a matter of who, ultimately, authorized the state’s legal and political institution and, instead, more a matter of their capacity for independent action. Hegel’s concept of civil society was, from this perspective, a distraction because it opened a door to either too much or too little state power. To Bluntschli the key to establishing the right principle was best captured by the English-language phrase “self-government.” A state could be a *Nationalstaat* because it governed itself, but it could also be a *Volkstaat* because all its local, regional or administrative parts also governed themselves. Self-government was, therefore, the real hallmark of the government of a modern state.

Self-government, Bluntschli argued, was compatible with both a *Nationalstaat* and a *Volkstaat*. Here, the relevant model was Britain, particularly as its system of government had been described by another German academic named Rudolf Gneist in 1871 in his *Self Government in England*. Bluntschli went to some lengths to highlight the significance and more general relevance of Gneist’s examination of the British system of government in several of the entries to his own *Deutsches Staats-Wörterbuch* that were translated subsequently into French as *La politique*

⁵⁵“Translators Preface,” in Bluntschli, *The Theory of the State*, v–ix, at vii, and note 2, referring to Bk 2, Ch. 2, of the book itself, headed “The Conceptions ‘People’ and ‘Nation’” and subheaded, in keeping with Bluntschli’s interpretation of English-language usage, “A People implies a civilisation; a Nation is a political idea.”

⁵⁶Johann Kaspar Bluntschli, *Théorie générale de l’état* (1879) (Paris, 1881), 306 note a.

in 1879 and in a comparable series of English-language entries to a three-volume *Cyclopaedia of Political Science, Political Economy and United States History* that was published in the United States between 1881 and 1888. In addition to Gneist and his treatment of the idea of self-government, Bluntschli also went to some lengths to highlight the merits of party government. In this, he drew upon another group of publications, this time by two Swiss brothers named Friedrich and Theodor Rohmer who, Bluntschli claimed, had begun to develop a real theory of party government because they had shown how it was possible to think about the cultural and ideological side of political parties in ways that were analogous to those that enabled many different nations to add up to a single *Volk* or people.⁵⁷ Parties, the Rohmer brothers had shown, were voluntary associations that were subject to involuntary forces. Their membership was voluntary, but the character of their values, whether backward- or forward-looking, present-centered or past-oriented, had a real bearing on the composition of their membership. Parties, in short, could be analysed and explained, and, by means of subtle switches in their values, could change their composition, constituencies and capabilities accordingly. To Bluntschli, party government could actually escape from division and faction as much as it was thought, standardly, to cement them.⁵⁸

The first prerequisite of party government was a new and different theory of the state. Here too Bluntschli turned away from Hegel's three-sided distinction between the family, civil society and the state and opted instead for a division between public and private law. He also highlighted the compatibility between his concept of the state and his early training in Roman law under the supervision of the founder of German historical jurisprudence, Carl Friedrich von Savigny. "It is the special merit of the German school of historical jurists," Bluntschli wrote early in his *The Theory of the State*, "to have recognised the organic nature of the nation and the state. This conception refutes both the mathematical and mechanical view of the state and the atomistic way of treating it, which forgets the whole in the individuals."⁵⁹ This version of the idea of an organism, he emphasized, had nothing to do with any natural capacity for production and reproduction and far more to do with the related ideas of coordinated action, internal development and external growth. Together, Bluntschli explained, all three capacities required something additional to ensure that the different attributes of a nation and a state could coexist and work together effectively. The mechanism responsible for producing this capacity was, he claimed, the law and particularly Roman law. It had this ability, Bluntschli argued, because it was the creation of a state. This, in the first instance, meant that the law was radically different from morality. For Bluntschli, the real implication of the difference was that it made it possible to establish a viable concept of the state. If the law was the medium that could bring together collective action, internal development and external growth as a differentiated combination, then the existence of the laws called, first, for the prior existence of a state and,

⁵⁷Johann Kaspar Bluntschli, *La politique* (1870), 2nd edn (Paris, 1883), 361–5, referring to Theodor Rohmer, *Lehre von den politischen Parteien*, ed. Friedrich Rohmer (Zurich, 1844).

