

# Despotism and Democracy

## The Origins and Development of the Distinction Between Civil Society and the State 1750–1850\*

*John Keane*

Under one despot, I need only stand up against a wall when I see him coming by; or prostrate myself, or knock my forehead against the ground, according to the custom of the country. But under a body of perhaps a hundred despots, I may be obliged to repeat this ceremony a hundred times a day; which is not a little troublesome to those who are not very nimble.

Voltaire

### Introduction

Until the middle of the eighteenth century, European political thinkers without exception used the term civil society to describe a type of political association which places its members under the influence of its laws and thereby ensures peaceful order and good government. The term formed part of an old European tradition traceable from modern natural law back through Cicero's idea of *societas civilis* to classical political philosophy – above all to Aristotle, for whom civil society [*koinōnia politiké*] is that society, the *polis*, which contains and dominates all others.<sup>1</sup> In this old European tradition, civil society was coterminous with the state. Civil society [*koinōnia politiké*, *societas civilis*, *société civile*, *bürgerliche*

---

\*For their stimulating comments on an early draft of this essay, I should like to thank Jürgen Kocka, Hans Medick and Ursula Vogel.

*Gesellschaft*, *Civill Society*, *società civile*] and the state [*polis*, *civitas*, *état*, *Staat*, *state*, *stato*] were interchangeable terms. To be a member of a civil society was to be a citizen – a member of the state – and, thus, obligated to act in accordance with its laws and without engaging in acts harmful to other citizens.

Well into the eighteenth century the influence of this classical understanding of civil society remained unchallenged in Britain, France and the German states. It is evident in Hume's observation that 'liberty is the perfection of civil society, but still authority must be acknowledged essential to its very existence.'<sup>2</sup> Rousseau also speaks in this vein:

Look into the motives which have induced men, once united by their common needs in a general society, to unite themselves still more intimately by means of civil societies [*sociétés civiles*]: you will find no other motive than that of assuring the property, life, and liberty of each member by the protection of all.<sup>3</sup>

Kant repeats this theme: the greatest problem facing the human species is that of establishing a civil society [*societas civilis*] 'in which freedom under external laws is combined to the greatest possible extent with irresistible force, in other words, of establishing a perfectly just civil constitution.'<sup>4</sup>

This traditional concept of civil society began to implode during the second half of the eighteenth century. Sharing the fate of many other concepts in the terminological upheavals of this *Sattelzeit* (Koselleck), it becomes fragile and polysemic, an object of intensive discussion and controversy. The term civil society certainly remained a key word of European political thought throughout the period 1750-1850. By the middle of this period, however, civil society and the state, traditionally linked by the relational concept of *societas civilis*, were seen as *different* entities.<sup>5</sup> Viewed retrospectively, this century-long process of 'disordering' and 'subdividing' the old concept of civil society was highly complex and uneven, geographically, temporally and semantically. The geographic boundaries of this process are most difficult to specify. The distinction between civil society and the state (or 'government', as it was called) almost certainly originated in the Anglo-American world, where, in contrast to continental European thought, 'the state' was rarely seen as an impersonal institution which acts, and therefore (periodically) requires the complete obedience of its subjects.<sup>6</sup> From there its dissemination was geographically restricted, at least initially, to the western and

middle regions of Europe.<sup>7</sup> While this much can be observed safely, the rapid circulation of the state–civil society distinction within these regions makes it extremely difficult to pinpoint national differences in terms of either its (relative) presence or absence in political discourse.

In diachronic and semantic terms, the transformation process of the term civil society was no less uneven and complex. During the period 1750–1850 it becomes marked by a deeply protean, even confused quality. The traditional, increasingly moribund meaning coexists and overlaps with the new, incompatible distinction between the state and civil society, whose meaning becomes subject in turn to pluralization through interpretation and disputation.

In the face of such complexities, generalizations about the origins, development and regional significance of the state–civil society distinction are fraught with difficulties, even hazardous. Such simplifying generalizations about the life and times of the concept of civil society, however preliminary and tentative, are nevertheless highly important, since by helping to clarify aspects of the concept's complex history they also help to specify its significance for historical research, as well as for contemporary political thinking orientated to current political controversies and social struggles.<sup>8</sup> Guided by this premiss, this essay suggests one possible generalization about the origins and development of the state–civil society distinction after 1750 in Britain, France and the German states. It reconstructs four temporally and geographically *overlapping* 'phases' of the subdivision and pluralization of the traditional concept of *societas civilis*.<sup>9</sup>

In the early years of the transition period, it is argued, the traditional concept reaches breaking point and becomes impregnated with its future meaning. The attempt is made simultaneously to justify a specifically modern form of civil society – a sovereign, centralized constitutional state standing over its subjects as a *societas civilis cum imperio oder Imperium* – and to emphasize the strategic importance of guarding against its authoritarian potential by fostering the growth of independent 'societies' within civil society. This internal rupturing of the classical concept of civil society developed earliest and most vigorously in Britain and France. The opposition of *société naturelle*, meaning the sphere of economic relations, to *société politique*, for example, is a prominent theme within Physiocratic doctrine. In the German states the traditional concept of *societas civilis* remained intact and dominant somewhat longer.<sup>10</sup> Nevertheless,

the decay of the traditional concept is evident in works from all three regions. Examples include Joseph Priestley's *An Essay on the First Principles of Government, and on the Nature of Political, Civil, and Religious Liberty* (1768), Voltaire's *Traité sur la Tolérance* (1763), and Kant's *Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht* (1784). This first phase in the 'modernization' of the concept of civil society is illustrated below with one randomly chosen (although highly influential) example: Adam Ferguson's *An Essay on the History of Civil Society* (1767).

The pathbreaking suggestion that the independent 'societies' of a civil society can legitimately defend themselves against the state is consolidated during a second phase of development, in which the novel distinction between civil society and the state becomes contemptuous of the status quo and impregnated by utopian hopes for a future marked by social equality, civil liberties and limited constitutional government. This revolutionary theme of 'civil society against the state' is virtually absent in German political thought – Johann Georg Adam Forster's *Über die Beziehung der Staatskunst auf das Glück der Menschheit* (1794) is a notable exception to the widespread faith of late-eighteenth-century German intellectuals in enlightened reforms from above.<sup>11</sup> This theme first appeared in the 'American and French revolution controversies' in Britain and France, and is prominent in Thomas Spence's *The restorer of society to its natural state in a series of letters to a fellow citizen* (1801), Thomas Hodgskin's *Travels in the North of Germany* (1820) and Emmanuel Joseph Sieyès's *Qu'est-ce que le Tiers-Etat?* (1789) and the *Déclaration des droits de l'homme et du citoyen* (1791). It is illustrated below by Thomas Paine's *Rights of Man* (1791-92).

During a third phase of development, the anti-statist impulse of the distinction between civil society and the state is weakened. The distinction is preserved, but its predecessors' trust in a free, independent civil society is reversed in favour of sovereign state action. The freedom of civil society is seen to be self-paralysing and conflict-producing, and therefore in need of stricter state regulation and control. This theme of 'the state against civil society' is evident in Jeremy Bentham's *Anarchical Fallacies, being an Examination of the Declaration of Rights issued during the French Revolution* (1796? [1824]), Jean-Charles-Léonard Sismondi's *Nouveaux principes d'économie politique* (1819), and Paul Pfizer's *Briefwechsel zweier Deutschen* (1831, 1832). It is most vigorous and prominent in German political thought, where it appears – simultaneously with phase two – as a defensive reaction against

late-eighteenth-century arguments for the separation of civil society from the state. From the time of the French Revolution, what is characteristic of German discussions of *bürgerliche Gesellschaft* is not the fundamental importance of its separation from the state, as Manfred Riedel and others have implied, but rather the necessity of its regulation, restriction and (partial) integration by means of legal, administrative and political controls. The state is viewed as the progenitor of *bürgerliche Gesellschaft*, its guardian, educator and punisher.<sup>12</sup> This characteristic trend culminates in Lorenz von Stein's apology for a state-dominated society in *Geschichte der sozialen Bewegung in Frankreich von 1789 bis auf unsere Tage* (1850) and is exemplified below by G.W.F. Hegel's *Grundlinien der Philosophie des Rechts* (1821).

A fourth contribution to the 'modernization' of the concept of civil society conducts something of a rearguard action against this third view. It fears that civil society is being suffocated gradually by new forms of regulatory state power. Accordingly, it urges the importance of protecting and renewing a pluralistic, self-organizing civil society independent of the state. Before 1850 this fourth viewpoint is least developed in German political thought, although it can be detected, for instance, in Robert von Mohl's writings, such as *Die Polizei-Wissenschaft nach den Grundsätzen des Rechtsstaates* (1832) and *Über Bureaucratie* (1846). It develops more vigorously and influentially in British and French writings, such as J.S. Mill's essays *Civilization* (1836) and *De Tocqueville on Democracy in America* (1835, 1840) and Anne Louise Germaine de Staël's *Considérations sur les principaux événements de la Révolution française* (1818). The theme of protecting society against state sovereignty is especially strong in the post-1814 period of Restoration in France. Liberal thought of this period attempted to understand 'that inexplicable vertigo called the Reign of Terror' (Constant) and to create a political system guaranteeing stable representative government and social liberties. This trend is illustrated here by Alexis de Tocqueville's *De la démocratie en Amérique* (1835-40).

