

Herbert Marcuse: Lectures on the History of Political Theory (Politics 195)

Brandeis University: Fall 1960 and Spring 1961

Handwritten Course Notes by William Leiss

Contact Information: Email wleiss@uottawa.ca OR william.leiss@gmail.com

Biographical and publications information: www.leiss.ca

Transcribed by Michael G. Tyshenko, University of Ottawa
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Disclaimer: These notes should not be interpreted as a verbatim record of what was said in this class by Professor Herbert Marcuse. Rather, they are my own interpretation and personal record of what was stated by both Marcuse and some the students in that course, without distinction. (WL)

William Leiss: Introduction and Autobiographical Note.

I arrived at Brandeis University in September 1960, intending to enroll in the new Graduate Program in American Civilization. I had received a B.A. *summa cum laude* with a major in history and a minor in accounting from Fairleigh Dickinson University in Teaneck, New Jersey, where I was the 1960 graduating class valedictorian and the first-ever recipient of a Woodrow Wilson Fellowship at that University.

Seeking some other kind of academic stimulation after the first two years as an accounting major at FDU, I was sent by a sympathetic Dean to see a young professor of American History

there, who had recently received a Ph.D. from the University of Wisconsin and was in his first university teaching job. His name was Herbert Gutman (my "first Herbert"), and for the last two years of my undergraduate education he tutored me every weekday in the arts of becoming an academic scholar.

He then sent me to Brandeis to do graduate work with his good friend Ray Ginger, who had just been appointed there to help get the new American Civilization program up and running. But upon my arrival I was informed by the Dean of Graduate Studies that the inception of the new program had been postponed for a year, and that I would have to enroll temporarily in the graduate History of Ideas Program until I could transfer later.

It was too late in the year to think of any alternative, so I did as I was told. I had no idea what courses to enroll in, but Ginger had contacted some other faculty and suggested a four-course menu. I went to see an advisor in the History of Ideas Program, Professor Edgar Johnson, and presented him with the list, which included Johnson's own seminar on "The Fathers of the Church." As this recommendation was approved, a voice boomed from a nearby cubicle: "Edgar, when are you going to offer a course on 'The Mothers of the Church'?" That was my introduction to Herbert Marcuse.

As an American History major I had very little, if any, undergraduate training in European intellectual history, and was woefully unprepared for graduate work in a program where the course of studies began with the civilization of ancient Greece and where other incoming students were skilled in the Latin and Greek languages. My pitiful lack of preparation almost doomed my budding academic career at the outset, but by sheer determination (accompanied by severe migraine headaches) I eventually managed to hang on through the award of a Master's degree and the passing of my doctoral oral exams.

In that first September of 1960 I had also enrolled in Marcuse's two-semester lecture course, "The History of Political Theory from Plato to Hegel." He was not an easy marker, and I was very proud of the A- grade I received at the end. But after only a few weeks in that course I had been hooked by the charisma of my "second Herbert," and having left American History behind, I spent much of the next eight years, first at Brandeis and then at the University of California, San Diego's La Jolla campus, in my apprenticeship with a master teacher who was also a public intellectual as well as a warm, funny, and engaging person. And a courageous one: Late in life, now famous for his stirring addresses to large crowds of student protesters in North America and Europe, he had police protection in La Jolla after receiving death threats.

As soon as he announced in early 1965 that he was moving to La Jolla, I had sought him out to ask whether he would support my transfer to UCSD, and he agreed at once. Eventually he became my *Doktorvater*, the charming German term for one's Ph.D. supervisor, whose connotations are fulfilled in those cases where the relationship works primarily in the student's interests, as it always did with Herbert's acolytes. But if he were still with us today, in the time of increasing numbers of women among the ranks of senior academics, he would insist on adding the designation *Doktormutter*.

Brandeis University

1960-61

H. Marcuse

POLITICS 195: POLITICAL THEORY

(The reading list refers whenever possible. to primary texts. Being fully aware of the difficulties involved and of the extent of the program, I have also listed secondary literature - as an alternative when absolutely necessary, otherwise as additional reading).

George H. Sabine, *A History of political Theory* (revised ed. since 1950) is to be used throughout in the respective chapters; they are not enumerated below.

For medieval political theory also consult:

Ewart Lewis, *Medieval Political Ideas*. 2 vols. (texts and commentary).

Bede Jarrett, *Social Theories of the Middle Ages*

Thomas Gilby, *Principality and Polity. Aquinas and the Rise of State Theory in the west.*

1. The Foundation of Political Theory: Plato and the Sophists.
 Plato, *Republic* (Cornford edition only) part I, II, III, IV.
 E. Barker. *Greek political Theory. Plato and his Predecessors.* (passim)
 B. Farrington, *Science and Politics in the Ancient World.* (caution: a Marxist interpretation!)
2. The Systematization of Political Theory: Aristotle.
 Aristotle, *Politics*, ed. Barker, book I. III. V.
 “ “ “ Introduction
3. The First Opposition: (a) Communism, Utopian
 E. Barker, *From Alexander to Constantine. Passages and Documents, Part I, ch. 3*
4. The First Opposition: (b) Stoics and Epicureans.
 E. Barker, *Ibid.*, Part I, ch. 2; Part II, ch. 1, 2.
 (Texts also available. in the Random House edition of stoic and Epicurean philosophers)
5. Roman Monarchy. Constitutional and Absolute.
 Barker, *Ibid.*, Part III, ch. 3, 5, 7, 9 D; Part IV, ch. 10
6. Early Christianity.
 Paul. *First Letter to the Corinthians. Letter to the Romans.*
 Barker, *Ibid.* Part V, ch. 1
 R.W. and A.J. Carlyle, *History of Medieval Political Theory*, vol. I. part III, ch. 8
- 7.. St. Augustine

- The City of God, book IX, XI, XIX, ch. 14-17
 McIlwain, *The Growth of Political Thought in the West*, ch. 5.
8. The Union of Divine and Natural Law. Spiritual and Political Power; The High Middle Ages.
 The Political Ideas of Thomas Aquinas, ed. Bigongiari, Hafner Library of Classics
 Dante. *De Monarchia* ("On World Government", transl. Herbert Schneider. Liberal Arts Press).
 McIlwain, *Ibid.*, ch. 6
 9. The Dissolution of the Union: Transition to the Modern Period.
 The Nominalist Revolt: William of Occam and Averroism
 Marsilius of Padua, *Defensor Pacis*: read McIlwain. Ch. 6 pp 276-313 and A. Gewirth,
 Marsilius of Padua, *The Defender of Peace*, vol. I and II (Columbia University, Records of Civilization)
 McIlwain, *Ibid.*, ch. 6.
 10. Origins and Justifications of the Modern state: (a) Secular.
 Machiavelli, *Discourses*. book I and II and *The Prince*
 J. W. Allen, *History of Political Thought in the Sixteenth century*, part IV. ch. 1 and 2
 11. Origins and Justifications of the Modern state: (b) Religious
 Luther, *To the Christian Nobility; On Christian Liberty; Pamphlets against the Peasants' War*
 Calvin. *Institutes of the Christian Religion*, book IV. last- chapter
 Allen, *Ibid.*, part I, ch. 1-5.
 J.N. Figgis, *The Divine Right of Kings*. esp. chs. V. VII-IX
 12. Right of Resistance and Tyrannicide.
 Allen, *Ibid.*, part III, ch. 4 and 6
 J.M. Figgis, *Studies in Political Thought from Gerson to Grotius*, ch. 5 and 6
 13. Natural Law. Popular Sovereignty, and Social Contract versus Absolute Sovereignty.
 Jean Bodin, *Six Books of the Commonwealth*. transl. M.J. Tooley, Oxford 1955,
 Introduction and books I and II
 Althusius and Grotius: Otto v. Gierke, *Natural Law and the Theory of Society*, transl.
 Barker
 Richard Hooker, *Of the laws of Ecclesiastical Polity*, Book I (University of Chicago Press)
 Spinoza, *The Political Works*; ed. A.G. Wernham. Oxford 1958.
 14. Hobbes and the English Revolution.
 Hobbes, *Leviathan*, chs. 11-13, 14, 17, 18, 21, 30
 Milton, *Areopagitica*
 Puritanism and Liberty. ed. Woodhouse. Introduction
 James Harrington, *The Political Writings*. Selections. Liberal Arts Press Paperback.

- G. P. Gooch, English Democratic Ideas in the 17th Century
 D. Petegorsky, Left-Wing Democracy in the English Civil War
 C.E. Vaughan, Studies in the History of Political Philosophy Before and After Rousseau, vol. I, chs. 1-3
15. Locke and the Theory of Democratic Government.
 Locke, On Civil Government, Second Treatise, Letter on Toleration
 C.E. Vaughan, op. Cit., vol. I, ch. 4
16. Totalitarian Democracy: Rousseau and the French Revolution
 Rousseau, Discourse on the Origin of Inequality, The Social Contract
 C.E. Vaughan, The Political Writings of J.J. Rousseau I. Introduction
 Enlightenment:
 E. Cassirer, The Philosophy of the Enlightenment, ch.6
 Kingsley Martin, French Liberal Thought in the 18th century, ch. 3-11
17. The Conservative Critique: (a) Authority
 Burke, Reflections on the Revolution in France
 Bonald de Maistre: no English text available
 H. Laski, Liberty and Authority
18. The Conservative Critique: (b) Reason
 Kant, Metaphysical Elements of Justice
 Hegel, The Philosophy of Right
 The Philosophy of Hegel, ed. Carl Friedrich (Modern Library), Introduction
 H. Marcuse, Reason and Revolution, Introduction and part I, ch 6
19. Liberalism
 Saint-Simon, Selected Writings, ed. F.M.H. Markham, Oxford, 1952
 (Doubleday series in Philosophy)
 James Mill, Essays on Government
 J. St. Mill, On Liberty
 E. Halevy, The Growth of Philosophic Radicalism, part I, also 2 and 3; part II
 Ch. 1; Part III, ch. 2
20. Socialism and Communism: (Readings to be assigned)
21. State Capitalism
 J.M. Keynes, The End of Laissez Faire
 Ditto, The Means to Prosperity
 E. H. Carr, The Twenty Years' Crisis
 Ditto, The New Society

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POLITICS 195

FALL TERM 1960~1961
MID-YEAR EXAMINATION

Tues, Jan.24, 1961~A.M.

Ford 234

Mr. Herbert Marcuse

A. Answer any 1 question (One-Half Hour):

- I. Compare and contrast the conception of justice put forward by Plato and Aristotle.
2. Compare and contrast the typologies of constitutions put forward by Plato and Aristotle.

B. Answer any 1 question (One -Half Hour)

1. Trace the development of the theory of the "mixed constitution", from Plato and before, if you are able) to Cicero.
2. Explain the meaning of the terms *nomos* and *physis* and tell of their significance for Greek political theory. (Be sure to include the Stoics in your discussion).
3. Discuss late pagan and early Christian attitudes to slavery (from Aristotle to St. Augustine, including some reference to Roman law).

c. Answer any 1 question (One Hour):

- I. Compare and contrast the political views of St. Augustine and St. Thomas.
2. Outline the major theories of church-state relations developed during the middle ages. Your answer should emphasize the struggle both in fact and in theory which took place between the time of the investiture controversy and that of the Conciliar Movement.

3. Discuss the impact of Aristotelianism on 13th and 14th century western political thought.

D. Answer any 1 question (One Hour):

1. Trace the development of the concept of natural law to the time of St. Thomas.
2. Trace the development of the problem of tyranny (its alleged causes, consequences, possible preventions and corrections) from Plato (or earlier) to the 14th century.
3. Pose yourself a question and answer it.

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POLITICS 195

SPRING TERM 1960-1961

FINAL EXAMINATION

Mr. Herbert Marcuse

May 26 A.M. N.S. Center 1-5

I. Explain any four of the six following. (One hour)

- a. Marsilius' concept of the "legislator"
- b. Bodin's concept of sovereignty
- c. Grotius' concept of jus gentium
- d. Althusius' concept of social contract
- e. Montesquieu's concept of the separation of powers
- f. J. St. Mill's concept of liberty

II. Answer one of the following. (One hour)

- a. What are the main ideas of (1) the political theory of the French Enlightenment, and (2) of the conservative critique of the French Revolution. Compare the two and offer your own comments.
- b. Discuss the notion of the "right of resistance" and its justification in
 - (1) medieval political theory (you may choose your examples)
 - (2) Luther
 - (3) Calvinism
 - (4) Locke

Consider: in whom is this right vested? what are its limitations, if any?

III. Answer one of the following. (One hour)

- a. State and explain the interconnection between liberty and authority ("legitimate unfreedom") in Machiavelli, Hobbes, Locke, and Rousseau.
- b. How would you describe and explain the basic difference between medieval political theory (main example: Thomas Aquinas, but you may add others) and modern political theory (from Machiavelli to the eighteenth century). Consider such problems as: the end of society; the sanction of government; natural law.

TRANSCRIPTION OF HANDWRITTEN COURSE NOTES by WILLIAM LEISS

Plato, Republic – Cornford edition:

1. “When each order – Tradesman, Auxiliary, Guardian – keeps to its own proper business in the commonwealth and does its own work, that is justice and what makes a just society.” (p. 129)
2. “Then it applies to justice: we shall conclude that a man is just in the same way that a state is just. And we have surely not forgotten that justice in the State meant that each of the three orders in it was doing its own proper work. So we may henceforth bear in mind that each one of us likewise will be a just person, fulfilling his proper function, only if the several parts of our nature fulfil theirs.” (p. 139-140)
3. “Until either philosophers become kings in their countries or those who are now called king and rules come to be sufficiently engendered with a genuine desire for wisdom; Unless either philosophers become kings in their countries or those who are now called kings and rulers come to be sufficiently inspired with a genuine desire for wisdom; unless, that is to say, political power and philosophy meet together, while the many natures who now go their several ways in the one or the other direction are forcibly debarred from doing so, there can be no rest from trouble, for states, nor yet as I believe for all mankind....” (p. 178-9).
4. “My dear Adeimantus, you must not condemn the public so sweepingly; they will change their opinion, if you avoid controversy and try gently to remove their prejudice against the love of learning.” (p. 208)
5. “It is for us, then, as founders of a commonwealth, to bring compulsion to bear on the noblest natures. They must be made to climb the ascent to the vision of Goodness, which we called the highest object of knowledge; and, when they have looked upon it long enough, they must not be allowed, as they now are, to remain on the heights, refusing to come down again to the prisoners or to take any part in their labours and rewards, however much or little these may be worth.” (p. 233)
6. “So here, the summit of the intelligible world is reached in philosophic discussion by one who aspires, through the discourse of reason unaided by any of the senses, to make his way in every case to the essential reality and perseveres until he has grasped by pure intelligence the very nature of Goodness itself. This journey is what we call Dialectic.” (p. 252).