⁵⁸See, for example, the anonymous review entitled "Party Government," *Quarterly Review*, 179 (1894), 244–63.

⁵⁹Bluntschli, *The Theory of the State*, 18.

second, for the type of state that could establish and maintain laws that met these three requirements.

In keeping with the metaphor of the state as an organism, it would, therefore, be a state with something like the attributes of a person because it would have to have a capacity to distinguish action that was lawful from action as such and, by extension, to be able to respond to different types of action in a decentralized way. This reflexive and localized capacity would be met by a constitution and, more importantly, by a constitution with a broad capacity for active citizenship. Without both, Bluntschli argued, the concept of the personality of the state would be vitiated because the resulting person would be private, not public. But, to ensure that both the constitution and the concept of active citizenship could have a stable and durable existence, the state itself would have to make provision for the welfare of its members. This too had been a Roman achievement, making “the welfare of the state the highest law (*salus populi suprema lex*).” It was, Bluntschli acknowledged, “a formula” that had been “used too often to excuse the arbitrary despotism either of princes or of majorities, and it has been completely discredited by the horrors of the Parisian Committee of Public Safety.” But, despite its abuse, he was still willing to accept that the Romans saw “the real function of the state in the *public welfare*.” On these terms, Bluntschli concluded, “the expression is really above criticism if one regards the natural limits of the state and especially the judicial order and administration, and if one avoids trespassing upon matters outside those limits, such as the free life of the individual and of religious communities.”⁶⁰ There was, in the light of this concept of a state, a point to the name National Liberal that was given to a German political party after 1848, just as there was also a point to the word *Realpolitik* that at the same time became one of the buzzwords associated with the German National Liberal Party. Bluntschli endorsed both.⁶¹

Bernard Bosanquet’s *The Philosophical Theory of the State* was published in 1899, some fifteen years after the appearance of the English translation of Bluntschli’s *Theory of the State*, and the obvious similarity in the titles of the two books makes it hard to resist the thought that Bosanquet’s book was intended to be a more coherent and conceptually consistent counterpart to Bluntschli’s book. The conceptual centerpiece of Bosanquet’s book was the concept of a nation-state, the term that Bluntschli’s English translators had applied to the German-language compound of a *Nationalstaat*. Bosanquet’s adoption of the term echoed and amplified established English usage. In this usage, a nation-state was the modern equivalent of an ancient Greek *polis* or city-state. Like its ancient counterpart, it was a mixture of unity and diversity with, at its core, a single object of moral and political allegiance but one that was also designed to rule or oversee a specialized array of different households, activities and occupations. It was an elective version of a Greek *polis* or, explicitly, what Rousseau had called an elective aristocracy. The term “nation-state” itself made an initial appearance in a three-volume edition of Aristotle’s *Politics* that was published in 1887 by the Oxford historian W. L. Newman and this Aristotelian usage soon became the basis of a comparison between the city-state and the nation-state made by the British political philosopher

⁶⁰Ibid., 39, 319, original emphasis.

⁶¹On both see Paul Bew, *Realpolitik: A History* (Oxford, 2016),

Henry Sidgwick in his *Elements of Politics* of 1891.⁶² The connotations of both were given greater prominence in the title of a book published in 1893 by another Oxford historian, William Warde Fowler, on *The City-State of the Greeks and Romans*. As Fowler emphasized, his choice of title was designed both to echo, and, however, to diverge from, the title of the earlier, far better-known, *La cité antique* (The Ancient City) that had been published in 1864 by the famous French historian Numa-Denis Fustel de Coulanges.⁶³ For Fustel, a *cité* was simply the French-language equivalent of the Latin *civitas* or state. For Fowler, however, drawing upon Newman's commentary on Aristotle, there was a point to the compound quality of the noun "city-state" and the difference from a *civitas*, *cité* or state that the compound implied. Where Fustel's *cité* began with a common religion and a common worship of the sun, Fowler's city-state began with decentralized settlements and dispersed communities and an initial concern with common administration and the rule of law. Nations, in Fowler's rendition, could be distinguished from states more readily than in Fustel's rendition because the nation-state distinction made it possible to capture rather more of the Aristotelian distinction between an *oikos* or household and a *polis* or state as the basis of a genuinely self-standing political society.