## Despotism and Civil Society

The first signs of the breakdown of the classical concept of civil society are evident in Adam Ferguson's remarkable Scottish Enlightenment work, *An Essay on the History of Civil Society* (1767).<sup>13</sup> This essay sketches a 'natural history' of the human species in its transition from 'rude' forms of life to a 'polished' or civilized

society, understood in its classical sense. Civil society is not yet perceived as a sphere of life distinct from the state – in Ferguson’s view the two are, or should be, identical. A civil society is a type of political order which protects and ‘polishes’ its mechanical and commercial arts, as well as its cultural achievements and sense of public spirit, by means of regular government, the rule of law and strong military defences.<sup>14</sup>

Past examples of civil society in this sense include the smaller citizen states of classical Greece and the Roman republic. These older civil societies serve as a counterpoint for Ferguson’s critical analysis of modern civil societies such as Britain. The latter display certain unique – and self-paralysing – features. In Ferguson’s view, ‘civilizing’ trends are strongly evident in modern societies. Commerce and manufacturing expand by leaps and bounds. Sources of natural wealth are tapped on an unprecedented scale. The mechanical arts are constantly perfected. The division of labour principle is applied increasingly to producers by entrepreneurs, whose costs diminish and profits increase. This principle is also extended to the modern state, which begins to resemble a large and complex machine whose individual parts conform blindly to the purposes of the government of the day:

The soldier is relieved from every care but that of his service; statesmen divide the business of civil government into shares; and the servants of the public, in every office, without being skilful in the affairs of state, may succeed, by observing forms which are already established on the experience of others. (pp. 181-2)

Regular and orderly government of this type reduces social conflict and quickens the progress of commerce and manufacturing. Commodities of every kind are consequently produced in abundance. This stimulates new desires for wealth, as well as a shared sense that the so-called ‘necessaries of life’ are neither naturally given nor fixed in their limits (pp. 142, 217, 244-7). In all, the establishment of regular government and the progress of commerce and manufactures fills modern civil societies with hustle and bustle. In this ‘age of separations’ there is a lively ‘air of superior ingenuity’ (pp. 183-84) unknown to earlier ‘savage’ (hunting and fishing) and ‘barbarian’ (pastoral and agricultural) ages.

Ferguson is by no means an apologist of modern progress. He emphasizes that the success of modern civil societies in establishing regular government and promoting commerce and manufac-

turing does not immunize them automatically against self-paralysing dangers. Modern civil societies are civilized to an insufficient – and reversible – degree. They may be called ‘civilized’ or ‘polished’, but they are subject none the less to various powerful forms of corruption and decline. Ferguson emphasizes that such decay is not primarily the result of ‘the fickleness and inconstancy of mankind’ (p. 210). Rather, it is an unintended product of the arrangements of modern civil society itself. Of particular concern to Ferguson – his indebtedness to the older tradition of civic humanism is evident here<sup>15</sup> – is the matter in which civil society induces a loss of ‘public spirit’ among its (male, property-owning) citizens. Their ‘disinterested love of the public’ withers away; public life is considered ‘a scene for the gratification of mere vanity, avarice, and ambition; never as furnishing the best opportunity for a just and a happy engagement of the mind and the heart’ (p. 258).

Chief among the causes of this corruption of public spirit is the modern division of labour. Ferguson argues that corruption was relatively absent in more simply organized ‘rude’ (hunting and fishing) societies and in the smaller citizen states of classical Greece and the Roman republic. In modern civil societies, by contrast, the deepening division of labour – between public administration and private citizens and politicians, between entrepreneurs and workers, soldiers and civilians – corrodes the bonds of civil association. Even the sense of interdependence among groups of individuals dissolves. Civil society ‘is made to consist of parts, of which none is animated with the spirit of society itself’ (p. 218). Thus, the single-minded pursuit of commerce and manufacturing by the propertied classes embroils every class in the competitive struggle for private gain, luxury and fame.

The struggle for wealth and its display greatly increases social inequality. The lowest ranks, envious of others’ wealth and vanity, are driven into sycophancy or criminality and debauchery (pp. 186, 254, 259-60). Meanwhile the higher ranks channel their energies into material or mechanical activities at the expense of literature and higher learning. Under the mask of politeness and moderation, they blindly pursue luxuries and frivolous honours. They also become jealous and possessive. As individual members of civil society, they consider the political community only in so far as it serves their personal advancement or profit (pp. 19, 199, 201, 238, 247, 252, 256-7). Paradoxically, this mercenariness of the propertied classes makes them deceitful and rapacious –

always ready to trespass on the rights of others – as well as ‘servile’ and ‘effeminate’ – always ready to adapt for the sake of some future advantage. Their capacity for public-spirited citizenship and political leadership accordingly declines. It is weakened further by the growth of public administration (which requires their subordination in public affairs) and by their cession of military duties to professionalized armies (pp. 220, 230, 255).

According to Ferguson, modern civil societies are seriously endangered by this corruption of public spirit. Not only is the advance of corruption camouflaged by the establishment of regular government and the vigorous progress of commerce and manufacturing, but the loss of public spirit neutralizes (male, property-owning) citizens’ suspicion of power and thus prepares the way for despotic government.

The dialectic between civil society and political despotism is basic to Ferguson’s argument. Despotism is seen as a form of oligarchic state which pacifies its subjects and divests them of their traditional civil rights, if necessary by bureaucratic regulation, fraud and military force. It dispenses with public discussion and encourages jealousy and mutual mistrust among the governed. Despotism greatly fears man’s natural ‘spirit of dissension’ (p. 269), and for that reason thrives on the corruption of public spirit. For that reason also, despotism has a deep affinity with modern civil society. Ferguson warns that the path to despotism is *prepared* by civil society: ‘The rules of despotism are made for the government of corrupted men’ (p. 240). Civil society destroys public spirit. It strengthens the scope and power of state administration and accustoms its subjects to the civil order and tranquillity it secures. Civil society also institutes a professional army, thus exposing itself to the dangers of government by military force.

While Ferguson does not consider despotism to be the ‘fate’ of modern civil society, his argument certainly poses some difficult political questions. How can the advance of despotism be prevented? Is modern civil society capable of reforming itself? Or is political corruption an ineradicable feature of modern times? In response to such questions, Ferguson is straightforward enough: despotism is preventable, but only in so far as the privileged (male, property-owning) citizens of civil society strive to raise their level of public-spiritedness and capacity for civil association and leadership of the lower ranks under a sovereign constitutional monarchy.

Admittedly, this proposal for a *more* civil society guided by a



constitutional monarchy bears the marks of Ferguson's classical fear of the 'effeminacy' of 'the fair sex' (p. 201) and the under-classes<sup>16</sup> and his dislike of republican government. Apart from vague references to the resilience of the 'human spirit' (pp. 278-80), it also fails to specify how the corrupted citizens of civil society can shake off their corruption – or even an entrenched despotism – and learn to 'love the public, and respect . . . its laws' (p. 267). Ferguson insists that 'liberty is a right which every individual must be ready to vindicate for himself' (p. 266), but whether this right is to be enforced through honourable or heroic individual acts or peacefully organized civil action remains wholly unclear. Ferguson's defence of a public-spirited constitutional monarchy is none the less extremely interesting. It poses with great clarity a thoroughly modern political dilemma, which in turn very nearly bursts the seams of his classical concept of civil society.

Ferguson recognizes that the public spirit typical of the savage tribe, the barbarian clan or small states such as classical Greece cannot be re-created in the large-scale, complex civil societies of modern times (or at least not without sacrificing the achieved benefits of regular constitutional government, commerce and manufacturing). But Ferguson also recognizes that large-scale modern civil societies breed political despotism. The centralized political-legal arrangements of civil society – the 'government of laws' (p. 263) – can help to restrict political abuses and secure citizens' civil liberties and 'rights of property and station' (p. 156). But centralized government based on the rule of law cannot alone guarantee the civil freedoms of citizens, since those who exercise power directly are apt constantly to abuse it.<sup>17</sup> Hence the dilemma: modern civil society requires for its survival a sovereign, centralized constitutional state which, together with commerce and manufacturing, breaks 'the bands of society' (p. 218) and threatens citizens' civil liberties and capacity for independent association, thus undermining a *sine qua non* of life in a civil society.

Ferguson's attempted resolution of this dilemma is brief and tentative, but nevertheless of great interest to a contemporary history of the modernization of the concept of civil society. His key normative principle is the creation and strengthening of citizens' associations – whether in courts of law (juries), the military (citizens' militias) or in civil society at large. According to Ferguson, man, in contrast to the animals, has an innate capacity 'to consult, to persuade, to oppose, to kindle in the society of his

fellow-creatures' (p. 218). He acts best when in social groups. His life is therefore happiest and freest when under the influence of the 'animated spirit of society' (p.30).

It follows that governments become illegitimate – despotic – whenever they stifle the public spirit so engendered by association in social groups (p. 64). The unity of civil society must not be achieved at the expense of social solidarity:

The great object of policy ... is, to secure to the family its means of subsistence and settlement; to protect the industrious in the pursuit of his occupation; to reconcile the restrictions of police, and the social affections of mankind, with their separate and interested pursuit. (p. 144)

Here Ferguson comes close to saying that the survival and progress of modern civil society require the development of independent social associations – the development of a civil society within a civil society. Not surprisingly, his classical train of thought never allowed this paradoxical conclusion. To have taken that step would have made no sense either to his classically minded contemporaries or to future thinkers, for whom civil society and the state would no longer be coterminous entities.

### Civil Society versus the State

Ferguson's cautious suggestion that the 'animated spirit of society' may need to be defended against political power is developed explicitly during a second phase of the modernization of the concept of civil society. This transition is evident in Thomas Paine's polemic against Edmund Burke in the *Rights of Man* (1791-2).<sup>18</sup> This work throbs with the immediacy and drama of the French Revolution.<sup>19</sup> Its exuberant optimism also reflects the innovations of the American Revolution: the declaration of the natural rights of man and of popular sovereignty as fundamental constitutional principles; the establishment of the right to resist unlawful government as a basic legal principle; and the implementation of a republican and altogether new federal political structure. According to Paine, the power of the state must be restricted in favour of civil society because within all individuals there is a natural propensity for society: existing before the formation of states, this natural sociability predisposes individuals to establish peaceful and happy relations of competition and

solidarity based only on reciprocal self-interest and a shared sense of mutual aid. The state is deemed a necessary evil and civil society an unqualified good. The legitimate state is nothing more than a delegation of power for the common benefit of society. The more perfect civil society is, the more it regulates its own affairs and the less occasion it has for government. There is an inverse relationship between *société libre, gouvernement simple* and *société contrainte, gouvernement compliqué*.