09/16

Primary question: "what form of government is best?" This depends upon another question (as in Plato), "what is the end of life?"

Beginning of political thought: Plato's insistence on objective truth (universally valid answers) in matters of politics. Sophists say that most successful and efficient governments are best; Plato argues that government and society are not expressions of preference but are part of "the good and the true" which may be objectively discovered. There is no separation of ethics and politics; indeed, philosophy is the foundation of politics.

Political theory begins with the decline of the city state.

Also, slavery increases with the progressive democratization of Greek society.

Plato – Republic

A. Contrast between physics ("nature") and nomos ("law").

According to Sophists, all political conventions are expression of nomos, i.e., the good and the true are matters of convention and expediency and cannot claim universality.

B. Plato's doctrine is subversive. Therefore, he had to prove that certain political institutions did conform to the requirement of human nature.

09/22

What is at stake in the dispute between Plato and the Sophists is the continued existence of the city state and Greek society. To the Greeks there were no distinctions between theory and practice, between ideas and reality.

Dispute between physis and nomos:

(i) What is the "nature of man"? Peculiarities and eight in man – potentialities at each step of his development. (Not unchangeable qualities inherent in nature of world.) Major assumption is that these are objective criteria for discerning these potentialities at each stage.

2) From this follows twin doctrines: (a) man is a rational animal; (b) man is a political animal. State and society, far from being repressive, is an necessary and voluntary part of man's existence.

3) This conception of the nature of man can be used to justify tyranny and oppression (under theory that man is a predatory animal) or resemblance to it.

Book 1 of the Republic:

1) attack of the sophists – rejection of universal values; emphasis of individual against the state. State has no sanctions except that derived from the individual and is usually imposed upon him. The Republic is directed against Protagoras' "man is the measure of all things..." (Philosophy: nominalism).

2) Plato tries to save state and society by grounding them in the nature of man. The Idea of justice: performance of one's function. Presupposes man as structured into elements which have a certain purpose. The just society will be that one in which each individual can best fulfill his capabilities.

3) In the Greek sense, justice, happiness, virtue etc. are one concept. Plato also reasons that there are higher faculties (intellectual) in human nature which should rule the lower (structural). The individual organism, moreover, finds an analogy in the state.

09/27

4) The Republic is without a doubt a blueprint for totalitarianism.

Historical context: Socrates was associated with certain figures of the oligarch reaction put into power by Sparta. More unfortunately, though, his activities – subjecting established institutions of state to the critique of reason tended to be subversive, for he concluded that the present rulers were incapable, not possessing philosophic knowledge. The search is for justice, pure and simple.

Neither in Plato nor Aristotle is there an overriding preference for one form of government over another: the only real criteria is quality of the leaders.

Nevertheless, it was a democracy which condemned Socrates, and this explains Plato's antipathy to this form. He was concerned with preventing this sort of thing from ever happening again and also with correcting the errors which Athens experienced during the Peloponnesian War. Even so, Plato is probably closer to real democracy – and respects it more – than most present commentators; indeed, he may be compared with John Stuart Mill.

5) Three views of justice advanced by Sophists: (a) fairness; (b) the interest of the stronger; (c) social contract. What is common to all of these is that justice is derived from convention: there is no justice per se.

09/29

Plato: state precedes the individual ["organic" or "holistic" conception of state]; individual can only be conceived as existing within society and is, indeed, derived from it.

*Connection between dialogue and dialectic: truth can be arrived at, not by unilateral argument gradually expanded, but by incorporating contradictory arguments into a higher synthesis transcending the original arguments.

The inherent assumption is that there is a final point to be reached in any argument: justice, good, etc.; indeed, all ideas or forms do that and can be discovered.

"Good" and "virtue" in the Greek sense are not moral terms. They refer to the performance of functions; i.e., athletics, cooking. They are the conditions in which prescribed functions are effectively carried out

"Cosmos" – pre-arranged, objective order of the universe: excludes the idea of infinite progress.

9/30

The Republic is a search for stability; deterioration of city state which Plato witnessed was viewed as deterioration of man at the same time.

*Origins of the state: no human being is self-sufficient. The skeletal state is that which provides only basic human needs.

Chain of assumptions: human beings have one function, best performed in specialized ways; the human psyche has three elements (reason, spirit, appetite); one element is dominant and each person; state should correspond to this division; higher element governing "lower." The structure of society – rulers, guardians, providers.

Ruling is an art: only those who passes knowledge are qualified to rule.

10/4

Discussion of art: in a state based on truth, the *raison d'être* of art disappears.

"Commission of women": Woman in Plato's time was (1) household animal, (2) sexual object. The idea of romantic love is an invention of the 12th century. Thus, Plato's idea would not have been so shocking to the Greeks.

The state corresponds to hierarchical structure of human psyche: reason, spirit, appetite. Reason must rule the other ("lower") faculties because it is through reasoning that we obtain knowledge.

10/7

Why the totalitarian state?

(1) to avoid the fate of Socrates;

(2) to conform to "the nature of man".

The rule of reason over appetite is not imposed, but is inherent in their existence: only when reason predominates can each fulfill its appropriate function.

This is based on the axiom, "virtue is knowledge". And reason is the faculty by which knowledge is discovered.

* But we can accept the analysis of the human psyche and still not arrived at his form of the ideal State. For there is no rigid distinction among those who are "ruled by reason" and those "ruled by appetite". There are different degrees of reason in humans.

[Plato would answer, however, that only a certain few have the prerequisite ability to attain the knowledge of the "Good" which is *sine qua non* for ruling.]

Knowledge.

Problem: Why is the knowledge required for ruling not open to all?

I. Hierarchy of knowledge: practical -> technical-> scientific-> mathematic and, highest of all, philosophy. Philosophic knowledge is highest because only it involves contradiction to all the established modes of thinking (allegory of the cave).

10/11

All politics depends upon a pre-political structure.

The ruler – accustomed to the realm of forms and ideas – possesses knowledge of the potentialities of all concepts and can distinguish between these potentialities and their temporary (present) distortions.

Plato proceeds unerringly in the logical development: (1) rational beings rule, (2) philosophers are most rational, (3) their rule must be absolute.

Few are able to rule, for few have the time to go through the rigid and exhaustive training requisite for philosophic knowledge. No man is free who has to earn a living. Since the great majority are condemned to the earning of their bread, they must accept the dictates of the rulers.

Man has to be forced to be free. This is present in Rousseau and also in Marx.

10/14

Objections:

(1) Participation, a key element in Greek democracy, was ruled out in Plato's Republic. What is participation? Participation presupposes that all people have had equal opportunity to develop their abilities to the fullest; otherwise " participation" becomes (as it is in Plato) mere passive acceptance of things.

(2) What Plato assumed to be an unchangeable form of things – the nature of the ruling hierarchy – is readily changeable. His analogy between the structure of the human psyche and the class structure has not held true in succeeding ages.

(3) denial of objective truth – relativism – results in scrapping of political structure.

Meaning of allegory of cave: Theory (contract with the world of ideas) Implies Practice (return to cave and world of darkness)

[Three levels of perception: (1) shadows on the wall; (2) things which cast shadows; (3) realism of Forms illuminated by the Sun (the Idea of Good), which is higher than Being itself.]

Second reason for returning to cave: a permanent abode in the realm of Ideas is impossible for humans – it is the prerogative of the gods.

Of course, those who return are ridiculed, for the prisoners cannot accept the testimony of one who has seen the light (not themselves having experienced anything but the cave).

10/18

Knowledge of the Idea of the Good: we see things as they really are but cannot, strictly speaking, be defined, though it gives meaning to all other definitions.

Idea = " intuition"; "seeing"; " potentialities" (Aristotle).

The Republic as political theory: subversion of all values commonly known to man. The entire world as it is known to man is utterly false, similar to inhabitants of the Cave. Only when one turns away from the commonplace can he see things as they really are.

As far as the state is concerned, there is no difference between the ignorant and the wise who never act (see p. 232); there is an unalterable connection between theory and practice.

10/18

The Allegory of the Cave is really central to *The Republic*, for through it we can understand the totalitarian aspects of his state. For if the mass of men are indeed like the prisoners of the

Cave, chained to their ignorance, how else are they to be liberated except by force? [Here Plato appears as a Bolshevik].

Heritage of *The Republic*: the entire structure of the Middle Ages is a Christian interpretation of Plato – three Estates, clergy, nobility, drones.

10/20

Aristotle

Historical development: Greece subjected to Macedonians, and the polis as an independent entity came to an end. Then why is this fact not apparent in Aristotle's *Politics*?

(1) perhaps he foresaw the emergence of the supranational state under Alexander.

(2) form of state really doesn't matter, only whether the ends of policies are achieved (fulfillment of individual capacities).

*First paragraph of Politics: (1) empirical method (2) teleological conception. This shows that, though Aristotle's method is different from Plato's (empirical versus idealistic), his basic conception is exactly the same.

“Physis” and “Telos” – nature and purpose – are inherently the same for Aristotle. Similarly, “potentiality” and “actuality” are part of the same discussion.

No individual is self-sufficient. Indeed, the individual cannot be conceived outside of “community” or “association”.

The first Association is that of male and female (not a historical association, but a structural one).

Property - goods needed and he used in the household (included domestic slaves).

10/21

Concept of “self-sufficiency” central to Aristotle: appears in Metaphysics and Ethics as well as Politics. Only when man is self-sufficient is he free; as long as it is of vital needs are unfulfilled, and as long as he has no control over the means of satisfying his needs, man is not free.

The aim of human existence is the “good life,” which is a life of *eudaimonia*, “happiness.” There are certain preconditions for happiness.

Slavery: distinction between active and passive, those who “have” reason and those who are capable of “understanding” reason is basis of slavery. Rulers are distinguished by faculty of “prediction,” of anticipating events and the consequences.

10/25

If all production were mechanized, there would be no need for slavery introduction: but there would still be slavery. All those who only participate passively in logos will be slaves, even if in their socio-economic position they are ostensibly free.

Development of polis is more structural or functional than historical: in polis household and “village” still exist.

Aristotle rejects economic activity for profit: this is the basis of medieval attitudes on this subject.

“The Good Life”:

A. that life which is in the conformity with the place of man in the universe, a life in which man's Telos can be fulfilled and in which he can realize his capabilities.

B. Man – animal with reason (logos). Men with active logos are rulers, and those with passive logos, the ruled. Active logos divided into theoretical (higher) and practical (lower). Practical is lower because it depends upon something else – its fulfillment – and is not self-sufficient; theoretical activity possesses an end in itself. [Both, however, are subdivisions of the active function of logos.]

C. theoretical activity necessitates “leisure” as a full-time occupation: there can be no concern for acquiring the means of survival.

10/27

Basic ontological distinction of “being” in Greek philosophy; ruling and ruled.

The practical sphere exists solely for the sake of the theoretical.

The objects of the latter are “peace” and “the beautiful”.

“Peace”: “pacification” of the struggle for existence.

“Beautiful”: neither the aesthetically beautiful nor the sensually beautiful, but something which incorporates agaton and arête. The highest stage of existence, in which all one's faculties are in full use.

Theoretical sphere: contemplative state, but that which does not exclude action: it carries a commitment (Allegory of the Cave: the philosopher goes back).

Book VII.

Socio- political Structure Necessary for the “Good Life”

A. external prerequisites

- Sufficient property and power to secure necessities of existence.

B. individual needs – good health.

C. requisites of the psyche [Plato’s scheme]

1. Strength – material and moral
2. Intelligence
3. Temperance
4. Justice

Practical sphere – cannot be an end in itself because by definition it deals exclusively with changeable things (material) [THEOREA is concerned with the unchangeable].

10/28

Telos – life of “arête” (virtue) “condition in which potentiality has become reality”.

“Justice” and “equality” – one should receive in proportion as he contributes.

Contributions: (1) wealth, in as much as it contributes to the common interest; (2) military prowess, educator, Judge.

*According to Aristotle, true equality (proportionate equality) is in reality inequality.

Justice

1. General
2. Particular
 - a. Distributive
 - b. Corrective

[it is possible to have distributive justice under a bad State.]

Justice and the typology of constitutions: justice may be present in a number of different forms of government. Criteria of classifying constitutions:

- (1) number of “rulers” - one, few, many
- (2) social class – Rich versus poor [property]

(3) laws as sovereign were not

Philosophy of the law:

(1) universal – opinions of many preferable to those of a few.

(2) certainty – one knows what to expect, opposed to capricious nature of rule by any man even the wisest.

(3) abstraction – established equality (which is really inequality) because it treats of general, not individual, cases.

11/1

Critique of democracy and oligarchy: violation of principle of proportionate equality (democracy gives equality to all; oligarchy limits quality to the wealthy)

Economic Theory

1. Economic activity is acquisitive activity: necessities of life are acquired. Economic activity undertaken for the purpose of exchanging profit is not proper (e.g. traders).

11/3

Middle-class – related to philosophic ideas of “medium,” “measure”, “pitch,” , “avoidance of extremes”.

(1) includes certain amounts of property.

(2) possess necessary quantification for full participation in government.

To Agaton, the “good,” was an objective to the Greeks; it was not something found deep in the soul, purely subjective, perhaps different for every man; the good exists in nature, not in the individual consciousness.

11/4

Final collapse of independent city state and absorption into “international” empire of Alexander and his successors (Diadochi) (circa 300 B.C. – 100 A.D.).

Third century is outstanding for prevalence of social struggles characterized by fundamental challenges and bitter violence (occasioned by great expansions of trade and commerce in the Hellenistic Empire).

A. new sources of wealth lead to concentration of land ownership and impoverishment of farmers; result in first organized rebellions – under specific social philosophy – in the ancient world.

(1) agrarian revolution - expropriation and equalization of land ownership.

(2) abolition of debts and expropriation of personal property.

(3) “consumption communism” in cities.

Examples:

Circa 317 BC tyrant Agathocles in Syracuse; Sparta – Agis, Cleomenes III; Delos; silver mines of Athens; Macedonia; Pergamon (Asia Minor); 133 BC Heliopolites (“citizens of the sun-state”).