The distinction was the basis of Bosanquet's concept of a nation-state. Although Bosanquet is usually taken to be a British Hegelian, and he certainly made no secret of his respect and admiration for Hegel's thought, his concept of a nation-state placed far less emphasis on the law, the administration, the market, civil society and the financial system than Hegel had done in his *Philosophy of Right*.⁶⁴ "In a certain sense," Bosanquet wrote in *The Philosophical Theory of the State*, "it would be true to say that wherever men have lived there has always been a 'State'. That is to say, that there has been some association or corporation, larger than the family, and acknowledging no power superior to itself." But, he continued, this generic concept of a state failed to capture the quality of what he called "true political experience," meaning the awareness of "the nature and value of the community in which man finds himself a member." This type of experience, he asserted, "has been awakened and sustained principally if not exclusively by two kindred types of associated life—the City-State of ancient Greece and the Nation-State of the modern world."⁶⁵ This was because both types of association

⁶²W. L. Newman, ed., *The Politics of Aristotle*, 3 vols. (Oxford, 1887), 1: 209, 2: 232–3; and Henry Sidgwick, *The Elements of Politics* (London, 1891), 211–12.

⁶³On these occurrences see Sidgwick, *Elements of Politics*, 211–12. On Fustel de Coulanges, *La cité antique*, see William Warde Fowler, *The City-State of the Greeks and Romans* (Oxford, 1893), x, 32–3, 69–70 n. 4.

⁶⁴On Bosanquet see Peter Nicholson, *The Political Philosophy of the British Idealists* (Cambridge, 1990); W. J. Mander, *British Idealism: A History* (Oxford, 2011); William Sweet, "Bernard Bosanquet and the Development of Rousseau's Idea of the General Will," in *Man and Nature/L'homme et la nature* 10 (1991), 179–97; together with his *Idealism and Rights: The Social Ontology of Human Rights in the Political Thought of Bernard Bosanquet* (New York and London, 1997); and his later "Bosanquet's Political Philosophy: Nicholson and the 'Real Will,'" *Collingwood and British Idealism Studies* 25 (2019), 223–52; David Runciman, *Pluralism and the Personality of the State* (Cambridge, 1997), 76–83, 173–5, 208–9.

⁶⁵Bernard Bosanquet, *The Philosophical Theory of the State* (1899), ed. Gerald F. Gaus and William Sweet (South Bend, IN, 2001), 48.

called for a “political consciousness in the strict sense” as “a necessary factor in the experience of such a commonwealth.” The basis of this political consciousness was a combination of “autonomy—government by one’s own law” and “isonomy—government according to equal law.” The Greeks, in addition, had also invented the “very instrument of all political action.” This was majority rule or, as Bosanquet put it, the “simple device by which an orderly vote is taken, and the minority acquiesce in the will of the majority as if it had been their own—an invention no less definite than that of the lever or the wheel—is found for the first time as an everyday method of decision in Greek political life.”⁶⁶

The city-state gave rise, accordingly, to a certain cast of mind formed by the combination of self-government, rationality and active involvement in political life that was the hallmark of ancient Greek society. It was this combination that was the real basis of Aristotle’s definition of humanity as a *zoōn politikon* or, as Bosanquet put it, “a creature formed for the life of a city-state.” Although, he continued, the phrase belonged to Aristotle, the idea belonged to Plato and was now as salient to a nation-state as it once had been to a city-state. There is, Bosanquet concluded, “no sound political philosophy which is not an embodiment of Plato’s conception. The central idea is this: that every class of persons in the community—the statesman, the soldier, the workman—has a distinctive type of mind which fits its members for their functions, and that the community essentially consists in the working of these types of mind in their connection with one another, which connection constitutes their subordination to the common good.”⁶⁷ From this perspective, Bosanquet’s concept of a nation-state was a heavily moralized version of Hegel’s concept of civil society. It was civil society merged with a state.