The possibility of a naturally self-regulating society administered by a limited state is contrasted with the present age of despotism. With the notable exception of America, Paine complains, states everywhere crush and barbarize their populations. Global despotism – the constitutional monarchy of Britain as much as the Bourbon absolutism of France – makes individuals fearful of thinking. Reason becomes considered as treasonable, and individuals' natural rights to freedom are hounded to every corner of the earth. The modern world is 'uncivilized' (p. 105) because it is overgoverned. Individuals consequently become caught in an endless labyrinth of political institutions which prevent them from scrutinizing the principles, good or bad, upon which existing laws are founded. Dependent upon the whims and fancies of political despots and their appointers, they are expected to be ignorant and submissive; they are tempted and cajoled constantly to pass, cash in hand, through 'a wilderness of turnpike gates' (p. 89). This makes them wretched, for the overwhelming force of despotic states and laws denatures individuals by tearing them away from themselves and from each other. They are degraded and victimized by a global system of *political* alienation. In this world turned upside down by despotic governments, (potentially) self-determining and sociable individuals become lost, causes and effects appear reversed, and states represent themselves as the real and proper source of property, power and prestige.

These inversions have highly negative consequences, or so Paine argues. He emphasizes that despotic states are responsible for maintaining the patriarchal form of power within households. Despotic states rest on and presuppose despotic households, in which the arbitrary exercise of power by fathers (bequeathing property to their first-born sons, for instance) reinforces 'family tyranny and injustice' (p. 105). Despotic states also institute class divisions within society by loading their subjects with excessive rates of taxation. Everywhere, the greedy hand of state thrusts itself into social life, seizing (the fruits of) its property and invent-

ing further pretences for the collection of yet more taxation revenues. Such excesses of taxation throw parts of society into poverty and discontent. The propertyless are impoverished and oppressed, the rich become ever more privileged, and violent struggles between classes ensue.

Self-aggrandizing, despotic governments also seek to extract power and revenue from their societies by cultivating bellicose national prejudices and preparing for armed conflict with other states. The age of despotism is also an age of war. States subjugate and plunder their populations in order to make war; conversely, they make war in order to extract revenues and support from their populations. Wars between states increase their power over their populations and this, in turn, further undermines the possibility of natural social harmony. War, says Paine, is ‘the art of *conquering at home*’ (p. 99).

Paine is convinced that this global subsumption of societies by despotic states is only temporary. The dissolution of arbitrary political power is merely a matter of time – despotic states are weak and unpopular by virtue of their ‘artificiality’. The decisive question for him is only whether the approaching revolutions in modern government can be made to unfold by way of ‘reason and accommodation’ rather than through blind and dramatic ‘convulsions’ (p. 168). Pointing to the example of the American Revolution, Paine stresses repeatedly the need for deliberately resisting the excesses of state power. This conviction is nourished by two related but quite different types of argument which lead, as I shall show, to political conclusions very different from those of Ferguson.

In the first place, the legitimate state is that which is guided by the principles of natural right and active consent of the governed. Here Paine radicalizes the contractualist arguments of early modern political thought.<sup>20</sup> He emphasizes that the power of states is only ever delegated, on trust, by actively consenting individuals who can legitimately retrieve this power at any time by withdrawing their consent. No particular political group or institution is possessed of the right to bind and control how, and by whom, the world is to be governed. This follows from the principle that ‘man has no property in man’ (p. 64). All individuals are born equal, and with equal natural rights. (The textual evidence on this point suggests that Paine universalizes the contractualist thesis to include not only minorities but also women and the underclasses.)

These natural rights (to free speech, public assembly and

independent religious worship, for instance) are God-given and predispose individuals to act freely and reasonably for their own comfort and happiness, without injuring or trespassing the natural rights of others. In this sense, *natural* rights provide a *political* Archimedean point, a 'fixed and steady principle' (p. 151) for measuring the legitimacy of states. Natural rights, by definition, cannot be annihilated, transferred or divided, and – contrary to the conservatism of Burke and others – no generation is empowered to deny them to their heirs.

This rights-based argument – absent from Ferguson's discussion – indicates why Paine thinks that states cannot be understood as a compact between the governors and the governed. Rights-bearing, free and equal individuals naturally *precede* past, present and future states. Thus states can be considered legitimate or 'civilized' only when they have been formed through the explicit consent of individuals and when this active consent is formulated constitutionally and articulated continuously through parliamentary, representative mechanisms. Civilized governments are constitutional governments empowered by the active consent of naturally free and equal individuals. These governments have no rights, but only duties before their citizens. They should be the product of contracting individuals and must always be considered as creatures of their constitutions, which specify such matters as the duration of parliaments, the frequency of elections, the mode of representation, the powers of the judiciary, the conditions under which war can be declared, and the levying and spending of public monies. Government without a constitution is equivalent to power without right:

A constitution . . . is to a government, what the laws made afterwards by that government are to a court of judicature. The court of judicature does not make the laws, neither can it alter them; it only asks in conformity to the laws made: and the government is in like manner governed by the constitution. (p. 93)

Particular governments cannot arbitrarily alter or expand their constitutions, nor can they legitimately violate the trust and consent of individual citizens. It is in the natural order of things, Paine concludes, that individual citizens are permanently sovereign. Any reversal of this natural order, and every attempt to preclude actively represented consent as the basis of law, is despotism: aggressive government accountable only to itself.

Paine proceeds from this first argument concerning the

natural rights of individuals to a second thesis which overthrows the classical understanding of the term civil society by distinguishing explicitly between civil society and the state. This thesis seeks to explain why free and equal individuals living together on earth actively desire peaceful and co-operative forms of social life which are self-reliant and independent of state institutions. According to Paine, there are two respects in which individuals are naturally disposed to co-operative forms of social life.

First, individuals' natural wants exceed their individual powers. This means that they are incapable of activating their powers and satisfying their diverse wants without the labours and assistance of others. Consequently, they are driven ('as naturally as gravitation acts to a centre' [p. 185]) to establish forms of commercial exchange based on reciprocal interest and the division of labour. Competitive market relations of this kind (as Paine says elsewhere) consist of 'distinct, unconnected individuals following various trades, employments and pursuits; continually meeting, crossing, uniting, opposing and separating from each other, as accident, interest, and circumstances shall direct.'<sup>21</sup>

The commercial dependence of individuals upon others for the satisfaction of their diverse wants is reinforced, Paine argues, by 'a system of social affections' (p. 185). This deep yearning for solidarity with others is a natural affection and, paradoxically, it is replenished continually by the motivating force of individuals' market interests. (Paine ignores Ferguson's fear of the loss of public spirit due to the growth of commerce and manufactures, apparently because he assumes the existence of a mainly pre-industrial economy based on perfect competition among small propertied worker-entrepreneurs.) This felicitous coincidence of market competition and the love of others, Paine concludes, predisposes individuals to live together harmoniously by exercising their natural rights to freedom and happiness within a civil society, unhindered by state institutions, which recognizes only the rules of mutual respect, the satisfaction of interest and the safety and freedom of all individuals.

Certainly Paine is aware that social life can be corrupted and deformed, and that this has political effects. In past times natural societies were always plundered and degraded by political conquerors armed with brutal weapons, exploitative laws and ideologies of 'political superstition' (p. 199). In the present age, social life continues to be encircled and suppressed by despotic states which rather than consolidating society seek to divide it, destroy its natural cohesion, and stir up discontent among its

members.<sup>22</sup> Once individuals' desire for society is aroused, however, despotic states quickly begin to crumble into ruins. The desocialization of already free, equal and rational individuals is an impossibility (p. 140). Indeed, the more civil society develops confidence in its capacity for self-government, the less need there is for state institutions and laws. A confident, self-regulating society requires only a minimum of political mechanisms – what Paine calls 'government' – to ensure the natural interaction of the various parts of civil society upon each other.

Paine suggests also that the reduction of state power to a minimum would make possible the formation of an *international* confederation of nationally independent and peacefully interacting civil societies (pp. 147, 191-2). The nationally sovereign state would then be nothing more than the elected manager and guarantor of the 'universal peace, civilization and commerce' (p. 183) of civil society. This 'national association acting on the principles of society' (p. 189) is needed only to supply the few public services which civil society cannot conveniently supply for itself.

In contrast to the labyrinthine, spendthrift, secretive and belligerent operations of despotic states, the limited constitutional state would be qualitatively more simple and efficient, cheaper, and more open and peaceful. Its patterns of responsibility to society would be clear, well defined, and maintained through constitutionally guaranteed mechanisms of representation which protect society from the state. Individuals would understand clearly the origins and rationale of their political system. Nothing would be hidden from the eyes of civil society. The limited state would be as visible as it is near to its citizens, and its operations, as a consequence, would be widely supported.

Paine is certain that limited states guided by civil societies bonded together by reciprocal interest and mutual affection would make for a condition of global order and harmony. Freely interacting individuals thrive on the aid they receive from each other, and from other civil societies. Common interest is the 'law' of civil society, and it far outweighs the importance and steadying influence of positive laws enacted and administered by governments: 'The instant formal government is abolished, society begins to act. A general association takes place, and common interest produces common security' (p. 186). Paine conceives common security as a consequence of 'natural' forces, not as a *historical* achievement. Individuals tend to interact with others spontaneously; this leads them to form an interlocking, self-sufficient social whole emancipated from conflict. Hence, if

states were everywhere constructed upon this natural social foundation, the present unfreedom, inequality and antagonisms among individuals and groups would wither away. Social divisions and (domestic and international) political unrest would be replaced by the 'cordial unison' (p. 189) of a civilized society.

## The Universal State

The third phase of concern with civil society – illustrated here by G.W.F. Hegel's *Grundlinien der Philosophie des Rechts* (1821)<sup>23</sup> – can be understood as a reaction against its predecessor's unbridled enthusiasm for civil society. In Hegel's hands the term civil society assumes a less positive meaning; it is viewed as a self-crippling entity in constant need of state supervision and control. Hegel's interpretation nevertheless makes two novel contributions to the modernization of the idea of civil society, albeit at the price of a weakened sensitivity to political power and its authoritarian potential.

First, in striking contrast to Paine's account, civil society [*bürgerliche Gesellschaft*] is conceived not as a natural condition of freedom but as a *historically produced* sphere of ethical life [*Sittlichkeit*] 'positioned' between the simple world of the patriarchal household and the universal state. It includes the market economy, social classes, corporations, and institutions concerned with the administration of 'welfare' [*Polizei*] and civil law. Civil society is a mosaic of private individuals, classes, groups and institutions whose transactions are regulated by civil law and, as such, are not directly dependent upon the political state itself.