Heliopolis - religious implications: the sun is source of light for all, and thus contains egalitarian implications.

Utopias - ideal states, but with such unrealistic features as to make them unrealizable in terms of present possibilities.

Stoicism:

Main feature for political theory: doctrine of natural law.

11/8

Natural law implies that there are universally valid principles of social relations to which all positive law must conform.

This idea is derived from the idea that universal principles govern the universe: the concept of self-preservation is an example of the principle which is operative in the realm of nature and realm of society.

A fatal defect in natural law: who decides what is ordained by natural law and what is not?

Stoics – Natural Law

Stoics school were the first an ancient time to formulate a system physics; this rested upon a general metaphysics which presupposes a *logos* which is expressed by the idea of a deity.

Precursors of Stoics: Sophists

(1) Protagoras and Hippias [Plato's *Theatetus* and *Protagoras* are sources].

For these the only law of nature is self-preservation, the will to power, the interest of the stronger.

Stoics – opposition to Sophists.

(1) rational principles govern the universe which have their source in divine intelligence.

(2) given this, then, the world is seen as harmony of interests.

(3) concept of universal equality of man. [When this principle enters politics and philosophy, the period of classical antiquity comes to an end.] Divine intelligence created every member of the species; all must be fundamentally equal. (There is, e.g., no such thing as slavery by nature).

11/10

Common assumption of Sophists and Stoics: presence of unwritten law

Natural law, however, may be conservative or revolutionary (e.g., it may be claimed that man is essentially equal – or unequal; that property is a natural right – or not. Burke used it to attack the French Revolution; and the revolutionaries of 1789 used it in attacking the ancien regime).

Beginning of natural law as functioning concept in politics: idea of the universe is governed by a rational intelligence [logos]: this is the link forged between nature and society.

Cicero: definition of natural law – “right reason of God and nature.” It is the same for all men, regardless of place, time, and structure of society. It is unchanging, universally valid, and independent of human consent.

Natural law, according to Cicero, is derived from the nature of man. The universe is a rationally governed state; and any particular state - e.g. the Roman - is a microcosm [Book I, Ch 5, of The Republic].

Res publica – res populi: public matters are the matters of the people. What is absolutely necessary to the state is the consent of the people to the law.

11/17

Cicero and slavery: men are by nature essentially equal, but the positive law of all nations (jus gentium) recognize the institution of slavery. Men are equal in the possession of reason and before the law. Some progress, therefore, has been made in that in Roman law the slave is treated as a human being: to the Greeks the slave was a piece of property. [Cicero's dualism: essentially equality together with actual inequality – has continued to our own day and our own society.]

Cicero and the State: the State depends upon consent of the “people” – i.e. those who are united by common interests. Government is instituted by magistrates, i.e. those who wield authority by virtue of the will of the people.

Development of absolute monarchy in Rome – on a popular basis – remains typical to our own day, in Louis Bonaparte and the fascist dictators.

11/17

Roman Republic: Three or four Assemblies, composed of various social groups making up Roman society. [army, nobility, plebs]; Senate, members of nobility; Executive, consuls, tribunes, etc. Essentially it was an aristocratic Republic, dominated by the Senate.

Dictatorship: a constitutional office, with limited life over functions (Sulla).

Princeps: first century BC) “first citizen” (Pompey). This office, an elective, constitutional dictatorship, was first step in the development of absolutism. The development of absolute monarchy was based upon popular, not aristocratic, will; and was used to break the power of the Senate.

Lex Regia: absolute authority is vested in the ruler by popular consent, whose word is law. [First under Augustus]. The ruler's word is absolute; but his power is delegated.

11/18

Roman Law:

1. Slavery – although it is not sanctioned by natural law, but the same token it is not expressly prohibited.
2. Division: jus civile, jus gentium, jus naturale – Ulpian and the codes of Justinian.]
3. Jus natural includes private property, quality, liberty.

11/22

Natural Law:

in every case the doctrine of natural law implies that there is something which can be appealed to against the existing state of affairs; in this sense it is an expression of man's external dissatisfaction with the established with the established order.

* The minimum position: life is better than the absence of life, and to live better is better than to live worse. Once this is admitted, we are out of the woods of relativism; we would now examine the course of history to discuss – empirically, as far as that is possible at all – under what conditions our minimum requirements have been fulfilled.

Early Christianity:

1. Natural Law is inseparable from divine law, The Transformation:

(a) internalization, i.e. Nature of man viewed in spiritual terms. Human liberty and equality are inner conditions, not external ones.

(b) natural law compared with conditions man before the fall, i.e., In Adam's state of innocence.

2. Development of "pessimistic" idea of liberty in Seneca: one can quit this life at any time by committing suicide – he has absolute freedom.

3. Results of (1) above is to remove natural law from the province of politics and place it in theology.

12/1

Political theory of early Christianity: natural law internalized inner spiritual freedom and equality is not affected by outward slavery or bondage.

Property – not by natural law, but the institution of positive law. Yet since it exists by God's will, it cannot be overturned. [Religious undertone blunts the distinction between natural law and positive law.]

Authority: Romans 13:1 – 7:

All power derived from God: Plato and Aristotle distinguished between tyranny of legitimate authority and recognize the right of rebellion against tyrants: Paul and other Christian writers do not recognize this distinction: every ruler must be obeyed, except if he interferes with the Christian's relation to God.

Political Theory of the Middle Ages

Sources of governmental authority:

(1) people – taken concept, existing in Roman Republic and Germanic tribes.

(a) Roman – SPQR – remained after it had become a fiction, i.e., under the emperors.

(b) Germanic custom – community delegates to King's Authority under the condition that he protects the laws and customs of the tribe.

(Throughout Western civilization, the "people" sooner or later became synonymous with the nobility.)

12/2

A. People: Roman (absolute) vs. Germanic (limited)[right of resistance]

B. God: Secular (King)vs. Spiritual (institution: Church)

1. Relationship of secular and spiritual authorities to be the major political problem of the Middle Ages.
2. Gelasius - doctrine of the two (equal) swords
3. "Political Augustinianism" - development in the 5th, 6th, 7th centuries of the supremacy of spiritual over secular authority. In fact, Gregory claimed the two swords were within the church. Since the Prince is divinely ordained, he must be abjectly obeyed.
4. Carolingian development: 8th century full incorporation of King – who is anointed by Pope – in Christian Commonwealth. Emperor is Vicar of Christ.
5. Institutionalization of developments seen in the forged "donation of Constantine" in which the Emperor is supposed to have transferred the legitimacy of the Emperor from the Greeks to the Germans through the Pope.
6. The successors of Charlemagne, by assuming the *sacrum imperium* of the Romanesque re-assert the superiority of secular rulers; this is again submerged, to reappear with the Hohenstauffens.

Political Conceptions of the Early Fathers [of the Church].

A. Augustine.

1. Government is instituted because of and as a result of the Fall.
2. Disobedience to rulers say is disobedience to God: political crimes as sin.
3. Doctrine of two cities.

Augustine's philosophy of history:

- (1) irreversible process – advance towards judgment.
- (2) chronological sequence, also irreversible – appearance of church first indication of coming rule of Christ on earth.

12/6

Political Augustinianism: spiritual power independent of and superior to secular power; followed in 11th century by Gregory VII (excommunication of Henry IV) in his *Dictatus Papae*, and by Boniface VIII in *Unam Sanctum* (1312).

City of God, Book 19: quotes Cicero's definition of State. Objects that Rome cannot be a state, because there is no justice (in any pagan state): justice must include giving the true God his due.

Role of Roman Christianity: the fact that Christ was born under the Roman Empire is not accidental. The Three Romes: (1) geographical Rome, fallen to the German tribes; (2) Constantinople, conquered by the Turks; (3) Moscow.

Basis of Christian Rule in Middle Ages:

	1) <u>Body</u>	<u>Soul</u>
Realm:	Temporal (material)	Spiritual*
Authority:	Laity	Clergy
Object:	Justice	Salvation

*logos transformed from man's rational faculty into will of God; transcendental

12/8

First period: the triumph of “political Augustinianism” - sixth to ninth century (Merovingian period). No secular power was able to oppose the authority of the church.

Second period. Carolingian Renaissance. With the coming of Charlemagne on Christmas Day 800, secular power finally triumphs over and natural territorial force. But the crowning of Charlemagne by the Pope symbolizes the fact that he rules a Christian empire. Church becomes feudal *Reichskirche*: Bishops are great nobles.

[In the art of early Middle Ages Christ is represented as virtually a Germanic warrior king leading the Christian forces in the holy war on earth].

Secular authority invested Bishops with their authority – by giving this newly “elected” prelate his ring and staff. There was a double loyalty – the bishops and habits were great nobles, vassals of the King but themselves commanding vassals but were also ecclesiastics owing loyalty to the Pope.

Summary:

- 1) Merovingian period – “political Augustinianism” (to 800)
- 2) Carolingian period - feudal imperial Church (to 11th century)

Third period: begins with capitulation of Henry IV before the Pope that Canossa in 1076. Symbolized (1) unconditional authority of the church over supreme secular power (2) supremacy of Rome over Germanic Empire: excommunication of dissolved all citizens of the Empire from allegiance and vassalage to Henry IV.

12/8

Disintegration of feudal Reichskirche in 3rd period (11th-13th centuries)

(1) rise of Italian towns (communes) which allied with the Papacy in order to shake off the control of the feudal barons. Hohenstauffen Empire actually collapses in the defeat of its armies before the barricades of the towns.

(2) triumph of reform elements in Church. Emanating from the monastery of Cluny in south-eastern France, it had as its banner the pride of purity and poverty, humility and discipline. The revolutionary implication of the “new spiritualism” was manifest in (a) the Albigensian heresy in France, and (b) revolts led by Arnold of Brescia in Rome and Brescia against the patrician families and the clergy.

Dictatus Papae of Gregory VII: all rulers must kiss the feet of the Roman Pontiff to whom unlimited obedience is due.

1. Defence of extreme theocracy.

a) Manegold of Lautenbach – prince holds authority and office by virtue of his election by the people; if he opposes the people , he will no longer be a legitimate ruler (early formulation of social contract theory); distinguishes between the rule, and his office and between the king and the tyrant.

b) John of Salisbury – spokesman of “new spiritualism”, defender of extreme theocracy, advocate of rationalism against the old feudal orders. Replaces theological argument with rationalism. Based upon empirical study of actual condition.

12/13

John of Salisbury – radical criticism of kingship and feudal system in general. [A student of Abelard’s at the center of Christian humanism (Chartres), John revolted against ecclesiastical

tyranny over the spiritual life.] Philosophy: basis of all knowledge is sense perception; rational organisation of sense experience leads to knowledge which faith confirms.

John witnessed the murder of Becket, and set his face against the rising power of national monarchy. Both swords, secular and spiritual belong to the Church. Distinction between king and tyrant in terms of their relation to the law; the tyrant, who breaks the law, is liable to be murdered.

John's emphasis on importance of civil contract identifies him with bourgeoisie of the rising town of the 12th century.

Thus, the concept of fides ("loyalty" and "faith"), the two aspects of which were inextricably bound in the medieval scheme, disappears and its aspects are distinctly separated.

Fourth Period.

A. Political History

1. Increasing power of towns and new merchant financial class
2. Rise of territorial units leading to national state
3. Efforts of Hohenstauffen emperors, Henry VI, Frederick I and II, to restore sacrum imperium on a greatly increased territorial basis (adding Sicily and southern Italy).
4. Reform elements in Church can ally with towns and national monarchs against Emperor; and national monarch and Emperor can ally against Papacy (murder of Becket); new spiritualism also leads to social revolutions (Albigensian revolt, put down in 1244: "the greatest crime in Western civilization" [Marcuse]).
5. At Frederick II's court at Palermo, studied with Arab advisors, first translation of Aristotle were made and eminent scientists were kept. Dualism: suspected author of infamous pamphlet *The Three Imposters* (claiming Moses, Christ and Mohammed as imposters); at the same time, the rulers as the avenging representative of Christ on earth.
6. Frederick II's dispute with Innocent III ends with the defeat of the emperor's armies in Italy by the Spanish and French monarchs.

12/15

Frederick II set up the first modern state on the island of Sicily, including codified laws, rational taxation system, efficient administration, social legislation etc.

Innocent III - reform manifesto of 1246 by Frederick, suggesting expropriation of church property as means of purifying the Church- replied by asserting extreme papal claims.

(1250) Frederick finally defeated by French armies of Charles Anjou and Hohenstauffen are at an end, Interregnum follows.

Egidius Romanus: *De Regimine Principum* (1285) - secular power about law; but (1300) *De Ecclesiastica Potestate* upholds supreme power of the Church. New assertion: property derives its legitimacy from spiritual authority.

Distinction between dominion and power (or possession): possessions may be had in any number of ways. But he recalls the point of Aristotle, namely that the rational element should dominate the appetitive element; since the church is in the spiritual power it represents the ruling element and the source of all legitimate power. One of the consequences of this is that excommunication prides a person of all property rights (use of this weapon in Albigensian wars affects huge redistribution of property and subsequent consolidation of power of French national monarchy).

John of Paris: *De Potestate Regali et Populi* (1301) - opposite of Egidius: church owned property solely by sanction of secular power. He too justifies his argument by Aristotle's Politics.

Egidius had done: rational = spiritual (Church). But John, interpreting Aristotle for correctly, holds that the state is the embodiment of reason itself, and therefore absolutely supreme in temporal affairs.

Also forerunner of Conciliar theory.

Boniface VIII and Philip the Fair: Philip taxes Church property to finance the struggle with feudal barons and towns. Boniface prohibits this, and in the bull *Asculpi filii* summons the French clergy to Rome. They refuse.

Refusal of French clergy to obey the summons to Rome heralds a new era in politics; new alignments arise: secular – spiritual, King – Pope, France – Rome, national interest – foreign.

In response to his excommunication, Philip summons the Estates – General (1302) – its first meeting as a Parliament – to find support within the nation. The to reject people claims.

12/16

Aquinas: culmination of scholasticism; his *Summa* systemized Christian theology so well that it remains unsurpassed to this day.

New intellectual developments of 13th century:

(1) rediscovering of Aristotle. Material basis of medieval civilization had been turning from the otherworldly things to matters of this world; Aristotle supplied powerful concepts to complete the intellectual side of these developments.