The result, however, was not a single entity, but something comparable to the earlier distinctions between the will of all and the general will, between private law and public law, and between civil society and the state, that had been made by Rousseau, Kant and Hegel. As Bosanquet emphasized, the concept of a nation-state called for the coexistence of two wills rather than one. There were the many wills of all the various members of the nation, but there was also the single will of the state itself. Together, the coexistence of these two different types of will—one single and the other plural—was the basis of a nation-state, or a single entity made up of two parts. Bosanquet explained how these two wills could coexist in terms of what he called the paradox of obligation. “In the conception of self-government,” he wrote, “we have the paradox of obligation in its purest form.”⁶⁸ To individuals, it took the form of a “paradox of ethical obligation,” because it was not clear how or why individuals could maintain obligations to themselves. New Year’s resolutions, to use one obvious example, do not last long. To a society, it took the form of “the paradox of political obligation” because it was not clear how two separate individuals could both be autonomous but each be obliged to one another. Solving this latter paradox, Bosanquet claimed, made it possible to show that the idea of self-government could be separated both analytically and

⁶⁶Ibid., 49.

⁶⁷Ibid., 50–51. On Bosanquet and Plato see Bernard Bosanquet, *A Companion to Plato’s Republic* (1895), 2nd edn (London, 1906).

⁶⁸Bosanquet, *The Philosophical Theory of the State*, 86.

practically from the problem of the tyranny of the majority. The coexistence of two wills within one nation-state made it possible to circumvent both problems. The real will of the state would anchor the wills of both its individual and social components to their individual and social commitments. The nation-state, he claimed, was a real home for self-government.

Bosanquet's theory of the nation-state never really recovered from the vicious attack on it made in 1918 by Leonard Hobhouse in his *The Metaphysical Theory of the State*. Hobhouse's assault was matched, in France, by the larger and more protracted attack on the related concepts of sovereignty and the state by the French jurist Léon Duguit. For both, states were indistinguishable from empires, and states and empires were synonyms for imperialism and war. But, as Quentin Skinner has pointed out, the existence of things like public debts (and, it could be added, legal, fiscal and financial systems) make it hard to avoid recognizing the fact that modern political societies have two parts.⁶⁹ Debts, like laws and currencies, belong to states, even if they are created, incurred or made by governments. They can, of course, be national debts, national laws or national taxes but, as with the original distinction between nations and peoples as authorizing agents, the indeterminacy of the nomenclature does not eliminate the reality of the distinction. In this early twentieth-century setting, however, Rousseau continued to supply a further set of conceptual resources, buttressed here by Hegel. Some fifty or sixty years after Rousseau's death, Hegel had announced, in one of his *Lectures on the History of Philosophy* published posthumously in 1836, "that the principle of freedom emerged in Rousseau" and, he added, it was also the principle that "gave rise to the transition to the Kantian philosophy."⁷⁰ Thought, Hegel stated in a later lecture, "apprehended as concrete, as determining itself," was the "recognition of freedom" and, he continued, Rousseau "had already affirmed this absolute quality of freedom" while Kant had posited the same principle from a "more theoretical angle."⁷¹ Two generations later, in 1887, Hegel's initial announcement was quoted in a long footnote that was inserted into the third edition of a history of political science and its relation to morality by a French philosopher named Paul Janet, a follower of the more famous philosopher and critical, but sympathetic, admirer of Hegel, Victor Cousin (Janet's assessment of Hegel was, in fact, very similar to Cousin's). In the note, Janet picked out seven passages from Rousseau's *Social Contract* that, Janet claimed, explained how and why the concepts of the general will and the will of all were connected to the principle of freedom that, as Hegel had described it, had emerged in Rousseau and had supplied the transition to the Kantian philosophy.⁷²

⁶⁹Quentin Skinner, "A Genealogy of the Modern State," *Proceedings of the British Academy* 162 (2009), 323–70, at 363–4. In addition to Hobhouse's *The Metaphysical Theory of the State* (London, 1918), see the equally critical assessment by E. F. Carritt, *Morals and Politics: Theories of Their Relation from Hobbes and Spinoza to Marx and Bosanquet* (Oxford, 1935).

⁷⁰Georg Wilhelm Friedrich Hegel, *Lectures on the History of Philosophy* (1836), trans. E. S. Haldane and Frances S. Simpson, 3 vols. (Oxford, 1892–6), 3: 402, reprinted as a single volume (New York, 2020), 757. I have modified the translation in the light of the French version given in G. W. F. Hegel, *Leçons sur l'histoire de la philosophie*, trans. Pierre Garniron, 7 vols. (Paris, 1971–91), 6: 1746–8.