Hegel emphasizes that civil society in this sense is not a pre-given and invariable substratum of 'natural life' which exists beyond space and time. Rather, it is the outcome of a long and complex process of historical transformation: 'The creation of civil society is the achievement of the modern world' (p. 339). Moreover, the 'system of needs' it develops – here Ferguson's probable influence on Hegel is evident – represents a decisive and evident break with the natural environment (pp. 346-60).<sup>24</sup> The modern bourgeois-directed economy, for instance, is a dynamic system of commodity production by means of commodities. It greatly increases the level of specialization and mechanization of human labour. Nature is thereby transformed into an instrument for the satisfaction of human needs, which multiply and diversify and can therefore no longer be understood



as 'natural' (pp. 341-3, 346-51).

Hegel's second novel contribution to modern theories of civil society follows from this critique of naturalism. In his view there is no necessary identity or harmony among the various elements of civil society. Harmony nourished by unadulterated love is an essential characteristic of the patriarchal family. Described by Hegel as the 'first ethical root of the state' (p. 396), the family is an immediate, unreflecting unity whose members (especially women, who are guided by intuition and feeling and therefore destined for love and marriage) understand themselves as 'accidents' (p. 313) and not as competitive individuals bound together by contract.

In civil society things are otherwise. Its multiple forms of interaction are often incommensurable, fragile, and subject to serious conflict. 'Nature', remarked Paine, 'is orderly in all her works', and this is why the manifold elements of civil society (its 'societies') merge spontaneously and harmoniously.<sup>25</sup> Hegel rejects this naturalistic assumption as well as its naive view of the sources of social equilibrium. Modern civil society, rather, resembles a restless battlefield where private (male) interest meets private (male) interest. It unfolds and develops in a blind, arbitrary, quasi-spontaneous manner. This means not only that it cannot overcome its own particularities but also that it tends to paralyse and undermine its own pluralism. As Hegel observes elsewhere, the exuberant development of one part of civil society may, and often does, impede or oppress its other parts.<sup>26</sup>

The subdivision of civil society into classes (or *Stände*) is a principal reason why it is divided against itself and therefore gripped by an inner restlessness. Hegel recognizes a variety of classes or class fragments – civil servants, landowners, peasantry, intellectuals, lawyers, doctors and clergymen – but he locates the moving principle of civil society primarily in the *Bürgerstand*. Much of his analysis is reminiscent of Ferguson's. Hegel argues that this class of burghers (in which he includes workers) is defined, paradoxically, by its selfish individualism. The burgher class certainly depends upon the corporations – municipal, trade, educational, religious, professional and other state-authorized forms of collective associations – which function as its 'second home', as a shelter which protects it from the vicissitudes of life in civil society and familiarizes it with a higher level of ethical (or public-spirited) form of life (pp. 394-5). The selfish actions of the burgher class and those of its unintended child, the 'rabble of paupers' (pp. 389, 395) are further restrained by the civil 'admin-

istration of justice' (pp. 360-82) and by the various regulations and moral improvements secured by the 'policing' agencies of civil society (pp. 382-93).<sup>27</sup>

Nevertheless, the burgher class tends to struggle against the restrictions imposed by the corporations, civil administration and police. It regards all these as the means of furthering its particular interests through commercial transactions (pp. 339-45). The burgher is less a public-spirited *citoyen* than a self-serving *bourgeois* who likes to keep others at arm's length. He is an apolitical man who likes to stand on his own two feet. He is impatient with traditional privileges, shows little genuine interest in public affairs, and is concerned only with his self-enrichment through the exercise of his private property. He views his freedom as abstract – as the freedom to act within the bounds of externally enforced laws which safeguard his property and enforce contracts. In this way – here Hegel agrees with Ferguson and Paine – modern civil society becomes a complex system of transacting individuals whose livelihoods, legal status and happiness are mutually interwoven. But it is precisely this universal selfishness – here Hegel rejects Paine's belief in natural sociability and Ferguson's trust in citizenship – which turns civil society into a blind and unstable field of economic competition among private non-citizens.<sup>28</sup>

This tendency is of great concern to Hegel and indicates why he emphasizes that modern civil society is incapable of overcoming its own particularity and resolving its inherent conflicts by itself. Civil society cannot remain 'civil' unless it is ordered politically, subjected to 'the higher surveillance of the state' (p. 397). Only a supreme public authority – a constitutional state managed by the monarchy, the civil service and the Estates – can effectively remedy its injustices and synthesize its particular interests into a universal political community. From this perspective Hegel criticizes modern natural law theory for confusing civil society and the state, for supposing the latter to be a mere partnership of its subjects (pp. 339-40, 415-31, 491-4) and thus for challenging the 'absolutely divine principle of the state, together with its majesty and absolute authority' (p. 400).

The ideal state is not a radical negation of a natural condition in perpetual war (Hobbes, Spinoza) nor an instrument for conserving and completing natural society (Locke, Pufendorf) nor a simple mechanism for administering a naturally given, automatically self-governing civil society (Paine). Rather, Hegel conceives the state as a new moment which contains, preserves

and synthesizes the conflicting elements of civil society into a higher ethical entity. The state represents society in its unity. Civil society is *aufgehoben*: it is at the same time preserved and overcome as a necessary but subordinate aspect of a wider, more complex and higher community which is organized politically.

These arguments lead Hegel to seek a path between Ferguson's and Paine's radically different theories of the state. According to Hegel, if the state demands from civil society only what is necessary for itself, and if it accordingly limits itself to guaranteeing this necessary minimum, then beyond this limit the state can and should permit considerable scope for the freedom of male individuals and groups acting within civil society. This means, on the one hand, that the state should not be considered as a central superintendant which direct the life of all other institutions (a type of state which Hegel identified in oriental despotism and in the Prussian state of Frederick the Great). On the other hand, against Paine and others, Hegel urges that the public authority cannot take the form of an administrative body which rarely interferes with the conduct of civil society (pp. 384-5, 406-11). He proposes that both points of view must and can be satisfied: the freedom of the members of civil society can be guaranteed and synthesized with the state's articulation and defence of the universal interest.

Although Hegel consequently recommends against dissolving the separation of civil society from the state, it is clear that the degree to which civil society is differentiated from the state cannot be fixed through hard and fast general rules. Ultimately, from his perspective, the relationship of state and society can be determined only by weighing up, *from the standpoint of political reason*, the advantages and disadvantages of restricting the independence, abstract freedom and competitive pluralism of civil society in favour of universal state prerogatives.

Hegel supposes two conditions under which state intervention (in his words, the state's 'purging of privileges and wrongs') is legitimate. First, the state may intervene in order to remedy injustices or inequalities within civil society – for instance, the domination of one or more classes by another, the pauperization of whole groups or the establishment of local oligarchies (within a region or municipality, for example). Secondly, the supreme public power is justified in intervening directly in the affairs of civil society to protect and further the universal interest of the population – which the state itself defines! The activity of the corporations is an important case in point: although they require

autonomy to facilitate their members' development of *Sittlichkeit*, it is precisely because of their (potential) 'public' character that they require subjection to the 'higher surveillance' of the state, lest they degenerate into its rivals (p. 397). Thus, while Hegel defends the need for 'particularity ... to develop and expand in all directions' within civil society, he insists at the same time that the universal state has 'the right to prove itself as the ground and necessary form of particularity, as well as the power which stands over it as its final purpose' (p. 340; cf. pp. 384–5).

Considered together, these two conditions constitute a very broad licence indeed for state regulation and dominance of social life.<sup>29</sup> The fear of despotism which motivates Ferguson's and Paine's reflections on civil society is drastically weakened in favour of a deep trust in state regulation. Despotism is seen as a problem of earlier times,<sup>30</sup> and the problem of how, and under which conditions, male citizens can question, reconsider and resist state power falsely claiming to be universal – the problem of political democracy and active citizenship – falls into obscurity. Simply stated, if the requirements of the public good set limits upon the autonomy of civil society, and if the state itself – a monarchic one at that – is ultimately responsible for determining these requirements, how can its interventions possibly be identified and prevented as illegitimate?

Hegel's failure to deal adequately with this quintessentially modern problem of (democratic) checks and balances on the universal state – his assumption that the monarchic state is in the last instance sovereign *vis-à-vis* all relationships within the family and civil society – weakens, even contradicts, his claims on behalf of an independent civil society which guarantees the 'living freedom' of individuals and groups. From the perspective of Hegel's metaphysics, indeed, the ideal of the universal state is understood as 'absolutely rational' (pp. 399, 11–28). It is the highest and concluding moment of a process of historical development in which reason actively works itself into the existing world.

The universal state is the concrete human embodiment of the ethical Idea, of mind [*Geist*] developing from a stage of immediate, undifferentiated unity (the family), through that of explicit difference and particularity (civil society), to the concrete unity and synthesis of the particular in the state.<sup>31</sup> Given that the process of human history is in this sense 'the movement of God in the world' (p. 403), the universal state conceived by Hegel must be regarded as a secular deity whose claims upon its male citizens

and female and other subjects are always for their benefit and, ultimately, unquestionable and irresistible.

## The New Despotism

Tocqueville's *De la démocratie en Amérique* (1835-40)<sup>32</sup> – the fourth type of contribution to a modern theory of civil society considered here – provocatively attempts to draw attention to the political dangers implicit in such reasoning. According to Tocqueville, arguments in defence of a state which governs civil society in the name of the universal interest are implicated in a dangerous development: the growth of a new type of state despotism which is popularly elected. Drawing upon his study of American government and society (as well as his re-examination of the French Revolution in *L'Ancien Régime et la Révolution*), Tocqueville emphasizes that it is not conflict and disorder generated by particular interests but this new form of elected state despotism which is the principal hazard confronting modern nations. Paradoxically, an age which is committed ever more strongly to democratic mechanisms for resisting inequalities of power and wealth also favours, in the name of the sovereignty of the people, equality of treatment and uniform provision, the gradual concentration of power in the hands of a centralized administrative state which secures the well-being of civil society and robs it of its freedoms.

This state servitude is to be dreaded, Tocqueville explains, because its contours are so little examined and its negative consequences so poorly understood. The new despotism is without historical precedent. It is also difficult to detect inasmuch as modern democratic societies pride themselves on having shattered the despotism of aristocratic times. Modern nations no longer feel threatened by despotism because the stranglehold of that old form of power over its subjects is indeed in the process of being broken. According to Tocqueville's highly original thesis, a 'great democratic revolution' (vol. 1, p. 57), has begun to sweep through all spheres of modern life. In these post-aristocratic societies daily existence becomes agitated because democratic mechanisms awaken and foster a widespread passion for the equalization of power, property and status within the spheres of state and civil society.