(2) Thomas's Aristotelianism was generally accepted into official Catholic dogma.

(3) Augustine had seen government as necessitated by sinfulness. Thomas turned his back on this tradition, and claimed that the political order was natural to humanity (as institutions of the natural law); valued in every stage of the human condition.

Augustine had viewed grace as affecting the abolition of nature, since human nature is identified with sinfulness. Thomas however claimed that Christ is not abolish nature, but perfects. Then there is no longer a conflict between reason and faith.

(4) Averroës (Latin Aristotelians, typified by Siger of Brabant): took principles of Aristotle's physics and metaphysics as the sole foundation of their philosophy: (a) taught that matter and species were eternal; (b) soul is one with the intellect, common to man qua man (therefore not immortal); (c) "double truth,"

*if reason and revelation each has its own truth which may have no relationship to each other.

Thomism.

(1) Natural Law: predecessors of Aquinas: Gratian (12th century, "Mankind is ruled by two laws, natural law and customs").

*Natural law is Scripture; therefore it follows that natural laws are absolutely superior to positive laws – if the latter conflicts with the former, it is null and void. Then there is an ethical standard by which positive law can be judged, i.e. Natural law is given of firm foundation for the first time.

1/3

(2) Corruption of Government:

(a) Augustinian tradition taught that government and the domination of man by man was instituted as punishment for sin by God (before the Fall these were unnecessary).

(b) however, with Thomas – paraphrasing Aristotle – government is once again considered as natural, as pertaining to the essence of man in the world.

(c) type (a) above is consistent with authoritarian government (most evident in the Lutheran revolt); the Aristotle – Thomas tradition has embedded it in the right of revolution and is far more receptive to political freedom.

(3) End of Government: (a) again, Aristotelian: the end is justice and the good of the Commonwealth; (b) secularization of the definition, converging with actual historical development (in support of free city communes).

(4) Forms of Government: mixed form is best.

(5) Natural Law in Political Theory:

(a) general principles – absolutely value for all men under all circumstances.

(b) appreciation of general principles: (1) speculative reason, concerned with principles of mathematics, logic, and theology; its conclusions are also universally binding; (2) practical reason, concerned with human actions: its conclusions have only conditional validity.

Example:

1. general principle: “One should not do harm to others”
2. Conclusion: “the evil doer should be punished”
3. Application – actual method of punishment

6. Seditio.

(a) unity of the Commonwealth is a prerequisite for the achievement of the end of the state, i.e. Justice. Therefore, sedition is contrary to natural law.

(b) but the tyrant violates natural law in that seeks his own personal good rather than the common good: therefore, resistance is justified.

(c) who may exercise such a right? Public authority, represented by the Estates. (Thomas avoids extending the right of resistance to the people.)

[Constellation of social forces: (1) court; (2) nobility- clergy and secular; (3) burghers – patricians and lower guilds; (4) peasantry. At various times combinations of two or more are aligned against rebellious sections.

“The Philosophes” in the 13th century stands for reason or rationalism itself.

(7) Property

(a) private property is not by natural law, but is a necessary and lawful addition to natural law, because it enables man better to accomplish his end.

(b) following main direction of medieval thought, Thomas emphasizes the use of property as against its accumulation: possession of excessive property is wrong, and it should be distributed to the poor.

(c) in time of need steps becomes lawful and just.

8) Slavery

(a) same as argument really: property (Hafner, pp. 53,101).

1/10

Thomas and Dante are the best examples of the great 13th century union between reason and faith, between Christian theology and Aristotelianism. In the social order this union took the form of the older medieval structure modified by this rising urban commons. This first human else stoic the decline of “political Augustinianism” and the arrival of the more tolerant attitude toward the problems of this world, especially in the idea that government is natural for man.

[At the time of Dante the Avignon popes reached the height of papal wealth and influence in political affairs.]

Dante.

1. Questions: (a) whether a world monarchy is essential for the welfare of Christianity. (b) whether the Roman people rightfully assumed world rule? (c) whether monarchy depends directly upon God and upon his representative the Pope?

2. Structures: (a) Dante's argument is however based upon the Scriptures or the Patristic writings: is source is Aristotle throughout; (b) fundamental reinterpretation of many basic medieval concepts (two swords theory, sun – moon nonsense).

3. Argument: (a) man lives in two worlds (secular and spiritual, finite and infinite) and therefore has to ends; (b) the Emperor has final authority only in the first: but within the sphere has authority independent of the Church; (c) in the spiritual realm the Pope has final authority, but there must be no interference, the Pope's authority is not of this world; (d) in as much as mankind is one, the government of mankind must be one. (*Justice, though it takes many forms in positive law, must conform to a universal scheme.)

The Nominalist Revolt.

A. origins of nominalism Roscellinus (11th -12th century)

B. The Franciscan revolt:

1. Not directed against wealth and property of the church; individualist
2. St. Francis's psychology: internalization. Spiritual values affecting only the inner man and not his external relations.
3. The "Spiritual Franciscans" of a later period internalized St. Francis's values and were condemned as heretics.

1/12

Problem of Universals:

- (1) if universals are real, then moral values are objective and not absolutely relative (subjective).
- (2) unless universals are real, then we cannot speak of the common and, purpose, and good of "man" or "mankind": such things as human or inhuman treatment would merely depend upon group expediency.
- (3) in medieval philosophy: men of medieval ages believed explicitly in the existence of objective norms by which behavior was regulated; their views were expressed in divine revelation and in reason (natural law). Even the structure of society was believed universal in that it conformed to the nature of man (to solve problems of defense, material needs, spiritual needs).

Three schools:

- (a) realist – universals exist in themselves, independent of our thinking of them (William of Champeaux)
- (b) nominalist – universals are nothing but signs, pertaining only to the mind, and that nothing exists in reality
- (c) conceptualist – universals are indeed concepts, existing in individuals (particular things). This is the most influential school in the Middle Ages. (Abelard)

Abelard refutes the extreme realists (including his master, William of Champeaux) by showing that, carrying the idea to its logical conclusion, this position is absurd: it destroys all individuality (all differences are accidental.)

The conceptualist position (Abelard) holds that each individual contains a certain essence (all men are men in that they all stand toward the common end of humanity). The nominalist, save that universal, and abstract concepts (although only way one can talk of man is by adding together the characteristics of every man).

1/12

1) Nominalist Revolt of the 14th Century:

i) closely linked with the political events of the time.

ii) William of Occam, the leader of the movement, was a "spiritual Franciscan" at the court of Pope John XXII at Avignon and opposed the papacy on the basis of the Christian principles of poverty and humility.

iii) the Avignon popes were at this time in a struggle with Louis the Bavarian, who takes advantage of the religious conflict. William of Occam, condemned by the papacy, fled to Germany.

iv) their the most important political document of the time was written, *Defensor Pacis*, the product of Marsiglio of Padua, William, and John of Jandun, an Averroist. We can see here how the nominalist position dealt a fatal blow to the unity of medieval culture.

v) Marsiglio's nominalism was explicit: universals do not exist. The only real things are those we can realize with our senses. Taking Williams position, theology can never be a science. It follows, therefore, that there is an impossible gap between reason and faith; the work of Thomas is discarded (but this is not an attack on religion or faith)

[It gives an example of a positivist position held together with an extreme irrationalism, God is no longer "Intelligence" but "Will" or "Power": he is only to be understood by revelation, not by reason: this leads to Luther and Calvin]

1/13

vi) Louis the Bavarian sent up an antipope in Rome after his dispute with John XX II. Louis went to Rome and had himself crowned Emperor (interesting event based on idea that "Romans" had transferred the crown to the "Germans," not to the Pope). Back in Germany, he declared that the Emperor receives his authority directly from God.

1/13

vii) William of Occam - rejection of papal interference in secular affairs. Theology: liberating force of empiricism together with idea of God as absolute rational Power, Freedom, Will. Natural morality: principles pertaining to the development of mankind but without transcendental sanction [their universality is in empirical fact]

viii) Marsiglio of Padua – *Defensor Pacis*.

a. Importance: (a) (for the first time) political discussion is phrased in terms of sheer expediency; (b) redefinition of concept of popular sovereignty; (c) rigid separation of secular and ecclesiastical spheres: spiritual values elevated, do not interfere with secular matters.

b. Structure: in Averroist tradition, Aristotelianism is separated from Christian theology.

c. Principal end of government: peace and happiness and tranquility of the state. What matters is that a society functions well, insulated from outside disturbances.

2/2

d. Political structure discovered by rational intellect without aid of Revelation; based on self evident principles. Spiritual authorities are brought into later on to confirm the propositions discovered by the unaided intellect.

e. These "self-evident principles" are taken directly from Aristotle (thus of course conflict and with the tradition of political Augustinianism)

2/2

Defensor Pacis:

f. Marsiglio's emphasis on tranquility went against the orthodox theory of the Middle Ages in that the entire function of the nobility was involved in military combat and warlike virtues. Marsiglio demands that the nobility should be the ruling stratum, in effect; partially a response to changing conditions, i.e. Rise of mercenary armies.

g. The chief evil is civil strife; it follows that one cannot say which form of government is best, and any which ensures tranquility will do. In this sense Marsiglio is one with Machiavelli and Hobbes: the question of whether one, few, or the many rule is subordinate to the question of ensuring stability. (But are terroristic dictatorship – except for Hobbes – cannot be suitable because normal relationships are not continually upset).

2/3

We want to see to what extent Marsiglio can be held responsible for various modern concepts and political theory.

Tranquility itself is no end in itself in Marsalis is justified by the requirement of predictability, so that the normal functions of society can go about their course in a normal way.

Thus, how must government be organized – what must be the relation between government and the governed?

Marsiglio uses the argument in terms of unity. Government must be one – else you will have fights among the citizens, factions. This is a very important notion. This emphasis on unity appears as another criticism of medieval political theory and fact. Feudal society certainly not unified, so Marsiglio dissociates himself from tradition.

p. 28 of Def. of Peace → thus, the best form of government is that which is most efficient under the circumstances. The form of government is irrelevant; efficiency the only criterion.

As to the basic structure of government, the following is required: (this is not to state the form of government, because each of the following admits of several forms):

1. Legislature: made up of either

a) all the people

b) “the weightier part” (but and aristocracy cannot be merely a negligible minority, although it doesn't have to be a majority.)

Legislature is sovereign, whatever its form (i.e. Aristocratic, popular, etc.)

In Marsiglio, we seem to have both of the above forms of Legislature. In (a) there would be a general assembly, and it would fold to express its will. In (b) there has to be some institution through which the people would be represented by the weightier part. But if the society is large, (a) also would require a representative assembly. So, both (a) and (b) imply a need for some type of representation.

“The People” = The citizens. And citizens are according to Aristotle, those who participate in the government according to rank. (Excludes children, slaves, aliens, and women – in different ways).

The Coercive Power of the Legislature:

Marsiglio stresses that the legislature must rule through general and predicable laws, but the legislature also has a course of power – the power to punish, regardless of rank. This emphasis is also relatively new in Marsiglio.

The course of power is vested in the law: why is this new? It is new for two reasons:

1) before the 13th century, it was practically impossible to say that coercive power was vested in general law precisely because such a lot did not exist. There was no law predictable, valid for, and codified for, all citizens. – This is impossible any feudal society.

2) the transcendental sanction of the law is all but severed. Marsalis's law is secular, although Marsiglio believed his theory to be compatible with the Church.

The sovereignty of the legislature is not unlimited. The legislature must be capable of doing the job. – And if incompetent, he (or it) is relieved. (Will discuss how later).

The distinction between the legislature and the government;

The legislature chooses an executive, which is called the “principal part”. But this executive remains, throughout, responsible to the legislature. The legislature not only sets up the government (i.e. The administration, or executive), but can also dispose it.

Important -> Thus, there is no real separation of powers in Marsiglio, since the unlimited power of the legislature over the executive is not balanced by any check on the legislature.

The legislature defines, as well as makes, the law. The trend is toward a tremendous increase in the power of the legislature. This increase culminates in Rousseau, so just as Marsiglio anticipates Hobbes and Machiavelli, so he anticipates Rousseau.

All of the foregoing does not imply democratization. In no meaningful sense is Marsiglio libertarian Democratic in any modern sense of the terms.

In only one respect can Marsiglio be called a spokesman of an emerging trend, though – the trend of secularization of government and of its evaluation – despite the fact that he tries to reconcile his theory with the Church.

2/7

The ruler is rendered "measurable" by someone else for his unlawful actions – otherwise the government would become despotic. But the only group authorized to judge the ruler is the legislature – or its appointees for that purpose.

Why does tranquility move to the center of social values in Marsiglio, in contrast to feudal values? What is actually the content of this tranquility, or, what is its formal cause? – It is the mutual intercourse of the citizens, the participation of every citizen in the common responsibilities and privileges according to those privileges, etc., appropriate to each. Tranquility where in people prosper is desirable – it permits the steady increase of persons, extends their power, and enhances their customs.

Marsiglio implies a pessimistic image of the nature of man. (This implication becomes explicit in Machiavelli). Man would, if left alone, result in social disorder.

It is a basic proposition of Marsiglio that the people must know the law – and be able to predict – this is impossible in Plato's Republic, as Plato's state is not acceptable.

Marsiglio writes for universal society. Therefore, there is no important question of the military class for him. In his ideal state, there would be no constant need for protecting one national state from another. The struggle within the world could be avoided by correct organization – and by the spiritual powers remaining within their own jurisdiction.

Generally, the Church has no coercive power whatsoever – not even over its own clergy. The clergy is part of the secular society. Marsiglio goes so far as to say that even in matters of the punishment of heretics the state, not the Church, has jurisdiction.

Religion is more important in securing social tranquility. It is seen as useful and appropriate for this life and for the next life. It is useful because God promises rewards for those who do good in this life and who, therefore, helps cure order and tranquility.

Because religion is so important, the legislature, in principle, could not replace Christianity was some other religion. But it is not because Christianity is the true religion (Marsiglio has nothing to say about that); it is because such a change is likely to be bound up with the greatest of social upheavals.

Given Marsiglio's complete theory, he is advocating state over Church.

There are at least two important elements which justify Marsiglio's emphasis on law:

- 1) the law is general and predictable – this makes for an orderly life among the citizens.
- 2) the laws must be made by the people themselves because, if they are made by the people, the people are more apt to be willing to obey them.