⁷¹Hegel, *Leçons sur l'histoire de la philosophie*, 7: 1852 (and at 1813 n. 3).

⁷²Paul Janet, *Histoire de la science politique dans ses rapports avec la morale* (1858), 3rd edn, 2 vols. (Paris, 1887), 2: 584–5.

This way of thinking about Rousseau's legacy was carried through from Janet's book to a pair of articles entitled "L'alternance des moyen-âges et des renaissances et ses conséquences sociales" (The Alternation of the Middle Ages and Renaissances and Its Social Consequences") and "Le régime d'état" ("The State Regime") that were published respectively in 1895 and 1904 by an unusually gifted French law professor and legal theorist named Maurice Hauriou.⁷³ In the latter article, in particular, Hauriou made a point of highlighting the tension between what he called the property regime and the electoral regime that, he argued, was a feature of Rousseau's thought. It was, he wrote, "paradoxical or almost mad" for laws, meaning "the foundation itself of the state regime," to be the product of the "electoral game." But this, in fact, was what they were. Everything in modern politics seemed to be up for grabs. To Hauriou, however, the fact that everything, in principle, really was up for grabs helped to highlight the gap between the dizzying possibilities of an election and the underlying continuities of everyday life. Majority rule still, apparently, required the sanction of ordinary life. This, Hauriou argued, was why it was vital to separate the electoral regime from the property regime and start to work out the reasons that enabled the two to coexist.⁷⁴ This description of Rousseau's thought, which seems to have been a centerpiece of Hauriou's various lecture courses on Rousseau in the 1890s, was repeated in an article on "La notion de personnalité morale chez Rousseau" published in 1902 by a now largely forgotten French jurist and legal historian named Achille Mestre, who was also one of Hauriou's former students. It could be found too in a thick book by another French jurist and legal historian named Léon Michoud entitled *La théorie de la personnalité morale et son application au droit français* (The Theory of Moral Personality and Its Application to French Law) that was published in 1906. It is possible that these two later publications also owed something to the broader recognition of the continuities from Rousseau to Kant and Hegel that were described very fully and thoroughly by the Austro-German legal historian and political theorist Georg Jellinek in his two-volume study of law and the modern state (*Allgemeine Staatslehre*) that was published in 1900 and began to be translated into French three years later.⁷⁵ By then, however, the problematic relationship

⁷³Maurice Hauriou, "L'alternance des moyen-âges et des renaissances et ses conséquences sociales," *Revue de métaphysique et morale* 3 (1895), 527–49; and his "Le régime d'état," *La revue socialiste* 39 (1904), 564–81. The former article is republished in Maurice Hauriou, *Écrits sociologiques*, ed. Frédéric Audren and Marc Milet (Paris, 2008). See also his *La souveraineté nationale* (Paris, 1912). On Hauriou and, in particular, the relationship between his thought and that of Carl Schmitt see David Bates, "Political Theology and the Nazi State: Carl Schmitt's Concept of the Institution," *Modern Intellectual History* 3/3 (2006), 415–42.

⁷⁴Hauriou, "Le régime d'état," *La revue socialiste* 39 (1904), 578–79.

⁷⁵Achille Mestre, "La notion de personnalité morale chez Rousseau," *Revue du droit public et de la science politique* 18 (1902), 447–68; and the use to which it was put in Léon Michoud, *La théorie de la personnalité morale et son application au droit français* (Paris, 1906), 82–5. Michoud's thesis was recently republished with an introduction by Michel Germain (Paris, 2019), but with a radically unreliable index: see, without reference to the index, 45–7, 155 n. 393, 204. On Rousseau, Hegel and Jellinek see Sonenscher, *Jean-Jacques Rousseau*, 141–77. On Michoud (and some of his French and German contemporaries) see the wide-ranging but now largely forgotten Frederick Hallis, *Corporate Personality: A Study in Jurisprudence* (Oxford, 1930); and, more recently, Xavier Dupré de Boullis and Philippe Yolka, eds., *Léon Michoud* (Grenoble, 2014).

between the concepts of individual and national self-determination that had supplied much of the continuity running from Rousseau to Kant and Hegel and then to the two publications by Bluntschli and Bosanquet had begun to disappear from historical view.