Tocqueville observes that in the political realm [*société politique*] everything becomes disputed and uncertain. The convincing

power of sentimental tradition, absolute morality and religious faith in otherworldly aims is shaken; in this sceptical, secular age of political democracy the stars of mythical belief fall to earth, the light of faith grows dim, and the horizons of political action become worldly and thus subject to argument, persuasion and practical judgement. Those who live in democratic nations consequently look upon political power with a jealous eye; they are prone to suspect or despise those who wield it and are thereby impatient with arbitrary state regulation. The state and its laws lose their divinity, coming to be regarded as necessary and/or expedient and as properly based on the voluntary consent of the citizens. The spell of absolute monarchic power is broken, political rights are extended gradually from the privileged political classes to the humblest citizens, and political regulations and laws are constantly subjected to redefinition and alteration.

Tocqueville emphasizes that distinctions and privileges are eroded gradually not only in the field of politics but also within the domain of civil society [*société civile*]. Modern democracies are subject to a permanent 'social revolution' (vol. 1, p. 69). Naturalistic definitions of social life – here Tocqueville agrees with Hegel – are replaced by avowed conventions. (Tocqueville notes, for instance, that democracy gradually destroys or modifies 'that great inequality of man and woman, which has appeared hitherto to be rooted eternally in nature' [vol. 2, p. 263], although this does not lead him to doubt that 'the sources of a . . . woman's happiness are in the home of her husband'); (hereditary) property is parcelled out, social power is shared ever more widely, and the unequal capacities of classes tend to dissolve.

This is not to say that democracies are without concentrations of wealth. Such concentrations of property persist, but Tocqueville sees them as vulnerable, as subject constantly to redistribution through changes in fortune, competition, legal redefinition and social pressures from the propertyless. Having subverted the systems of feudalism and absolute monarchy, the democratic revolution refuses to bow before the social power of notables, merchants and industrial capitalists. The fear of losing their privileges strikes at the heart of these social groups – which is also why they have a hearty dislike of democratic mechanisms.

Tocqueville evidently exaggerates the momentum and extent of this levelling process, yet the logic of his explanation remains compelling: once certain social claims (for example rights to property) are defended by one group, the pressure is greater for extending them to other social groups; after each such concession

new demands from the socially less powerful force new concessions from the privileged, until the once restricted social claims become universal in scope. The dilemma of modern civil societies is that they must extend social rights to everybody or to nobody. Since the latter option is an open embarrassment to democracy, the process of social levelling tends to develop an irreversible momentum of its own.

Democratic mechanisms, Tocqueville argues, stimulate a passion for social equality which they can never quite satisfy: 'This complete equality slips from the hands of the people at the very moment when they think they have grasped it and flies, as Pascal says, an eternal flight' (vol. 1, p. 285). The less powerful ranks of civil society are especially caught in the grip of this dynamic. Agitated by the fact of their subordination and by the possibility of overcoming it, they are also irritated by the uncertainty of achieving equality; their initial enthusiasm and hope give way to disappointment and frustration and to renewed commitment to the struggle for equality. This 'perpetual movement of society' (vol. 1, p. 261) fills the new world of modern democracy with radical scepticism and an impatient love of novelty. In this democratic maelstrom, nothing seems any more to be fixed or inviolable except the passionate, dizzying struggle for social and political equality.

Tocqueville stresses that this struggle for equality is not synonymous with the securing of social and political liberties. Although citizens cannot become equal unless their activities are also self-determined, attempts to realize the ideals of equality and liberty can contradict each other and should therefore be carefully distinguished. Tocqueville sees this point as especially pertinent in the contemporary period, in which the ideal of freedom from despotism is being replaced by the goal of state-secured equality.<sup>33</sup> This 'democratic counter-revolution' is not primarily a consciously willed process. Many are presently aiding and abetting this counter-revolution without knowing it. Some of its declared opponents are even happy to be driven along by its peaceful currents:

Day by day citizens fall constantly under the control of the public administration, to which they insensibly surrender ever greater portions of their individual independence. These very same citizens, who periodically upset a throne and trampled on the feet of kings, more and more submit themselves, without resistance, to the smallest dictate of a clerk. (vol. 2, p. 379)

The more this consensus about the need for centralized public regulation develops, and the more state institutions become practically involved in the provision of 'public utilities', the less civil society can cope without state direction, the need for which consequently grows. Trapped within this dynamic, individuals and social groups are drawn, willingly and without coercion, into relations of political dependence. The hands and eyes of the state intrude more and more into the minutiae of daily life. The democratic revolution loses momentum. In the name of democratic equality, government becomes regulator, inspector, adviser, educator, and punisher of social life. It functions as a kind of tutelary power which 'perpetuates in the social body a type of administrative drowsiness which the heads of the administration are inclined to call good order and public tranquillity' (vol. 1, p. 158).

This administrative suffocation of civil society is evident, Tocqueville argues, in the state's growing monopoly of public instruction, health care and the provision of support for the unemployed and destitute. Such state monopolies in the field of *polizei* are reinforced by the rise of capitalist manufacturing industry. Under capitalist conditions workers are degraded and subjected to a new social power group (an 'aristocracy', as Tocqueville calls them) of industrial manufacturers. This class springs from the heart of democratic society and potentially threatens its freedom and pluralism. It systematically applies the division of labour principle to manufacturing. This greatly increases the efficiency and volume of production. At the same time, the modern division of labour concentrates workers in crowded and putrid urban conditions, renders them more narrow-minded, brutish and impoverished, and disposes them to rebel against the existing social inequalities.

Tocqueville sees growing demands by the manufacturing class for state 'improvement' and surveillance of these rebellious urban poor as a likely consequence of the industrialization of civil society. In addition, he observes that the manufacturing class also expects the state to provide harbours, canals, roads and other large-scale infrastructural projects which facilitate the general acquisition of wealth. (Tocqueville evidently failed to consider the obstructive capacity of the manufacturing class – its self-interested propensity to resist state encroachments upon its 'private' power within civil society.) Finally, as the power and scope of the state increase, its consumption of manufactured goods grows larger. States even become directly involved in the manufacturing



process, employing large numbers of engineers, architects, mechanics and skilled workers.

For each of these reasons, areas of civil life formerly beyond the control of state administration become subject to its inquisitive and directive powers. Tocqueville insists that this all-pervasive state administration is unlike any species of despotism which existed before. In former times, despotic states never attempted to monitor and control their subjects through strictly centralized, complex and meddlesome forms of power. Even at the height of the Roman Empire, Tocqueville claims, its cruel rulers did not seek directly to administer their populations down to the smallest detail; different nations within the Empire retained their diverse customs and powerful and active municipalities survived. The cruellest despotisms of past times never managed completely to eliminate forms of oppositional power.

The modern type of state despotism is in this sense qualitatively different. It stands guard over the whole of civil society as a power which is 'absolute, differentiated, regular, provident and mild' (vol. 2, p. 385). It is highly dangerous, because in the name of securing the welfare of the sovereign people it enslaves them in the minor (as well as the major) details of life. This type of tutelary power does not destroy life or tyrannize in the old ways. It rarely employs the coarse instruments of *autos-da-fé*, fetters and executioners. Modern state despotism perfects and 'civilizes' its techniques of control and is therefore rendered less odious and degrading in the eyes of its subjects. Peacefully, and by means of democratically formulated and administered laws, it transforms its (male) citizens into passive subjects who are expected to invest their trust in 'benevolent' power and busy themselves with family life, work and material consumption.

Tocqueville is appalled by this development. In his view it threatens to sabotage the decisive victories of the democratic revolution and its goals of equality and freedom for all citizens. Consequently, he reasons that the decisive political problem of modern times concerns how the equalizing tendencies triggered by this democratic revolution can be preserved without allowing the state to abuse its powers and rob its (male) citizens of their freedom. Tocqueville points out – against talk of the withering away or elimination of state power – that this problem of securing equality with freedom *cannot* be solved by abolishing political institutions. Active and strong state institutions are both necessary and desirable conditions of democratic freedom and equality.

Just as all speakers of a language must have recourse to definite grammatical forms in order to express themselves, so citizens living together in a democracy are obliged to submit themselves to a political authority, without which they would fall into confusion and disorder. This is especially so within large and complex democratic nations, whose common interests, such as the formulation and administration of positive law and the conduct of foreign policy, cannot be taken care of effectively without a powerful centralized governmental apparatus. However, in order to prevent the yoke of state despotism from descending on to the modern world and paralysing its revolutionary momentum, mechanisms of several kinds are required for preventing the build-up of power monopolies.

Within the realm of *state* institutions – here some key themes of the *Rights of Man* resurface – the paralysis of the democratic revolution can be minimized by ensuring that political power is distributed into many and various hands. A legislative power subject to periodic elections combined with a separate executive authority and an independent judiciary, for instance, minimize the risk of administrative despotism by ensuring that the political power which governs civil society frequently changes hands and adopts different courses of action and is thus prevented from becoming excessively centralized and all-embracing. Tocqueville also stresses the rich democratic consequences of citizens' action *within* state institutions. He sees the American jury system as exemplifying this principle of supplementing representative democratic mechanisms (for example, citizens' election of representatives to the legislature) with direct citizen participation. The jury system facilitates citizens' self-government as well as teaching them how to govern others prudently and fairly; they learn how to judge fellow-citizens as they would wish to be judged themselves. The jury system 'invests each citizen with a kind of magistracy; it makes them all feel the obligations which they are bound to discharge towards society and the part which they play in its government' (vol. 1, p. 376).