That is, the greater the degree of popular sovereignty, the greater the possibility of civil obedience – and therefore of tranquility.

Thus, popular sovereignty is not motivated in Marsiglio by the concept of liberty, but by a desire for tranquility.

2/9

1. Concept of popular sovereignty becomes meaningless when:

(a) “the people” are illiterate and are prevented from learning what is going on;

(b) possessed of the means of information, “the people” are indoctrinated by few who wish to manipulate them.

History of concept of popular sovereignty in early times:

(a) Lex Regia of Roman law – while granting absolute power to the sovereign, emphasizes the people as source of all authority.

(b) Germanic customs – community elected ruler who remained responsible to them.

[(c) canon law - Conciliar movement attempted to circumscribe powers of papacy by a collegium of church dignitaries.]

2. Social contract – Hobbes, Locke, Rousseau. Agreement among people themselves; theorists never assumed such a thing to be a historical fact. The social contract is bound up with the idea of popular sovereignty.

3. Right of resistance – this too follows from popular sovereignty. Did not become actuality until 17th century as institutional check on monarchy. Idea that everyone may exercise this right usually found in ecclesiastical writings (e.g. Manegold, John of Salisbury).

4. Representative government – Magna Carta (1215) a reactionary document, for it effected a re-transfer of power back from the King to the feudal barons.

2/10

development of political institutions in the Middle Ages: from repression (e.g. Development of institutions to stop evil before it occurs); in this light Magna Carta can be seen as a progressive Act.

Political developments in later Middle Ages:

(1) rise of national state and centralized monarchy (Spain, France, England)

(2) growth of representation, institutions to check and control of the central government.

(a) English Parliament: that of Simon de Montfort (1264-5) is first to represent all boroughs.

(b) Parliament de Paris under Philip the Fair included members from towns and meets regularly.

(c) Italian communes check papal power.

3. Opposition to our absolute monarchy: feudal nobles and Church.

Conciliar Movement.

(1) Nicholas of Cusa, Catholic Concordance (1435): follows Marsiglio in saying that all laws should be given by the people or the weightier part thereof and ruler responsible to those who elected him. Derives necessity of free elections from

*natural law instead of positive law on grounds of equality. Notion of “free consent” leads him to advocate checks on papal power.

(2) movement defeated in the 15th century, especially in burning of John Huss, precursor of Luther.

2/14

Machiavelli.

“Political anthropology”: political thinking usually depends upon the theorist’s image of man. In Machiavelli's case (as with Luther) we see “pessimistic anthropology”: contrasts with dominant medieval anthropology which viewed man as basically rational and good (even though corrupted by Original Sin). Machiavelli thought that (1) man is basically evil, and (2) this is fixed in history (thus we can understand the past and apply to the future, knowing this constant – human nature).

Basis of “good” government: must take into account the above view of man, for if it relies on men's virtues, it is lost. But Machiavelli did not glorify dictatorship: like Marsiglio, he regarded the form of government as less important than the need to maintain peace and stability.

Other points:

(1) recognition of class struggle: origin of Roman liberty was struggle between patrician and plebeians [part I, ch. 4]

(2) attack on "gentlemen" [p. 255] and nobility [p. 256] : to establish a Republic, with liberty and equality, one must destroy the nobility as a class; or, conversely, set them up as a class in order to establish the kingdom.

(3) attitudes toward religion: means to be used to secure stability of society (Prince, ch. 11) . Christianity less useful than pagan religions, because it teaches you Melody and passivity [p, 285]; it is destructors, rather than cohesive, for its values do not teach allegiance to the commonwealth.

(4) liberty is the security of enjoyment in one's possessions, it is realized under a system of law. Law is predictive, i.e., one can calculate the risks: again, similar to Marsiglio. From this time onward the terms "liberty" and "law" are inseparable. All men are equal in their obligation to submit to law.

Machiavelli's original contributions

1. Most important total absence of any true or natural law or of a philosophy of right. There is no appeal above the State and government. The individual is now delivered over to the state to a degree unknown before [Figgis].
2. "Liberty" becomes almost identical with "security". Liberty is the life of the people under general law: this is the end of all government, so the specific form becomes irrelevant.
3. Psychological insights: ways in which state can make use of men's mental drives and turned them to the purpose of the state.

Luther.

1. Traditional interpretation: Reformation has led to strengthening of secular state. Luther eliminated the subjection of man to the priest, only to establish a harsher priest in the heart of man.
2. Thus spiritual liberation goes hand in hand with secular subjugation. Luther eliminated the political power of the Church substituted the more complete domination of the State.
3. Luther's teaching was a revival of "political Augustinianism", and in fact, goes beyond it: obedience is required regardless of justice or injustice. Since the State is ordained by God for the punishment of sin, it follows that there is no appeal above the State.
4. But, with Augustine at least, there was a counter power: the established Church, which acted as a kind of refuge. Luther, in establishing state churches, leaves nothing but total subjection to the State.

2/16

5. Actual historical circumstances in Germany left the German princes as the only guardians of the Reformation. Also, this is the age of the printing press, conducive to religious – political propaganda.

6. New Christian liberty: it is problematic, divorced from all material manifestations, and entirely within the self. Liberty consists in following one's faith in relation to God. It is precisely this relationship of God and man that the church usurps with the institution of priesthood.

7. This kind of liberty – interfaith – is perfectly compatible with every kind of material unfreedom – slavery, serfdom, prison etc. As long as the state does not concern itself with the individual's relationship to God, one cannot object to any state action. And in this case, the only justifiable resistance is the passive type.

8. Anti-intellectualism: Luther's thought was a violent reaction against the entire rational tradition of Western thought, especially to Aristotle and the medieval tradition. He warns time and again against any reliance upon reason: Man has been entirely corrupted by Original Sin. This anti-intellectualism protects the secular sphere also from rational criticism.

2/17

Luther's "freedom of conscience" and "freedom of worship" are separated from the material consideration of the day, i.e., they had very little meaning in the context of his day.

Denigration of rationality, superiority of faith and suffering.

Political aspects: complete subjection of the individual to the state; doctrine of non-resistance in all cases.

Denial of independent "spiritual estate" - members of ecclesiastical hierarchy are part of the social division of labor: their authority is the office.

Attack on monopolies: only erected against finance and commerce and carried into anti-Semitism.

2/21

Protestantism and freedom: Hegel said that real ideas of freedom and equality dates from the Reformation. Luther's pronouncements on freedom dealt a fatal blow to the cast-ridden feudal structure.

This can be seen best in Luther's insistence on everyone's being able to read and interpret the Bible; the precondition is always faith.

He believed in "the servitude of the will": man is entirely corrupted, and can only be saved by faith through grace.

Negative aspect of freedom: individual is free from all material conditions in matters of religion: none of these can possibly help him attain salvation. Thus the absolute idea of inner freedoms is linked with total rejection of consequences of material unfreedom.

2/21

Political consequences of foregoing:

(1) the corruption of the ecclesiastical hierarchy – which Luther attacked – had much to do with oppression of the feudal lords. Thus, an attack on the first might lead some – i.e. peasants – to attack the second.

(2) Luther's insistence on personal freedom gave impression that one might actively seek to improve one's lot. Also, the peasants could not understand why Luther should attack one segment of general abuse and not another.

(3) Princes became the head of the reformed Protestant churches. The financial burdens on the peasants (tithes) were transferred from the Church to the State.

(4) Luther's economic ideas were overwhelmingly medieval – he opposed banks, commerce, corporations, etc.

2/23

Right of Resistance: already in 16th century this idea had a long history; Luther rejected this totally.

2/24

Protestant Reformation and Absolutism: renewal of Augustinian theology with its emphasis on sin and suffering, provided a new role for the Christian, i.e. His merit consisting in his being able to bear with equanimity the woes of this world.

New ethic: attack on waste – luxury and immorality – together with denigration of human will and human reason – led to a new and harsher discipline in life. The Protestant attitude toward work was that, not only was it a blessing, but it was necessary for salvation [in medieval

Catholicism work was generally viewed as a curse, the bad luck of those who were not born to wealth.]

2/24

Western democracy was born with the notion that everyone has the duty to work equally hard. The new structure of authority depended upon internalization of these values.

Calvin

(1) Major difference from Luther: since the Creation some have been predestined to salvation and others to damnation. But the irrationality of election did not lead to moral chaos – precisely the opposite: this doctrine led to the most rigid moral and social code.

(2) Calvin implies that exertion to work could end is evidence of salvation, and that idleness and wrong living is evidence of prior damnation: at least on the popular level this was probably made explicit. Thus, the Christian life must be one of continual toil and exertion, with any joy or pleasure relegated to the barest minimum necessary to survive: Christian liberty consists of spontaneous participation in Christian duty.

(3) Calvin established at Geneva the first genuine totalitarian state in Western civilization.

2/28

Luther to Calvin: irrationality of grace and salvation is greatly strengthened; the New Testament stress on charity, still present in Luther, is gone from Calvin's writings (quotes Old Testament almost exclusively).

Dualism:

(1) salvation – damnation occurs irrespective of merit (according to human judgment)

(2) emphasis on material life as only sphere where Christian can prove himself one of the saved. Spiritual element – formerly – evidenced by clergy, monks, etc.

2/28

loses its special place in this life: but everyone must live as a monk. Now, however, every man's work is his calling, and every calling, however low, is it equal to all others; to perform his calling well is to prove the man is a good Christian. Success, therefore, became to most men a sign of salvation.

City state of Geneva under Calvin:

population 12,000; 800 arrests, 76 exiled, 58 death sentences (including Servetus).

Systematic torture a matter of course; and forming among parents and children. Prohibition of all public games, enjoyment, etc.; church attendance a duty.

Right of Resistance in Calvinist Theory:

(1) it is duty of states to resist the “presumptions of the ruler”; but this differs from Thomistic teaching in that the medieval notion of “justice” has been scrapped.

(2) overwhelming emphasis on duty of obedience.

(3) where Calvinism was safe, obedience reigned; but whereas in France and Holland, circumstances demanded rebellion, the theory was developed to justify it within the Calvinist frame.

Calvinism and Protestantism: this was age of commercial expansion: but religion frowned upon conspicuous consumption – and also on taking interest. So only thing left was to re-invest accumulated capital in expanding one's business – thus the rise of capitalism.

3/2

What appears as a paradox – the anti-libertarian doctrines of Calvin advancing along with totalitarianism disappears when we recall the latter has brought about by social and political circumstances, in the face of doctrine. In the 16th century Catholicism and Protestantism had identical political tenets in most areas.

Calvin's economic doctrines eclipsed Luther's, who had retained a fundamentally medieval view of such matters as agriculture, trade, interest, etc. In Calvin, the life of the merchant is championed over that of the farmer. And in his demands for free trade, elimination of waste, etc. he is echoed by the French Estates.

Right of Resistance.

1. Institutes place this right where it is by nature high, restricted – in the magistrates (estates – Dukes – etc.). It is expressly withheld from individuals.
2. This rendered it practically useless: in this period the legislature sided generally with the monarchs.
3. The individual, therefore, although capable of judging a ruler a tyrant, has no right to act on his judgment.

4. Further theoretical extensions follow political developments.

Confession of Magdeburg (1550): here, the first place where the Protestant theory of resistance is formulated, resistance is made a duty of princes. It continues in this form for 100 years.

Peace of Augsburg (1555): first settlement of conflicts arising out of Reformation; doctrine *cujus regio, ejus religio* (type of religion follows the faith of the ruler).

Only Lutherans – not Zwinglians, Calvinists or Anabaptists - were included in the settlement. But it didn't last: religious concerns connected with princely ambitions, and the wars of religion assumed somewhat a secular appearance.

3/2

Council of Trent (1560 –).

1. Beginning of the Counter – Reformation.
2. Church itself abolished all the abuses which had led to the Reformation, and in addition reactivated the Inquisition and the campaign against heretics.
3. Success: large parts of Germany again became Catholic.
4. High Point: Massacre of St. Bartholomew (1672).

Stages of the struggle:

1. Dogma disappears, and political considerations assumed dominance.
2. No right of resistance: John Knox. Responding to Mary Stewart's accession to the throne, tyrannicide is expanded by him to include everyone's duty. But most others were more conservative.
3. Monarchomachs: both Protestant and Catholic, these were the main proponents of the right of resistance.
4. Development of Calvinist political theory: de Beza. Right of resistance extended to lower magistrates, who are servants of the kingdom, not of the King.
5. Revival of the idea of popular sovereignty (especially with Monarchomachs).

Twin ideas of consent of the governed and of the social contract became the backbone of the justification of resistance.

Problem for Calvinists was to reconcile popular sovereignty with the demanding insistence that all secular authority is derived from God.

* [Paradox of Calvinist position: moving from religious speculation to political action, right of resistance is caught in the middle. Action usually taken irrespective of theory. Theoretical difficulty seen in the *Vindiciae*.]

3/3

“Popular sovereignty” was the most effective weapon against rulers who represented the Reformation. At the same time the older tradition of the ruler's responsibility to the interests of the community was kept alive.

The voice of the people, of course, was that the powerful opposition to the central authority – Parliament, Estates, nobility, etc.

Protestant teaching state, however, stress the equality of all Christians irrespective of status. No one – Calvinist, Monarchomach, etc. – extended the right of resistance to the people at large.

Monarchomachs.

1. Theodore de Beza - right and duty of resistance, but only for magistrates.

*2. *Vindiciae contra Tyrannos* – (1579) in addition to popular sovereignty, a notion of social contract (covenant) is vaguely present. The two covenants: (a) between God, ruler, and people, in which ruler promises to uphold justice; (b) ruler and people, delegation of sovereignty to ruler.

3. La Boëtie (1576), *Discourse on Voluntary Servitude*: society and Association of people free to follow the dictates of their own rational faculties; but in actuality most voluntarily surrender to others reason: all rulers are tyrants in that they represent an authority imposed upon individuals by brute force. But this is not the whole truth: in every case there is an element of voluntary servitude, dependent to a great degree on custom and habit and on “social bribery” (bureaucracy and police).

Suggestion also of role of ideology, of “false consciousness” [Marx]. His solution is a rational examination of the socio-political mythology which will lead to the development of a new consciousness by the people.

3/9

Affinity of Catholic and Protestant writers and rulers:

(1) monarchs usually were able to root out the dissenting sect (Spain, England, examples).