This loss of historical perspective has made it difficult to see the real analytical point of the concept of the nation-state. One example of the effect of the resulting historical and historiographical amnesia can be found in an article entitled “The Discredited State: Thoughts on Politics before the War” that was written shortly before the beginning of the First World War by the Oxford, and later Cambridge, historian Ernest Barker. On the basis of its title, the article looks as if it is about the state, which is why it has come to be taken as an attack on state sovereignty and a defence of group rights, the politics of pluralism and the thought of a host of early twentieth-century moral and political thinkers from Otto von Guericke to Fredrick Maitland and Léon Duguit. In fact, it was an article about public debt and the credit of the state, as well as the state itself. As Barker’s choice of title was really designed to show, the article was written to highlight the possibility of what could happen if, in a more literal sense, a state really was discredited. “In the uses of my private income,” Barker wrote in conclusion,

I like to support charity and all manner of good causes. If it comes to a pinch, I have to say to myself, as someone said to Napoleon [later changed to Talleyrand], “It is necessary to live”. In our social life we are swarming hither and thither after associating ideas not only of law and order, but of religion, nation, class. If it comes to a pinch, we shall forget that we are anything but citizens. Through our mouths, the state, which is nothing but ourselves organized in an ordered life, will say to itself, “It is necessary to live”. And there is no Talleyrand to say to the state, “I do not see the necessity for it”.⁷⁶

It was a very vivid illustration of the two-sided nature of the modern state and the precarious balance involved in maintaining the respective qualities of each of the two sides.

There was, in short, no final outcome for the combination of individual and national self-determination. If Jellinek’s insistence on the two-sided nature of the state was designed explicitly to echo the line of thought running from Rousseau to Kant and Hegel, it still did not fully register the deep-seated political ambiguity surrounding the concepts of the people and the nation as something more than a pair of alternative names given to the agents of political authorization and legitimation. Behind the ambiguity there was the deeper question whether one or other side of the pair was better integrated with, or differentiated from, the other. The question once even encompassed the now discredited notion of the idea of a state as an organism. To Bluntschli, the organic metaphor captured the

⁷⁶Ernest Barker, “The Discredited State: Thoughts on Politics before the War”, *Political Quarterly* 2 (1915), 101–21, reprinted in Julia Stapleton, ed., *Group Rights: Perspectives since 1900* (Bristol, 1995), 76–93; and in Barker’s own later collection, *Church, State, and Study* (London, 1930), 151–70. In this later version, the figure of Napoleon in Barker’s final paragraph was replaced by that of Talleyrand. The title of Barker’s article has become the title of the chapter on Barker in Runciman, *Pluralism and the Personality of the State*, 150–61, although it does not refer to the subject of public credit and public debt.

differentiated quality of the institutions and arrangements of a modern state. To his critics, like Otto von Gierke and his French admirer Léon Duguit, the same metaphor captured the integrated quality of something corporate whose single personality and capacity to will and to take responsibility were given to it by the combined action of its human members.⁷⁷ Here too, both versions of the metaphor could be taken to be valid. In this sense, the concept of the nation-state underlined the absence of any unequivocal answer to the question. At different times and for different reasons, either answer could apply. Deciding on which answer was valid was, *pace* Carl Schmitt, certainly a decision but, as Leo Strauss pointed out, judgments and decisions were what gave liberal politics their nature. Integration could trump differentiation or vice versa, but without the real possibility of either outcome the concept of a nation-state would lose its political character. From this perspective, the revealed mystery of the nation-state was party politics and the range of institutions and arrangements that have come to make party politics happen. As Bluntschli, Bosanquet and Hauriou pointed out in their different assessments of Rousseau's intellectual legacy, quite a lot can be at stake in both party politics and the politics of the nation-state.

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⁷⁷On these different versions of the concept of an organism see Léon Duguit, *Études de droit public*, vol. 2, *L'état, les gouvernants et les agents* (Paris, 1903), 26–38.

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