Tocqueville is certain that these kinds of *political* checks upon despotism must be reinforced by the growth and development of *civil* associations which lie beyond the control of state institutions. He no doubt underestimated the scope and democratic potential of workers' resistance to the grip of capitalist manufacturing industry upon civil society. (In *De la démocratie en Amérique* Tocqueville does not consider workers as a separate social class but rather as a menial fragment of *la classe industrielle*. This point

of view, defended by Hegel and criticized by Marx, is also evident among other French writers such as Saint-Simon, for whom workers and entrepreneurs comprise a single social class: *les industriels*. This partly explains why Tocqueville reacted in contradictory ways to the events of 1848; as François Furet and others have pointed out, he interpreted these events both as a continuation of the democratic revolution and, spitefully, as a 'most terrible civil war' threatening the very basis of 'property, family and civilization'.<sup>34</sup>) Tocqueville failed to consider the possibility of a *socialist* civil society: a type of ultra-modern civil society no longer dominated by capitalist enterprises and patriarchal families.<sup>35</sup> He none the less saw correctly – as did Ferguson, Paine and Hegel before him – that forms of civil association such as scientific and literary circles, schools, publishers, inns, manufacturing enterprises, religious organizations, municipal associations and independent households are crucial barriers against both political despotism and social unfreedom and inequality.

Tocqueville never tired of repeating the point that the 'independent eye of society' (vol. 1, p. 236) – an eye comprising a plurality of interacting, self-organized and constantly vigilant civil associations – is necessary for consolidating the democratic revolution. In contrast to political forms of involvement (such as participation in elections or jury service) which are concerned with the wider, more general community interests, civil associations consist of combinations of citizens preoccupied with 'small affairs' (vol. 2, p. 150). Civil associations no doubt enable citizens to negotiate wider undertakings of concern to the whole polity. But they do more than this: they also nurture the local and particular freedoms so necessary for maintaining democratic equality and preventing the tyranny of minorities by majorities. Tocqueville likens these civil associations to permanently open schools of public spirit within which citizens learn their rights and obligations, press their claims, and become acquainted with others. He probably underestimates the (likely) possibility of conflict among different civil associations and with the state itself (a consequence of his tendency to exaggerate the extent of democratization in modern societies). He none the less sees civil associations as arenas in which individuals can direct their attention to more than their selfish, conflictual, narrowly private goals; through their activities in civil associations, they come to perceive that they are not independent of their fellow-citizens and that in order to obtain others' support they must often lend them their co-operation.

Tocqueville acknowledges that civil associations in this sense always depend for their survival and co-ordination upon centralized state institutions. Yet he also insists – against Hegel – that freedom and equality among individuals and groups depend upon preserving types of organizations which nurture local freedoms and provide for the active expression of particular interests. The right of association within civil society is inalienable: ‘No legislator can destroy it without attacking the foundations of society itself’ (vol. 1, p. 279). A pluralistic and self-organizing civil society independent of the state is an indispensable condition of democracy. Tocqueville’s pointed warning would have made no sense to the classical defenders of *societas civilis*: whoever promotes the unification of state and civil society endangers the democratic revolution. State power without social obstacles is always hazardous and undesirable, a licence for despotism.

### Some Conclusions

When the development of the modern distinction between civil society and the state is considered in this way – as a complex and uneven process of overlapping semantic changes – several well-established misconceptions are dissolved. To begin with, it becomes clear that general references to civil society and the state as the ‘two terms of a deep-lying antithesis of modern political consciousness’<sup>36</sup> are misleading, precisely because their unspecific, all-embracing character suppresses or eliminates important differences in the geographic distribution, temporal changes and semantic variation of the distinction.

The interpretation defended in this essay also casts doubt upon the commonplace assumption that it was German political thinkers, and Hegel in particular, who first (or most systematically) thematized the civil society–state distinction as a key organizing principle of the modern world. The most sophisticated version of this argument is expressed in the pathbreaking writings of Manfred Riedel, for whom Hegel’s introduction of the concept of *bürgerliche Gesellschaft* constituted an innovation in political philosophy comparable to Bodin’s concept of sovereignty and Rousseau’s idea of the general will:

Hegel drew together ‘bürgerlich’ and ‘Gesellschaft’ into one of the basic concepts of political philosophy. When viewed externally, this concept corresponds to the tradition of Aristotle’s *koinōnia politiké*,

Bodin's, Melanchthon's or Wolff's *societas civilis*, and Kant's 'bürgerliche Gesellschaft'. In fact, it presupposes for its appearance a thoroughgoing break with this tradition. To this extent, one may well say that before Hegel the concept of civil society in the modern sense did not exist.<sup>37</sup>

This essay suggests otherwise. Hegel was neither the first nor necessarily the most important modern thinker to consider the subject of civil society. Between 1750 and 1850 literally hundreds of British, French and German political thinkers – the handful discussed above constitute only a limited sample of the most innovative and influential – concerned themselves with the subject of civil society and the limits of state action.

This essay further suggests that early modern German discussions of the scope and power of the state, at least when viewed comparatively, were the *least* receptive to the democratic political implications of the new distinction between civil society and the state. This characteristic German divergence from British and French political thought reflects some peculiarities of late-eighteenth- and nineteenth-century German historical development: the absence of a successful revolution from below; the belated construction (from above) of a viable nation-state framework; the slower development of commodity production and exchange; the weakness of parliamentary rule; a deeply rooted *Obrigkeitsstaat* tradition; and the fragility of a political culture of citizenship – expressed in the idea (which contrasts sharply with the British *citizen* and French *citoyen*) of the *Staatsbürger*, the passive subject whose egoism is restrained and liberty, property and spiritual identity guaranteed and defined from above through the state and its laws.<sup>38</sup>

The interpretation defended in this essay suggests, finally, that the principal catalyst in the semantic transformation of the traditional concept of *societas civilis* was *not* the passive or *ex post facto* recognition by political thinkers of the hard economic facts of early modernity: commodity production and exchange under capitalist direction. Since the mid nineteenth century, this view has been widely influential. It is traceable to Marx and Engels's famous but inaccurate account of the genesis and meaning of the term civil society:

Civil society [*bürgerliche Gesellschaft*] comprises the entire material interaction among individuals at a particular evolutionary stage of the productive forces. . . . The term 'civil society' emerged in the eighteenth century when property relations had already evolved from

the community of antiquity and medieval times. Civil society as such only develops with the bourgeoisie.<sup>39</sup>

Awareness of the importance of market competition, commodity production and exchange and the growth of the bourgeoisie – as even a cursory examination of the writings of Ferguson, Paine, Hegel and Tocqueville makes clear – was certainly an essential element in the modernization of the classical concept of civil society (which Marx and Engels here define out of existence). So too was hostility to the aristocracy and its inherited wealth, corrupt manners and political privileges. Yet property-centred interpretations of the origins and significance of this transformation are surely too simplistic. Like all monistic interpretations of the alteration of political language, they selectively – that is, one-sidedly – scrutinize and emphasize only *one* of the characteristic dimensions of the breakdown and subdivision of the classical concept of civil society. Other dimensions of the same process of conceptual transformation are suppressed arbitrarily or illegitimately judged to be of little or no ‘relevance’.

Thus – to consider just several examples – property-centred interpretations fail to acknowledge early modern thinkers’ deep awareness of the organizational *heterogeneity* and *complexity* of civil society. Analytically speaking, these thinkers rarely reduced the complex patterns of stratification, organization, conflicts and movements of civil society to the logic and contradictions of a mode of production – the emerging capitalist economy. More typically – the differences in meaning of the term civil society make it difficult to generalize – they usually noted the patterns of harmony or (potential) conflict between civil society’s privately controlled commerce and manufacturing and its other organizations, including patriarchal households, churches, municipal governments, publishers, scientific and literary associations and such policing authorities as charitable relief organizations, schools and hospitals.

Property-centred interpretations also overlook the *anti-bourgeois* sentiments and normative implications of much early modern discussion of the state and civil society. Most early modern theorists of civil society – Ferguson, Paine, Hegel and Tocqueville among them – were not blind apologists of capitalism. They recognized and often feared the inequalities and possible losses of freedom caused by the growth of commodity production and exchange. Above all, these thinkers were deeply sensitive to the dangers generated by concentrations of political power. This is

entirely understandable, although a mystery to property-centred approaches.

The late-eighteenth- and early-nineteenth-century debate about civil society and the limits of state action was energized primarily by *non-entrepreneurial* social groups whose scientific, literary, artistic and religious pursuits placed them at odds with the accumulation of state power and the corporate practices and elite privileges which it protected. These groups comprised rentiers, booksellers, journalists, academicians, schoolteachers and others of modest background. Their social position was no longer enmeshed deeply in the world of courts, communities, parishes and guilds. Although they were predominantly 'bourgeois' – in the loose sense that they had at least a little property and some education – these groups were not primarily entrepreneurial and they were often supported in their activities by elements of the nobility, state officialdom, lower churchmen and the artisanry. These non-entrepreneurial groups wanted change, which they typically viewed as creating a different set of political arrangements rather than simply altering the way power was exercised within the existing state apparatus. In this sense they constituted a (potential) discussing and reading public sphere which attempted to elaborate a 'public opinion' on political matters and to direct this opinion, in the name of the emerging civil society, at the secretive and arbitrary actions of the state.<sup>40</sup>

The fundamental point missed by property-centred accounts of modern civil society is that the transformation and subdivision of the idea of *societas civilis* was stimulated primarily by a specifically *political* development: the fear of state despotism and the hope (spawned by the defeat of the British in the American colonies, as well as by the earliest events of the French Revolution) of escaping its clutches.<sup>41</sup> The centrality and recurrence of the theme of despotism in the texts of Ferguson, Paine, Tocqueville and (to a considerably lesser degree) Hegel is neither fortuitous nor unrepresentative. The problem of political despotism and how to break its grip or prevent its growth played the decisive part in the late-eighteenth- and early-nineteenth-century intellectual unrest which resulted in the overthrow and modernization of the classical concept of civil society. Following Montesquieu's *De l'esprit des lois* (1748), many political thinkers during this period viewed despotic regimes with great trepidation. Despotism was seen as a type of political regime – founded originally among Orientals, but now threatening Europe from within – which ruthlessly crushes intermediate groups and classes within the

state and forces its subjects to remain divided, ignorant and timid in spirit. Under despotism, Montesquieu remarked, mutual suspicion and fear are rampant. The lives, liberties and properties of citizens are always up in the air and at the mercy of the frightful maxim 'that a single person should rule according to his own will and caprice'.<sup>42</sup>

The image of despotism sketched by Montesquieu and other eighteenth-century writers no doubt contained highly 'fictional' elements.<sup>43</sup> It proved none the less to be a highly imaginative and politically fertile fiction in one vital respect. In Britain, France and (to a lesser extent) the German states, the fear of despotism – much more than the love of capitalism – induced a kind of intellectual flight from the status quo. This dynamic was particularly virulent at the time of the French Revolution. Despotism was viewed widely as a system of concentrated secular power without limits. It contained no guiding ideals. It was seen to feed upon its own expansion and to thrive upon the blind obedience of its anxious subjects. For this reason, despotism oversteps the limits of effective power. It crashes blindly through the world, leaving behind a trail of lawlessness, waste and confusion. Despotism thereby tends to destroy its own omnipotence and teaches its opponents to seek methods of blunting its impact on the world, encouraging them to seek refuge in a civil sphere which acts at a distance from political power.<sup>44</sup>

Through this typical pattern of reasoning the critics of despotism helped to exhaust the classical understanding of civil society and thereby prepared the way for its transformation into one of the distinctive concepts of nineteenth-century political thinking. In this way the fear of despotism contributed to the renewal of the old European spirit of liberty. It prompted a search for new ways of thinking about the modern state, stimulated calls for limiting its potentially dangerous power and led, unwittingly, to an entirely new understanding of civil society – a term which was itself capable of striking fear into the hearts of a good many political despots, old and new.