(2) Catholic Monarchomachs (e.g., Mariana) hold common anthropology with Protestants, i.e., go back to Augustinianism: evil nature of man and punishing role of its rulers.

* (3) thus both shy away from divine authority and fall back on consent of the governed (and compact) as foundation of political power. [Popular sovereignty is reconciled with absolutism by means of the distinction between office and person.]

Bodin.

A. Change of “atmosphere”:

1. Whereas most other writers in the period. Stress right of resistance, Bodin is first great defender of the absolute state.

2. First writer put fence modern notion of sovereignty.

B. Defense of absolute state is not defense of absolutism *per se*. Bodin, reacting to devastation of religious wars, is concerned with assuring a minimal of order. In addition, he is defending the new capitalist socioeconomic structure: he is most certainly (in modern terms) a “liberal”. To him the absolute power of the national state is a prerequisite for liberalism and the new society.

C. “Right order”: contains idea of justice found in Cicero and Augustine. But, more importantly, the concept of right order is entirely secular and phrased in bourgeois terms (commerce, intercourse).

*From this point on – with minor exceptions – political theory is conceived in such secular terms.

3/9

D. the right ordering of the Commonwealth is supreme: Bodin explicitly rejects the classical idea of happiness as essential to life of the Commonwealth.

E. With Marsiglio and Machiavelli, Bodin is not interested in the form of government.

F. Family as basic unit of Commonwealth.

1. As economic unit

2. Structure analogous to that of state: father as sovereign. Family is a microcosmos, a cell of the larger whole.

3. Fathers authority is a rational and without qualification.

G. Liberty necessary for well ordered Commonwealth. It is defined as prerogative of a man to be subject only to his own reason. But liberty can only be achieved by subjection to the sovereign, just as all faculties are subject to reason.

H. Man and Citizen: two are not the same. Rejects notion of social contract or compact. Contradiction – essential – between liberty and authority in his definition of citizen.

I. sovereign power: based on protection and jurisdiction. Must be absolute, unlimited, and irrevocable.

3/14

Paradox of modern times: along with gradual democratization of the political structure, we find a justification of absolutism arise in political theory.

Breakdown of medieval status groupings and the ideology of natural, fixed social order was result of rise of individualism.

Each man is now a social atom, competing in the universal struggle for existence, and thus results the *bellum omnium contra omnes*.

So, absolutism is necessary to assure a minimum of order.

Bodin: Limitations on Sovereignty:

1. Taxation – Prince has no right to arbitrarily confiscate private property through taxation.
2. Natural law – no act of Prince can contravene this.
3. Contract – medieval contractual relationships were rooted in social structure. Bourgeoisie society needs external assurance the contracts will be honored; thus ruler, too, must respect law of contracts

The English Civil War:

1. Was it a social, religious, or political revolution?
2. Importance of gentry class.
3. Puritanism: in some, all Calvinist elements (pre-- 1640), from extreme right (Presbyterians) and extreme left (Levellers and Diggers).
4. Parliament versus the Crown: taxation and administration of justice.

Problem: to what extent is Puritanism responsible for spread of toleration and democracy in the Western world.

3/16

Connection between Puritanism and democracy is at best a very precarious one. Those elements tending toward democratization are (1) the quality of believers before God, (2) "equalization of work," and (3) toleration. [For the most part, ending when Puritans achieved supremacy]

Hobbes.

1. Very existence of English state and society was repeatedly called into question by intermittent civil war.
2. Civil War was taking place at time when England was struggling with Spain and Netherlands for hegemony in Europe and America. [Cromwell's first imperialist policy: Navigation Acts passed under him and new economic forces triumph.]
3. Philosophy:
 - (a) epistemology: he is the first extreme and consistent materialist. Only real things our bodies and motion. Link to this is extreme nominalism: words are names established by convention, and the truth and falsehood are defined by convention.
 - (b) anthropology: man, like everything else, must be viewed as a system of bodies set in motion by external stimuli. The basic motion is self preservation, the individual is driven by stimuli to oppress others in order to succeed in the struggle for existence. Religion, morality, etc. Are needed not for their intrinsic worth but has elements of discipline and repression.
4. Problem then is: given this mass of self-seeking atoms, continually engaged in the *bellum omnium contra omnes*, how does one assure a normally functioning society? [Conception identical in Marsiglio, Machiavelli and Bodin].

His answer is, of course, by establishment of an absolute power capable of restraining the war of nature. He is thus both the champion of absolutism and the first political theorist of the acquisitive society.

3/16

5. Since Hobbes this dilemma has been answered in the same way: if one wants to assure the free and equal competition of atomistic individuals, it is necessary to establish a neutral power over and above the competing individuals to enforce the rules of the game.

3/17

6. Conclusions Hobbes draws from Civil War: (1) dispute was among competing economic interests, not religious groups; (2) it is dangerous to allow any one group to attain position of domination over others.

7. Basis of political theory is complete integration of politics in natural sciences. Individuals are all equal in demanding the same things, and in nature exists free competition, i.e. "War of all against all".

8. Distinction between "man" and "citizen", "people" and "multitude", common to non-ideological philosophy (same with Rousseau).

*The "citizen" and the "people" are unnatural and only come about by the negation of nature.

9. Number 8 is reconciled by the Social Contract which comes about by the free will of every individual: each individual gives up all his natural Rights on the condition that everyone else does the same, transferring them to a Sovereign. It is a "contract" between individuals who give up their powers without limitations (because otherwise the Sovereign would not be above all competing groups- there is no common interest). The Sovereign is not a party to the contract.

3/17

10. Religion is absolutely necessary for the state, but only for disciplinary purposes. Truth is established by the fist of the Sovereign, and must give way if it interferes with Dominion (property and authority).

No separation of Church and State, no separation of powers, no preference for a particular form (monarchy is better because it is cheaper).

11. Hobbes reveals his connection with bourgeois society in his supposition that the "citizen" will and can keep contracts in societal relationships.

12. Writings: (a) *De Cive* (1642), (b) *Leviathan* (1651); (c) *De Corpore* (1655); (d) *De Homine* (1658). Slightly favorable changes toward democracy: but form doesn't matter.

13. Philosophic system precedes and underlies political theory. All things in nature are bodies in motion. E.g. (a) liberty in the absence of extraneous impediments on motion (includes

physical, intellectual, and emotional motions); also (b) natural law (which, in state of nature, is no law at all).

14. The people rule in all governments: by means of the Contract the multitude express their wishes through a Sovereign. This change from state of nature to state of civil society is a fundamental one: liberty, for instance, in society depends upon the universal abrogation of natural liberty.

*Absolutism is necessary to assure a liberal society.

15. End of Commonwealth is good of people, and this is achieved through amassing of social wealth (i.e., private wealth) by means of work and saving. Liberty means free trade (p. 180), freedom of buying and selling; right to conclude contracts; and these are to be guaranteed by the Sovereign.

3/21

16. Limitations on sovereignty: in the broadest terms, an individual right of self-preservation: but all this means is that he cannot be forced to kill himself: he must not resist “the sword of the Sovereign.” (pp 184f).

3/23

17. Contradiction in Hobbes: society of individualistic “atoms” together with rigid authoritarian structure of government. With Descartes he held that change is evil in itself, and that the present structure is always to be preferred. The free society can only exist by recognizing the universal authority.

18. Limitations: subjects released from obedience if Sovereign is unable to maintain his authority, as law and order in society. This condition must be perfectly obvious to all before anyone can act; and the only justification of resistance is success in establishing new authority.

19. Attitude toward property: does not pertain to state of nature, but arises in the Social Contract (i.e. The Constitution of the Commonwealth). Thus, it exists by grace of the Sovereign, and he possesses the authority to confiscate it. But this abrogates the *raison d'être* of society, negates the probability of security for the individual, this contradiction is not resolved.

3/24

Spinoza.

1. Situation in Netherlands: aristocratic faction led by De Witt versus Democratic faction led by William of Orange. Assassination of De Witt cost shift in sympathies on Spinoza's part from

democratic to aristocratic groups. But, as with Hobbes, element of overruling concern is with sovereignty *per se* and not with forms.

2. Secular sovereign authority is sole arbiter of spiritual matters. All matters of religion are properly spheres of the secular authority.

3. Underlying motive – As with Hobbes – is to prevent any factors which might upset the peace and order of the State.

4. Image of state of nature is again same as in Hobbes. Qualitative changes necessary for transition from nature to civil society and this is accomplished by means of the Social Contract.

5. “Liberty” for Hobbes and Spinoza meant liberty of citizens as citizen, not (in our sense) of individual as individual. The freedom "of buying and selling" (Hobbes), i.e., To go about one's business without harming others. In addition, Sovereign monopolizes violence.

* One has absolute freedom to teach what he pleases – as long as one doesn't act upon it (if it clashes with will of Sovereign).

3/28

6. Contradiction in Spinoza between liberty and authority: absolute freedom of thought, but limited freedom of action. But the conflict between the image of a liberal society [as in Hobbes and Spinoza, above] and absolute sovereignty is a constant theme in political theory from this point on, as it is closely related to historical developments.

[Spinoza, Ethics: close to Stoicism]

7. After expulsion of Spaniards, Netherlands was ruled by liberal (wealthy) patriciate, and these were opposed by Calvinist party which drew support from proletarian ranks, they found their leader in the

Prince of Orange, one of the first “Bonapartist” movements in modern times [military despot as liberator of masses]. John DeWitt, leader of the patrician party and a great intellectual, was the first man to construct a political order on mathematical principles. He and his brother were horribly murdered by a mob and from this point Spinoza – a personal friend of DeWitt- never spoke a kind word for democracy. He also was glad to subordinate the church to the state as a result of the activities of the Calvinist party.

4/11

Locke.

1. In transition from Hobbes to Locke, a change from authoritarianism to liberalism is supposed to have taken place; he (Locke) is traditionally credited with first advancing inconsistent form civil liberty, rule of law, and separation of powers.

2. Social Contract: individual has abrogated natural liberty in order to resume liberty under law in the Commonwealth (Kant, Philosophy of Law, para. 47).

The social contract is a way of accounting for this phenomenon, i.e. Why individual surrender natural liberty to the state; it was a fiction which was indispensable for accounting for political society without sanitation of God. [Also, provided for greater participation of “people”, and as such reflects increased activity of broader spectrum of population, especially in economic activity.]

3. The state of nature from Hobbes to Locke: “from the jungle to the zoo”.

4/13

4. Nature for leaving state of nature and forming political society is for better execution of justice: since power is not equally diffused, there is need for a body representing all men to control

4/14

Power (also, in natural state, individual’s own judgment determines extent of any punishment). Paradoxically, inequality results from the heat quality of the natural order: since all are not biologically or mentally equal, all are not equal with respect to power – and this is sufficient reason for leaving the state of nature.

But law must be established over and above individuals in order to assure a functioning civil society.

5. The “law” for Locke is equivalent to Hobbes absolute sovereign as such it represents a transition from Hobbesian principle, as it follows naturally from the fact that both thinkers belonged to the same social framework.

6. The end of civil government is the protection of property not even the (supreme) legislature can confiscate property without the individual's consent. [This notion far stronger for Locke than for Hobbes]. In the state of nature, there is no property, only possession: property entails legal sanction, i.e. Government can be called to its defense (but not that of possession). Property originates when a man adds his own labor two things found in nature, and doing so taking them out of the natural state and transferring them to civil state. [The natural fruits of the earth are given by God to all man in common but by necessity these cannot be utilized until

appropriated by some individual for his private use: less labor had something to the gifts of nature and transforms them into private property.]

7. Summary – defects of state of nature: (a) no common standard of right and wrong; (b) no known and indifferent judge; (c) no power to support a just sentence; (d) general necessity of property.

8. Traditional interpretation: for Hobbes, civil society nullifies the law of nature; for Locke it fulfills and perfects the natural state. [?]

4/14

The Social Contract:

(1) individual surrenders to: Hobbes – sovereign Locke – community

But both may take the form of an assembly. For Locke, however, their idea of community is real; Hobbes denied any possibility of a harmony of interest.

(2) problem of majority: for both, no one is forced to participate in the original Social Contract, so that all are agreed on this step. In Locke, the majority is tyrannical (over the minority): but a majority which contradicts fundamental principles is simply inconceivable. In his day, the formation of opinion was assumed to be free, i.e. Idea logical distortions are impossible. (Mill follows this out later on; liberal democracy is possible only where organized press and party are absent.)

4/18

The people are always supreme and sovereign power in society; its relationship to its creator, the legislature, is a close and intimate one. The rule of law is the work of the supreme legislature, and the executive and federative powers are set in fiduciary trust to the legislature.

Right of resistance (paragraphs 149 – 155): power without limits and without scope, perpetually ready, vested in the people. It becomes constitutionally justified whatever the legislature oversteps its bounds, i.e. Contravenes natural law, right of self-preservation, begins to rule arbitrarily, at this point the government is dissolved – but society still functions [for Hobbes, the dissolution of government meant dissolution of society and relapse in the state of nature]. There is no judge between the people and their governors; and the only way to determine who is right versus success or failure.

4/20

Rousseau.

1. Social Contract written to justify man's domination by man (a) justification of unfreedom; (b) exercise of this unfreedom to guarantee normal functioning of society.
2. Individual becomes an organic part of the whole, and is now able to abstract from his personal will and judge for the *volente generale* (by change in mental structure). Man's natural goodness is not enough to stop formation of civil state, for possessions be to inequality.
3. General will emerge simultaneously with conclusion of social contract: in this sense it is negation of individual will.
4. Legislature affects transformation of individual into citizen. Like Plato and modern autocracy, men can never be free by themselves.
5. Legislature disappears after his original services, and general will takes over in general assembly of all citizens.

4/21

Fundamental presupposition of Social Contract can only work in homogeneous and quite small society, where great inequalities are absent and where citizens can assemble easily. [He was thinking, e.g. of Sicily].

* Rousseau was writing a criticism, not a description, of society in his time, and his book was intended to serve as a blueprint for a new society.

But individuals often seek to contravene the general will; they are often deceived, and sometimes even must be “forced to be free.” This is the function of the Legislator (in this sense Rousseau's scheme has been called an “educational dictatorship”), he perceives the common good and drafts laws to implement it, with the goal of enabling the citizens to perceive the common good. The legislator disappears before the machinery of government is set up.

The government has only an “executive” function; its duty is to implement the directives of the sovereign people.

<u>People</u>	<u>Sovereign People</u>	<u>Government</u>
as subjects =	as citizens (General Will) =	executive function only
	[moral reason]	

There cannot be representative democracy, since this is a temporary surrender of sovereignty, which is impossible; only direct democracy.

Power is delegated and can be resumed by the People at any time. The traditional “right of resistance” is meaningless: the people cannot resist themselves. The people as subjects can have no rights, because they are pre-moral persons.

Basic point: unfreedom is indispensable. Problem is, what can make this unfreedom legitimate?

(1) mediator between freedom and unfreedom is rule of law, which is of the widest universality. The bestowing of special privileges upon special groups is unlawful.

(2) only the people can't legislate (in full assembly of citizens); no representation [Bk III, ch. 15].

As soon as the homogeneity of community disappears, the society is not and cannot be free. There can only be delegation.

(3) Religion: (a) distinction between natural religion (the of the Gospels) and Christianity; former is irrelevant to the state, but is also impossible.

(b) Christianity weakens the State, Religion is necessary because, due to the fact that the may compel a man to sacrifice his life in defense of it, he will only do so if he believes in an afterlife. The religion of the citizen, as opposed to the religion of man ((a) above), is defined by the state. Intolerance is evil, but only outside of the beliefs laid down by the general will.

(4) Natural Law is impossible for Rousseau (Discourse on Inequality), because no one can really say what it is or prove its postulates.

4/27

Locke and Rousseau: for the former, the people can place legislative power in other hands, and the distinction between people and legislators is maintained throughout; for the latter, legislative power can never leave the people's hands: people and legislature are always one and the same.

Secondly, there are stated limitations on the legislative powers in Locke's system and this leads to unqualified right of resistance; for Rousseau, there can be no limitation on legislature and no right to resist. Finally, freedom for Rousseau is found only within the general will, forelock freedom is an individual thing.

4/27

(2) Rousseau and dictatorship: certain internal connection between him and Robespierre's Jacobin Terror. The National Convention was believed to represent the general will, whose

wrath was directed against those who advanced their personal interests. It was opposed to the liberal Girondists who were products of Lockean influence.

The Enlightenment.

(1) Encyclopaedists: Diderot, D'Alembert, Voltaire, d'Holbach, Helvétius. These were "right wing" elements. "Left wing" elements represented by Meslier, Morelli, Mably and Linguet.

The distinguishing feature is private property – left-wing group saw rest of all evil in *ancien regime* in private property; right did not. Also, Enlightenment is origin of sociology (beginning with Holbach's System Social). Society now appears as a separate and distinct organism apart from the State. Political theory to this point had concentrated on powers and limitations of government, and has touched society only from this point of view. The outcome of this trend was withering away of state, especially in utopian socialists.

(2) Reason lies in structure of French society.

4/28

Features of Enlightenment.

(1) belief in reason and education:

(a) critique of organized religion – the church – as totally irrational and oppressive. And, since the state was buttressed by the church in France, this necessarily preceded sociopolitical criticism.

(b) by means of sociology the critique then sought to discover the irrational structure of society. The conservatives saw the root of all evils in the government: four only if basic institutions were regarded as rational could the belief in reason and education be viable.

4/28

Education proceeds only within the established societal framework. These conservatives then, desired a British system: a constitutional monarchy and institutionalized civil liberties.

(2) New image of man: human beings on this earth one first of all happiness. This differs from earlier suggestions in its strongly paternalistic tinge (Helvétius). Men seek pleasure and avoid paying, both are firstly sensuous. This led to political radicalism and the first comprehensive social critique in modern society. French society obviously does not admit of much happiness. But all the conservatives remained aristocratic, especially in emphasis on property.

(3) Radicals: (a) Linguet's attack on widespread inequality. "It is of the essence of law to maintain inequality"; main aim is protection of property. Violence is the key to maintenance of inequality. (b) Meslier, attack on private property and religion.

5/2

Enlightenment: Summary

(1) left-wing critics precursors of socialism who advocated a quantitative social change, especially in redistribution of property.

(2) others can properly be labeled conservative liberals; they thought that a change in form of car from it would bring progress in attaining justice and freedom: specifically, they favored replacing absolute monarch by limited one based on British model.

(3) However, the effects of their attacks had far different results, because of the main concepts which they employed: reason and education.

(4) Subtitle of T-P Treatise (Spinoza): absolute freedom of thought and conscience, limited only if state is in grave danger.

(5) education was seen to be a liberating force from the corrupt darkness of the organized Church (most were deists rather than atheists); the dogma stood in the way of rational thinking, which was the means of liberation from the *ancient regime*. (Conservative reaction against Revolution features attack on this idea of education).

(6) justice and toleration: philosophic advocacy of these concepts were tied up with sociopolitical attack on *ancient regime*.

(7) liberalism: society (economic terms) functions best with least governance interference; general interest results from competition of private interests, on presupposition that competition would take place between rational and equal individuals. (Most of French enlighteners excluded mass of population from these considerations).

(8) idea of progress – though not so optimistic as once believed – certainly was developed out of emphasis on reason and education.

5/4

Theory of Educational Dictatorship

The paradox: establishing freedom through dictatorship, and democracy through authoritarianism. Problem: how to legitimize (political) slavery.

Liberty inheres totally within the bounds of general will and is opposed to individual freedom. Man's natural freedom, if exercised thoroughly, would lead to self-destruction: therefore, only if every individual surrenders his freedom to the general will (and not to another individual or any institution) can natural equality be preserved and society.

The decision to form a social contract must be by unanimous vote of the subscribers; every decision which follows is based on majority vote. This is an entirely voluntary act; those who disagree are not bound by the contract but they may not benefit from it – they simply withdraw.

Freedom is not so much a quality of the individual as it is of the whole. In this Rousseau is not so far from the English political theorists. But he goes one step further. Every individual must surrender all his natural rights to the community (not the government) and thus all become equal.

All sovereignty inheres in the people as a whole, and they act as a General Assembly in which all constantly participate; in other words, popular sovereignty is incompatible with representative government. (Book II, ch. 15, *Contrat Social*). Any administrative body merely carries out the general will and may be dismissed at any time – it is delegation of power, not of sovereignty.

Book I, ch. 6: justification of educational dictatorship. Both the individuals and the general will must be taught to see the good. This is based upon Rousseau's distinction between the general will in potentiality and actuality, laws, etc., and the general will and finding itself. (See *Discourse on Political Economy, Everyman*, pp. 292 – 3).

French Revolution

1789 – 1791 Constitutional Monarchy formed by bourgeoisie (against the clergy and nobility).

1791 – 1792 Legislative Assembly draws up Constitution, which distinguishes between active and passive citizens on basis of property; abolition of monarchy announces end of period of bourgeois liberal domination. In late 1792 elections for National Convention on basis of universal suffrage (without property qualifications)

1793 New Constitution (never promulgated): Girondists arrested and Jacobin dictatorship established in summer.

1793 – 1794 Terror is mobilized against coalition of foreign enemies (England, Russia, Austria, and internal elements (clergy and Gironde))

Aims of the Tiers Etat: (1) abolition of feudal privileges and restrictions; (2) representation of their economic interests and National Assembly. It was this group (see Mathiez) which

transformed the struggle against foreign enemies into an imperialistic crusade against all of European monarchy.

The Terror was for the most part two – edged sword, directed against both Right and Left. Only just before their downfall did the Jacobins transform their political revolution into a full-scale social revolution and held the persecution of the *sans-culottes*.

I Thermidor (August) 1794 – Directoire: Instituted “white” terror far more ferocious than that of the Jacobins. Abolished 1793 Constitution, all political parties, 1795 new Constitution bases voting on property.

Abbé Sieyès- right wing Girondist: *Qu’est-ce que c’est le Tiers Etat?* (1788 – 9). Defined the Estate as productive classes and those governed by general laws of society. The others – nobility and clergy – are actually foreigners to the nation.

Sieyès concept of “reason” against “fact” : principles of reason, never the established facts, is the sole progressive force in human history.

Ideas of happiness and liberty are redefined in material terms. And gradually the “nation” becomes identified, not with the Third Estate, but with the “people” – i.e. The lower classes. The leaders of the people took as their leading – cry the word “virtue”.

At first not primarily used as a moral term, it became under Robespierre the directing idea of the Revolution and was used as a moral terms – as an attack on luxury, waste, etc. This change reflected the need to postpone material benefits of the Revolution until the enemies (internal and external) were defeated.

The term “volunté general” came first to rest in the Third Estate; then in the productive classes; then in the lowest (poorest) strata of the population. The reason is clear: only these possess “virtue” because they have no interest in exploitation, corruption, or vested interests. These were considered not as a class but as representing the will of the people as a whole.

As the Revolution proceeded, the connection between political terror and absolute sense of morality became more firm (for precedents, see Savonarola and Calvin). For Robespierre, the “people” could be ruled by reason, but the enemies of the people, only by terror. The achievement of happiness and liberty must be subsumed under the necessity of first building the institutions which allow the promise of happiness.

The Jacobin leaders insist upon absolute unity and indivisibility. All opposition is criminal until the Revolution has established the institutions which will preserve liberty. Saint-Just: “ the Republic is the total destruction of that which opposes the Republic.” Robespierre: the means of democratic government in time of revolution is the combination of virtue and terror: terror

without virtue would be sinister; virtue without terror would be defenseless. “The government of the revolution is the despotism of liberty against tyranny.”

Robespierre's speech “On Representative Government” (May, 1793): revolution must defend “la liberté publique” against the government (a collection of private wills). He refers directly to Rousseau. But the people cannot be at the same time legislative and executive bodies of society – the general will always acts in general directives; the executive is concerned with particular acts. Rob Spear proposes the building of a huge hall to accommodate a large portion of the people of Paris, so that the general will might always exert itself against the government.

“On the Principles of Revolutionary Government” (Dec. 1793): identity of subjects and objects of oppression: the committees are the self-imposed dictatorship of the Convention (and thus of the people).

Social and political institutions should serve to purify the morals of the people. The “cult of the supreme being” is intended to develop an instinct in every man which will enable him to do good and to avoid evil.

Justification of despotism by minority: the “Empire of reason” encompasses the sphere of objective natural laws governing society. Thus a few may claim to reform and established order according to dictates of reason. The objective is the establishment of “public liberty”, ie. The social conditions which will enable individual liberty to flourish later on. Robespierre: “the Revolution itself is the passage from the realm of crime to the realm of justice”. It is transitory, for its sole function is to create the preconditions of freedom and peace. Of necessity it uses illegal means.

The Conservative Reaction.

A. General: Burke, Bonald (*Théorie du pouvoir*), de Maistre (*Considérations sur la France*)

1. de Maistre, a great political thinker, bitterly criticizes bourgeois society from a standpoint of traditional, aristocratic, religiously orthodox views and in this he is hardly surpassed by Marx.
2. Burke and, to a lesser extent, Bonald are blind to importance of new issues.
3. For these thinkers the French Revolution is the great turning point – the catastrophe – in the history of Western civilization. To them the French revolution subverts the very base of Western society. The execution of Louis XVI was a symbolic act by which the revolutionaries refused God and the divine sanction of society. The conservative critique takes the form of an attack on all we of thinking of the Enlightenment, specifically on rational and independent thinking.

4. Ideological basis of critique – criticism of natural rights, natural law, and social contract (except on religious basis); of egalitarian tendencies – is organic conception of society. Society resembles an organism according to nature, having its biological health and sicknesses: the object of this theory is to limit human interference with social order and to limit the degree of human freedoms.

The concept of nature in this critique has the sole function of emphasizing the role of God in fixing the social order. The entire complex of problems associated with legitimization of authority on rational grounds and former thinkers is thrown out and soul sanction becomes divine one.

5/4

1. Rationalism and political tenets of liberalism are chief targets conservative critique, its main weapon being idea that man must not interfere with natural order of society. It is anti-rational and irrational, and ignores problems of legitimization of authority.

2. Main point of departure is attack on notion of social contract, and thus on fundamental basis of modern political thought, society derives power from consent of the governed. If society is based on contract, then it reflects human aspirations but these can change. Thus: no contract.

3. de Maistre: society is not the work of man, but of God, who ordains and unchanging order. A constitution is above level of rational men. In actuality Burke adopts the notion of contract only to give it an entirely new meaning, is a “primordial contract” above mere consent.

4. Extreme conservative a rational idea that “whatever is, is good” meets later concept of positivism and empiricism.

5. Natural rights are an anathema, except that natural right which protects the inherited tradition and resist change.

6. Structure of government is authoritarian and repressive. de Maistre - man never respect that which they themselves have made. Men demand that their passions be subdued. In all conservatives, there is marked dualism in respect to ideology: (1) is an indispensable instrument of repression of reason (as in Machiavelli, Hobbes, and Rousseau); (2) it is denigrated as means of operating government.

7. The role of prejudice and dogma is absolutely central. “Faith and patriotism are the great miracle makers of the world” (de Maistre). Man's reason must be bent to the double yolk: he must be born into set prejudices.

8. The theory is of course anti-democratic. An aristocracy of birth and wealth, divinely sanctioned, are the proper rulers.

9. The family returns from oblivion a central role in political theory with the conservatives: (1) because it is the institution through which property is transmitted. (2) it is the institution that in which the "useful prejudices" are ingrained on the child's mind.(3) paternal authority serves as model for social authority.

5/4

10. de Maistre: man is incapable of achieving anything useful by the use of his reason: "man is too wicked to be free."

Theory of Conservatism.

A. typology of dictatorship: political criteria

- 1) constitutional
- 2) Caesarist (Bonapartist)
- 3) totalitarian

B. constitutional dictatorship – dictator appointed by established government in times of crisis, ruling with absolute power but for a limited time. Well known in Roman Republic and in the emergency clauses of many Democratic constitutions.

Caesarist (Bonapartist) - dictator holding absolute power on basis of popular support.

Unlimited as to time. Napoleon I's first plebiscite: 3 million in favor, 1500 against; second, 3.5 million in favour, 8000 against. [All plebiscites have been arranged under favorable circumstances following long periods of unrest, insecurity, and corruption; also, they have been arranged under a *fait accompli*.]

Totalitarian – monopolistic concentration of power, extending over all spheres of public and private life (intellectual and natural, political and economic). Some argue that early historical examples are Diocletian, Constantine and later, Calvinist Geneva; but it is really a feature of modern industrial and technological society.