## Notes

1. *Politics*, I, 1252a, 6-7.
2. 'Of the Origin of Government (1752)', in David Hume, *Political Essays*, ed. Charles W. Hendel, Indianapolis and New York 1953, p. 42.
3. *Discours sur l'oéconomie politique*, Paris 1763, p. 15.
4. *Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht* (1784), fifth



thesis, in Immanuel Kant, *Schriften zur Anthropologie, Geschichtsphilosophie, Politik und Pädagogik*, Darmstadt 1975, p. 39.

5. Manfred Riedel's interpretations of this breakdown of the old *societas civilis* paradigm concentrate almost exclusively upon German political thought. They still provide fundamental hints for comparative attempts to understand the geographic and semantic complexity of this transition process in European thought as a whole. See especially 'Gesellschaft, bürgerliche', in O. Brunner *et al.*, eds, *Geschichtliche Grundbegriffe. Historisches Lexikon zur politisch-sozialen Sprache in Deutschland*, Stuttgart 1975, vol. 2, pp. 719-800; 'Der Begriff der "bürgerlichen Gesellschaft" und das Problem seines geschichtlichen Ursprungs', in *Studien zu Hegels Rechtsphilosophie*, Frankfurt am Main 1969, pp. 135-66; *Bürgerliche Gesellschaft und Staat. Grundproblem und Struktur der Hegelschen Rechtsphilosophie*, Neuwied and Berlin 1970; and 'Bürgerlichkeit und Humanität', in Rudolf Vierhaus, ed, *Bürger und Bürgerlichkeit im Zeitalter der Aufklärung*, Heidelberg 1981, pp. 13-34.

6. The first formulation of this distinction is probably to be found in the opening paragraph of Thomas Paine's *Common Sense* (Philadelphia 1776): 'Some writers have so confounded society with government, as to leave little or no distinction between them; whereas they are not only different, but have different origins. Society is produced by our wants, and government by our wickedness; the former promotes our happiness *positively* by uniting our affections, the latter *negatively* by restraining our vices. The one encourages intercourse, the other creates distinctions. The first is a patron, the last a punisher.'

7. Jenő Szücs, 'Three Historical Regions of Europe', in this volume.

8. Some important implications for social history of the modified *Begriffsgeschichte* approach adopted here are discussed in Reinhart Koselleck's *Vergangene Zukunft: zur Semantik geschichtlicher Zeiten*, Frankfurt am Main 1979, especially pp. 107-29. The special methodological difficulties attending the retrieval and development of past concepts for contemporary political thinking are analysed in my 'More Theses on the Philosophy of History', in James Tully, ed., *Meaning and Context. Quentin Skinner and His Critics*, Cambridge and New York 1987.

9. Untreated here is the proliferation of theoretical attempts to abandon or criticize the state-civil society distinction. During the course of the nineteenth century, and extending into the twentieth, most European thinkers turned their backs on the early modern controversies about the separation and interdependence of civil society and the state. See Manfred Riedel, 'Gesellschaft, bürgerliche', pp. 783ff; Alvin W. Gouldner, 'Civil Society in Capitalism and Socialism', in *The Two Marxisms. Contradictions and Anomalies in the Development of Theory*, London and Basingstoke 1986; and John Keane, 'Remembering the Dead. Civil Society and the State from Hobbes to Marx, and Beyond', in *Democracy and Civil Society*, London and New York 1988.

10. Utz Haltern, *Bürgerliche Gesellschaft. Sozialtheoretische und sozialhistorische Aspekte*, Darmstadt 1985, pp. 8-9. On the French case, see Lucien Febvre, 'Civilisation: evolution of a word and a group of ideas', in *A New Kind of History*, ed. Peter Burke, London 1973, pp. 219-57. Unfortunately, equivalent studies of the transformation of the concept of civil society in British political thought are currently unavailable.

11. Horst Dippel, *Germany and the American Revolution 1770-1800. A Sociohistorical Investigation of Late Eighteenth-Century Political Thinking*, Wiesbaden 1978, especially part 4.

12. See Zwi Batscha and Hans Medick, 'Einleitung', in Adam Ferguson, *Versuch über die Geschichte der bürgerlichen Gesellschaft*, Frankfurt am Main 1986, pp. 30-33; James Sheehan, *German Liberalism in the Nineteenth Century*, London 1978, chapter 3; Lothar Gall, *Benjamin Constant. Seine politische Ideenwelt und der deutsche*

Vormärz, Wiesbaden 1963, especially pp. 107-8. The first generations of German liberal economists (such as Friedrich List) also expressed considerable reservations about *laissez faire*, as has been shown by Marie Elisabeth Vopelius, *Die allliberalen Ökonomen und die Reformzeit*, Stuttgart 1968.

13. All citations are drawn from *An Essay on the History of Civil Society*, ed. Duncan Forbes, Edinburgh 1966.

14. Compare Ferguson's later *Principles of Moral and Political Science*, Edinburgh 1792, vol. 1, p. 252: 'Civilization . . . both in the nature of the thing and derivation of the word, belongs rather to the effects of law and political establishment, on the forms of society, than to any state merely of lucrative possession or wealth.'

15. The influence of civic humanism or classical republican politics upon the Scottish Enlightenment is discussed by John Robertson, 'The Scottish Enlightenment at the limits of the civic tradition', in Istvan Hont and Michael Ignatieff, eds, *Wealth and Virtue. The Shaping of Political Economy in the Scottish Enlightenment*, Cambridge 1983, pp. 137-78, and J.G.A. Pocock, 'Cambridge paradigms and Scotch philosophers: a study of the relations between the civic humanist and the civil jurisprudential interpretation of eighteenth-century social thought', in *ibid.* pp. 235-52.

16. Ferguson's discussion of commerce and manufacturing as an immanent feature of modern civil society (discussed above) is in tension with his thoroughly classical understanding of the necessary exclusion of women and labourers from civil society. From the classical perspective, those groups (domestic servants, slaves, labourers, women and artisans) who provide the necessities of life are perforce unfree – they are situated in the *oikos*, the *societas domestica* – and therefore lack the political standing which confers civility.

17. *An Essay on the History of Civil Society*, pp. 69, 102, 125-41, 155, 166-7, 205, 266-89; compare the critical reference to Hume's defence of a 'government of laws' on pp. 263-4: 'the influence of laws, where they have any real effect in the preservation of liberty, is not any magic power descending from shelves that are loaded with books, but is, in reality, the influence of men resolved to be free.'

18. All citations are drawn from Thomas Paine, *Rights of Man*, ed. Henry Collins, Harmondsworth 1977.

19. On the highly politicized context of Paine's defence of the French Revolution, see Marilyn Butler, ed., *Burke, Paine, Godwin, and the Revolution Controversy*, Cambridge 1984.

20. On the historical origins and paths of development of contractualism, see John Keane, *Public Life and Late Capitalism*, Cambridge and New York 1984, essay 7.

21. 'Dissertations on Government, the Affairs of the Bank, and Paper Money', in *The Writings of Thomas Paine*, ed. M.D. Conway, New York 1967, vol. 3, p. 137.

22. This observation leads Paine to describe despotic government as a kind of fungus growing out of corrupted society (p. 126). Such imagery helps to clarify why Paine recommends caution in the overturning of old despotic governments. The principles of equal natural rights, active consent and respect for society, he argues, must be established sufficiently well within the population before revolution can successfully establish a limited constitutional state. Conversely, Paine's imagery implies that governments may have an important 'civilizing' function during the transition from despotism to civilized societies. If (parts of) civil society have been deformed by the operations of despotic states, then governments which have been established to protect the collective interests of society have a charter to 'explode ignorance and preclude imposition' (p. 206). He accordingly recommends an elaborate system of transfer payments to the elderly, the widowed, women, newly

married couples, the poor and the unemployed, disbanded soldiers and children, who would be schooled compulsorily. This kind of redistributive system, Paine argues, 'is not of the nature of a charity, but of a right' (p. 265). In *Agrarian Justice opposed to Agrarian Law, and to Agrarian Monopoly* (1797) Paine carried further these proposals for state provision, recommending retirement and physical disability pensions as well as a system of universal cash payments. He failed to address the problem of whether such redistributive systems could be administered without a considerable expansion of the scope and power of the state.

23. All citations are drawn from G.W.F. Hegel, *Grundlinien der Philosophie des Rechts*, Frankfurt am Main 1976. Translations are my own.

24. On the relationship between the Scottish Enlightenment and Hegel, see Franz Rosenzweig, *Hegel und der Staat*, Munich and Berlin 1920, vol. 2, p. 118; Paul Chamley, *Économie politique et philosophie chez Stuart et Hegel*, Paris 1963, and 'Les origines de la pensée économique de Hegel', *Hegel-Studien*, no. 3, 1965; and Zwi Batscha and Hans Medick, 'Einleitung'.

25. *Rights of Man*, pp. 117, 126, 204.

26. *Die Verfassung Deutschlands*, in G.W.F. Hegel, *Politische Schriften*, Frankfurt am Main, 1966, p. 40.

27. Policing authorities protect individuals from themselves and from the 'wrongs' committed by one class of civil society against another (or against itself). These authorities are charged with the task of monitoring, regulating and polishing – civilizing – civil society, by means of public health care, schooling of children, bridge-building and street-lighting, setting prices of basic commodities and providing relief for the poor and encouraging them to labour. Hegel considers these agencies of civil society, and not the state (which co-funds them), although he continues to speak of *Polizei* in the pre-nineteenth-century sense also evident (although in a more limited way) in Ferguson's writings. See Kurt Wolzendorff, *Der Polizeigedanke des modernen Staats*, Breslau 1918, especially chapters 1-3, and Franz-Ludwig Knemeyer, 'Polizei', in O. Brunner *et al.*, eds, *Geschichtliche Grundbegriffe*, Stuttgart 1978, vol. 4, pp. 875-97.

28. Cf. the earlier remark in *Jenenser Realphilosophie*, ed. J. Hoffmeister, Leipzig 1931, vol. 1, p. 239: 'Society becomes a huge system of mutual interdependence, a moving life of the dead. In a blind and elemental fashion, the system moves this way and that like a wild animal calling for permanent regulation and restriction.'

29. This licence becomes more prominent in Hegel's later political writings, as is evident in his changing views on the scope of state action. In *Die Verfassung Deutschlands* (1799-1802), for example, he specifically criticizes contemporary theories of the state, including Fichte's *Grundlege des Naturrechts*, which suppose that the 'state is a machine consisting of a single spring which imparts motion to the remainder of the infinite wheelwork, and that all institutions arising from the nature of a society must be conducted, regulated, ordered and watched over by the supreme public power' (*Politische Schriften*, p. 40). He speaks of the functions of the state as limited to those of 'organizing and maintaining its power and hence, its security at home and abroad' (pp. 40-41). At the close of the Napoleonic era (see his *Verhandlungen in der Versammlung der Landstände des Königreichs Württemberg im Jahre 1815 und 1816* [1817], in *Politische Schriften*, pp. 140-276), he expands this conception of the role of the state to include education, the administration of justice, the support of religious institutions, and maintenance of the poor. His last writings (e.g. *Über die englische Reformbill* [1831], in *Politische Schriften*, pp. 284-98) recommend state interference with property relations in order to provide work and subsistence for the downtrodden.

30. In the *Philosophy of History*, trans. J. Sibree, London 1905, pp. 109-10, Hegel

placed the concept of despotism within a teleological framework of historical development culminating in modern Europe. Despotism, a type of arbitrary political regime in which one rules and the rest succumb to laws external to them, is understood as an oriental phenomenon: 'The history of the World travels from East to West, for Europe is absolutely the end of history. . . . The East knows, and to the present day knows only, that *One* is free; the Greek and Roman world, that *some* are free; the German world knows that *all* are free. The first political form therefore we observe in history, is *Despotism*, the second *Democracy and Aristocracy*, the third *Monarchy*.'

31. This interpretation may be disputed on the ground that in Hegel's view the properly political state is only the ultimate *human* institution (i.e. the culmination of 'objective mind') and, as such, remains subordinate to 'Absolute Mind', whose three forms are philosophy, religion and art. (See *Grundlinien der Philosophie des Rechts*, pp. 415-31, and the concluding section on Absolute Mind in the *Encyclopädie der philosophischen Wissenschaften im Grundrisse*, third edn, Leiden 1906, paras 377-577.) This type of objection would not affect the point that Hegel conceives the universal state as unchallengeable – even by religion. For the relationship of Absolute Mind (eternal truth as reason) and 'objective mind' (the universal state) is teleological – genuine truth is the prodigious transfer of the 'inner into the outer, the building of reason into the real world' – hence, in principle, a non-antagonistic relationship in which the earthly state is the external embodiment of truth as ultimate reason.

32. All citations are drawn from Alexis de Tocqueville, *De la démocratie en Amérique*, preface by François Furet, Paris 1981, two vols. All translations are my own.

33. Tocqueville's argument is inspired directly by his American experiences and by the events of the French Revolution. It is also pitted against the statist Liberalism of Guizot and others, whose suspicion of associations coming between the individual citizen and the state was based on the simplistic equation of liberty with (legal and political) equality. On the problem of *étatisme* in nineteenth-century French political thought, see Dominique Bagge, *Le Conflit des idées politiques en France sous la Restauration*, Paris 1952; Henri Michel, *L'idée de l'État: essai critique sur l'histoire des théories sociales et politique en France depuis la Revolution*, third edn, Aalen 1973; Roger Soltau, *French Political Thought in the Nineteenth Century*, New York 1959; James T. Schleifer, *The Making of Tocqueville's Democracy in America*, Chapel Hill 1980, part 4; and Pierre Rosanvallon, *Le moment Guizot*, Paris 1985.

34. François Furet, 'The Passions of Tocqueville', *The New York Review of Books*, 27 June 1985, pp. 23-7.

35. See my *Democracy and Civil Society*.

36. R.N. Berki, 'State and Society: An Antithesis of Modern Political Thought', in Jack Hayward and R.N. Berki, eds, *State and Society in Contemporary Europe*, Oxford 1979, p. 2. Other writers remain unaware of the late-eighteenth-century breakdown and pluralization of the classical civil society concept. See, for example, Immanuel Wallerstein, *The Politics of the World Economy. The States, the movements and the civilizations*, Cambridge and Paris 1984, pp. 1-2, and John B. Thompson, 'Editor's Introduction', in Claude Lefort, *The Political Forms of Modern Society. Bureaucracy, Democracy, Totalitarianism*, Cambridge 1986, p. 321, note 10: 'The term "civil society" refers, in its classical sense, to all those spheres of social life which are organized independently of the political action of the state.'

37. 'Hegels Begriff der >bürgerlichen Gesellschaft< und das Problem seines geschichtlichen Ursprungs', in Manfred Riedel, ed., *Materialien zu Hegels Rechtsphilosophie*, Frankfurt am Main 1975, vol. 2, p. 262; cf. pp. 263, 269.

38. See P.L. Weihnacht, 'Staatsbürger. Zur Geschichte und Kritik eines politischen Begriffs', *Der Staat*, no. 8, 1969, pp. 41-63, especially p. 58; and Michael Stolleis, 'Untertan-Bürger-Staatsbürger. Bemerkungen zur juristischen Terminologie im späten 18. Jahrhundert', in Rudolf Vierhaus, ed., *Bürger und Bürgerlichkeit im Zeitalter der Aufklärung*, Heidelberg 1981, pp. 65-99.

39. Karl Marx, Friedrich Engels, *Die deutsche Ideologie*, in *Werke*, Berlin 1969, vol. 3, p. 36. The analogous (non-Marxian) view that the eighteenth-century defence of *laissez faire* was synonymous with the recognition of the essential difference and separability of the terms civil society and the state is defended in E. Halévy, *La Formation du radicalisme philosophique*, 3 vols, Paris 1901-4, vol. 1, p. 237.

40. See Jürgen Habermas, *Strukturwandel der Öffentlichkeit. Untersuchungen zu einer Kategorie der bürgerlichen Gesellschaft*, Neuwied 1962; John Keane, *Public Life and Late Capitalism*, chapters 2, 7; Günther Lottes, *Politische Aufklärung und plebejisches Publikum: zur Theorie und Praxis des englischen Radikalismus im späten 18. Jahrhundert*, Munich 1979; and James J. Sheehan, 'Wie bürgerlich war der deutsche Liberalismus?', mimeographed lecture, Bielefeld 1987.

41. Among the most pertinent contributions are: Robert R. Palmer, *The Age of the Democratic Revolution: A Political History of Europe and America 1760-1800*, Princeton, NJ 1959-64, 2 vols; Ernst Fraenkel, *Amerika im Spiegel des deutschen politischen Denkens. Äusserungen deutscher Staatsmänner und Staatsdenker über Staat und Gesellschaft in den Vereinigten Staaten*, Cologne and Opladen 1959; Horst Dippel, *Germany and the American Revolution 1770-1800*, especially part 4; Durand Echeverria, *Mirage in the West: A History of the French Image of American Society to 1815*, Princeton, NJ 1957, reprinted 1968; Brian Singer, *Society, theory and the French revolution: studies in the revolutionary imaginary*, London 1986, chapters 7, 11; Gianfranco Poggi, *The Development of the Modern State*, Stanford 1978, chapter 4; and Erich Angermann, 'Das "Auseinandertreten von Staat und Gesellschaft" im Denken des 18. Jahrhunderts', *Zeitschrift für Politik*, no. 10, 1963, pp. 89-101.

42. *De l'esprit des lois*, ed. Victor Goldschmidt, Paris 1979, Book 3, chapter 2, pp. 143-4. No comprehensive reconstruction of the eighteenth- and nineteenth-century theoretical controversies aroused by despotism is yet available. These controversies include Montesquieu's transformation of the classical Greek understanding of despotism [*despótēs*] as a form of kingship exercised legitimately by a master over slaves; his indebtedness to the medieval discussion of despotism as a variety of illegitimate kingship; his rejection of Bodin's and Hobbes's positive rendering of despotism as a form of political rule justified by victory in war or civil war; the eighteenth-century French controversies prompted by the Physiocratic defence of *despotisme légal*; the explicit criticism of Montesquieu's Eurocentric views of oriental despotism in Anquetil-Duperron's *Législation orientale* (1778); the prominence of despotism as a category within the American and French Revolutions and their aftermath; the utilitarian theory of 'vigorous despotism'; and the withering away or transformation of the concept of despotism during the nineteenth century. The origins and development of the concept of despotism before the mid eighteenth century are discussed in R. Koebner, 'Despot and Despotism: Vicissitudes of a Political Term', *Journal of the Warburg and Courtauld Institutes*, vol. 13, 1950, pp. 275-302. More generally, see Alexander Yanov, *The Origins of Autocracy*, Los Angeles 1980, and Norberto Bobbio, 'Grandeur et Décadence de l'idéologie Européenne', *Lettre internationale*, no. 12, Spring 1987, pp. 8-11.

43. Alain Grosrichard, *Structure du sérail: la fiction du despotisme asiatique dans l'Occident classique*, Paris 1979.

44. On the idea of the paradoxical weakness of despotic states, see Leonard Krieger, *An Essay on the Theory of Enlightened Despotism*, Chicago 1975, pp. 37-9.