1. Regressive: [Hitler's speech, My New Order (English translation) in Düsseldorf before industrialists; argued that solution of economic problem was conquest of foreign markets. This is to show high degree of rationality coexisting with highly irrational ideology of race and leader.]

2. Revolutionary – fundamental change in basis of legitimacy in society; of progressive, then moving toward more rational institution, i.e. More capable of satisfying the material, natural and intellectual needs of the population as a whole.

A. Introduction.

Target of their attack is French Revolution, which to all of these was a major turning point in history. Reasons:

(1) subverted established property relations, in that landed wealth was displaced as file of political and economic power and replaced by commercial wealth.

(2) elevated rationalism and idea of reason as foundation of political order. To them reason is utterly incapable of organizing state and society – appeal is to “tradition”, which is actually identified with the totality of history. There is here a syndrome between fundamental irrationalism and a thorough going positivism which derogates all concepts transcending and undermining the status quo. For them all the experience is to be found in the past – history is the sole dimension of the verification of concepts and principles. But history is always a static, uninterrupted continuity of well-established traditions and prejudices.

(3) ideals of French Revolution – inalienable rights of man, social contract, equality – are false. Whatever civil and political rights exists are the gift of the sovereign, not privileges to be taken or fought for. The social contract make society a matter of convention – and one convention can be overthrown by another; it assumes that society is founded upon the wishes and interests of man on process of deliberations; constitutions, if authentic, are unwritten and sanctioned by God alone.

B. Attack on Social Contract.

the idea of social contract was formulated not as a historical proposition, but rather as a symbol of the belief that the foundation of society was the common agreement of all men, the meeting of individual wills on the main purposes of society. It was formulated as a contrary to the medieval view that there is a divine order of things in the social world.

The new society of modern times was founded upon the idea of contract in every aspect of its social relations – business, labor, marriage, etc. Thus, the conservative attack on the idea of the social contract is also an attack on the foundations of modern society.

(This distinguished from feudal contract as basis of feudal society: feudal contract a personal one relating to particular things; modern contract universal, impersonal, and made between supposedly equal parties. These are of course the characteristics of the social contract.)

For the conservatives the notion of “creating” society is absurd. Man, society, and sovereignty are born at the same power (de Maistre). History is an unbroken continuum: values and institutions are part of a tradition which may be adjusted but never broken.

Descartes and Hobbes = examples of philosophical positions of radical rationalism and empiricism respectively which coexist with attitude of discouraging inquiry into the foundation and origins of government and society.

Burke follows this: the origins are “shrouded in mystery” and should not be investigated.

Prejudice – issues that are not to be debated or examined, issues that have been prejudiced by the historical tradition.

[Main point: coexistence of highly abstract and mystical attitude along with a radical cynicism in the authoritarian conservative political tradition.]

Burke- hymn to prejudiced in Reflections (p. 98?).

de Maistre - when man's reason awakes, he must find all of his opinions especially those bearing on conduct – ready-made. Examples of highly important prejudices are religion and patriotism. There can be no morals, no peace, no government without these. Faith and patriotism are the great thaumaturges (magical or miracle working forces) of the world. People and their rulers know only two words: suppression and belief.

Property – for all of conservatives, landed property is essential unit of society and is foundation of political order. Necessarily exists in connection with “natural” aristocracy.

5/5

Liberalism.

1. Develops out of French Enlightenment, utilitarianism and Adam Smith's economics, and British empirical philosophy.
2. Basic tenets:
 - a. Common interest arises out of confluence of individual interests.
 - b. Men are equal economic units (applicable to entrepreneurs).
 - c. Equality before the law.

5/9

3. The common interest is preserved by society and upholds the harmony of common and individual interests.

4. Society of freely competing individuals; generalized into freedom before the law which applies to all men.

5. Adam Smith.

a. General welfare results from and is promoted by free pursuit of individual interests.

b. Assumptions: general interests served by conflict of past interests; economic equality extends only to competing individual merchants – mass freely compete in labor markets (competition determines wages). Thus relative equality within two groups exists with gross inequality between groups.

6. Politics.

a. Political freedoms are corollaries of economic freedom.

b. Link between liberty and competition is great (in Smith): maximize profits, calculate risks, eliminate danger. The free competitor has specific, identifiable individual responsibility and any suppression would be impossible.

7. Utilitarianism (Bentham): the end of society is the greatest happiness of the greatest number. But this happiness is quantitative and physiological (pleasure and pain). Happiness is pleasure, the maximization of mere vulgar pleasures.

Government can use pain to punish and pleasure to sanction i.e. Pain and pleasure can be used to calculate law, the degree of suppression needed and of freedom allowable.

5/16

John Stuart Mill and Liberalism.

A. Extent to which society can legitimately control actions of individuals. Important point is emphasis on society rather than government (link with Rousseau). Society now appears a fountainhead of suppression and problem of majority and minority becomes an important one (different again from Locke and Rousseau).

B. The only legitimate demand which society can make is self-protection of all its citizens from the abuse of another. Mill assumes that it is quite easy to determine in all cases whether or not the actions of an individual injures his fellow citizens.

C. Under no conditions can anyone decide what is good for another. He would have admitted that restriction on individuals are justified in name of national security: with the proviso that all aspects of “National Security” be fully and freely discussed in public. In the long run benefits of free discussion will outweigh dangers of this, this this is not true, then that society is no longer a liberal one.

D. Use of liberties – e.g. freedom of speech and writing – Presupposes existence of body of citizens who can think independently, whose thoughts are their own. Negatively, it presupposes absence of propaganda and indoctrination; the sources of information must be open to all at all times. Finally, it presupposes the existence of individuals (as opposed to “mass” behaviour) with their own desires and impulses.

5/18

Inalienable liberties for Mill are individual liberties, and as such presupposes existence of individuals rather than atoms in mass. The question was how to protect the individual against government, to determine the limits of the government powers over the individual. This was main concern of political theory since Machiavelli.

All these thinkers saw government as necessary. All agreed that in time the extremity the State had full powers of life and death; the question was for its powers extended over everyday existence.

By the time Mill writes, the problem has changed. Mill viewed threats as one of public opinion rather than that of government apparatus. Individuality was ability to think and feel freely. Basic underlying assumptions is that individuals are vehicle of (a) truth and (b) progress.

But it is by no means self-evident that truth is a value. (It is explicitly denied by Nietzsche and Ibsen). Man seems to need these illusions for daily life (Freud). Every political thinker from Machiavelli to Hobbes denigrated the truth—value of religion: yet every last one of them upheld religion as a good and social force.

Another assumption is that by individual search each man can find the truth. Yet why cannot the truth be embodied in public opinion? Because there is more than one truth: each institution “freezes” its idea of the truth and arrests its development. Therefore, each individual must be free to continually test these various truths, loosening the petrified values and leading to progress. This critical conception leads to recognition of particular society as one stage in historical process. Civil rights and liberties, in all modern theory, are rights against institutions of society. (To great extent modern liberties arise in struggle against church; and in struggle between church and state).

In Mill's theory rights have to be protected against public opinion, against the majority. [Close connection between political liberalism and empiricism.]

Yet is this formulation justified? In Athenian democracy we have an example (with great exceptions) where there was hardly any difference between society and the sum total of all individuals.

Already in Mill's liberalism the state assumes a positive role. (In Smith's idea the basic assumption is freely competing individuals, as a means of harmonizing partial interests and general interest). When Mill writes the first Industrial Revolution is over. He observed that equality of opportunity no longer existed, and thus it was the function of the state to restore that equality in order to fulfill the goals of liberalism.

Mill realized that preconditions for liberalism did not yet prevail, because of restrictions on freely-competing individuals. The state must intervene to create the preconditions. Liberalism seems almost naturally to turn into socialism in order to realize itself.

Thus, we are led back to Utilitarianism. It starts with valid presumption that, before all else, man's vital needs must be satisfied. Happiness is a moral value.

If this happiness can only be gained by restricting that of others, then 1) something may be wrong with that individual, or 2) society may be at fault, or 3) it may be universal law of nature.

The basic question: Is it justified to repress freedom in the present in order to secure the preconditions for universal freedom later on?

If so, how can this legitimate unfreedom be limited? Total repression was not even real for Marx: he assumed that at some point the prevailing under-privileged would overthrow the system.

The historical question is always then, whether the existing state of repression is rationally justified.

Mill: freedom is possible only if one does not have to live in a condition of unfreedom in order to satisfy one's basic needs.

Liberalism.

English Bill of Rights (1689) – first constitutional document of liberals.

Main tenets:

1) economic: freedom of competition, trade, enterprise.

2) political: representative government, civil rights, rule of law

Fundamental philosophical foundation: Reason and Natural Law

1. Natural Law -laws of nature and laws of society. On basis of this liberalism can oppose all interference of government in working of social laws. Free play of economic self-interest leads to best form of society: model of all this was Newtonian Sciences.

Units of society – individuals – are moved by principle of utility i.e., Seek pleasure and avoid pain: result is greatest good of greatest number.

2. Universality of equality – all individuals, possessing reason, obey the fundamental laws of nature and society.

3. Only if units of society act as rational units, capable of knowing and understanding the laws of society, can the principle of civil rights and liberties – freedom of thought, speech, press – work for an orderly society.

4. Just as the validity of physical laws can be demonstrated to all beyond a shadow of a doubt, so with the laws of society: there is simply no problem in ascertaining the general interest since all can see it.

The ideal form of government for classical liberal writers was the constitutional monarchy. Thus the connection between liberalism and dictatorship existed in embryo in the beginning. This followed from their idea that a minority was capable of ascertaining the general interest and from their ignorance of the wishes of the great majority of people.

[Merceau de la Riviere: The Natural and Essential Order of Political Societies (1769) already laid the foundations of legal despotism.]

Liberal economics – value is determined by the amount of socially necessary labor which is put into each product. There is an exchange of equivalents: everyone gets in return exactly what he offers, and all inequalities are soon ironed out by the law of supply and demand.

The idea of objective truth – available to everyone – supports the variety of civil liberties. Since all individuals are equal as rational beings, freedom of speech, press, etc. will iron out differences in perception of truth; no single person or minority can claim a special perception. Another precondition is that all material necessary for arriving at the truth is freely available and that they have adequate time for such activity.

Paradox of liberalism: free society presupposes free individuals.

Thus in a society of physical and intellectual repression, violence and perhaps terror it is necessary to effect a transition to a liberal society.

Function of civil liberties in society.

- 1) discussion which obliges the institutionalized powers to search in common for the truth.
- 2) openness of debate, to enable citizens to control the government.
- 3) freedom of the press, to provoke citizens in a search for truth, to express and communicate the truth to the powers that be.

Thus in the ideal liberalist government, the largest item in the budget would be allocated to general education for everyone.

In their gestation the liberalist civil rights were expressed in the form of “freedom from”. They eternally presuppose the existence of a rational individual who understands his own aspirations, needs, and faculties.

Classical liberalism operates on the assumption that once the fetters of past oppression are removed, indoctrination further is impossible. Once liberation is achieved, the rational faculties can operate freely. Man is not necessarily inherently good in this conception – he is really neutral, capable of reacting in different ways according to the type of societal pressures put upon him.

-> Preconditions for achievement of liberal society must be created.

But who is to accomplish them? Struggle against prevailing powers implies postponement of the basic liberties – thus the formulation of the ends of society.

For Locke the answer is clear (paragraphs 123-4 134); the end of society is the preservation of property. (In von Mises' Liberalismus (1927), the same definition is given).

Barnave (orator of the French Revolution), quoted in Laski, pp. 232-3: the basis of democracy is "movable capital"; the degree and strength of democracy is in direct relation to that of movable capital.

Locke: value – property – derives from labor but in a developed society, where this notion could not possibly be applied (i.e. Even in Locke's time), money may be substituted – with the limitation that nothing in excess of usable value is possessed by the society as a whole. The determination of use is simple: as long as goods are being sold, their protection by society is assured.

For the Jacobins “the people” meant to the poor. Robespierre argued that the poor were the least corrupted of all the social strata; they have no vested interest in the existing order (also they were the majority).

In what way is the transition from a program of gradual education and reform to revolutionary situation based upon direct popular action and inevitable process? The best answer is the history of the French Revolution: the leaders of the Terror began as convinced liberals.

Education for the liberal theorists meant simply basic elementary skills – reading, writing, arithmetic, and morality.

Summary: Contradictions in Liberalism.

(1) role of property – in developed society, loses its original meaning of “extension of personality”; lower classes excluded; money in which form each man's labor becomes mixed with others – becomes predominant.

(2) education – liberalism starts with concept of reason has prime driving force in society; the human mind is a *Tabula Rosa*, a “blank sheet” (Helvetius), upon which the legislator seeks to write the social laws: for most of the liberals the safeguard against a bad legislator was freedom of the press.

Legislative education was launched in the hands of the established government. None of the liberals were revolutionaries. But some at least saw the implications of the theory in that education might cause people to desire the overthrow of the established order thus to Diderot and Voltaire, for example, explicitly stated that education must not disturb the existing division of labor and that the vast majority must only know how to cultivate the soil.

Education is only one of the functions of the government assigned to it by the classical liberal theory; others – administration of justice, prevention of monopolies, national defense, and public works (cf. Smith, *Wealth of Nations*, book 4, end).

Education’s purpose is to make everyone a good citizen (see e.g. Turgot and Condorcet). This was necessary in order to fit people for the new social division of labor – thus what they had in mind for the great majority was vocational education. How it would make people more productive and more proficient.

What really divided the Enlightenment thinkers was the question of property. The left wingers – Morelly, Mably, Linquet, Meslier – while agreeing with the harms of liberal society, demanded that the institution of private property be abolished.

(3) economy – only if the nature of economic activity remains then free individual entrepreneurs competing with equals will liberates remain true to its original conception.

(4) toleration – government has no rights in areas of press, speech, religion – they may not legislate even if the people demanded. But there are grave limitations; (1) atheists are not be tolerated; (2) administrators must promote moral action.

(5) major paradox: the individual has to be free in order to become free (or natural harmony between self – interest and general interest to be created by artificially imposed harmony).

Liberalism has attempted to resolve this in two ways:

(a) education to ameliorate repressive social conditions gradually;

(b) of those who saw the impossibility of this in removing the vested interests, – the theory of those like Rousseau – advocacy of direct action by representatives of the majority.

Decisive change in the "target" of liberalism in its historical development from the established order (i.e. The government) in the early thinkers it changes to the society itself, in Mill (in the form of "public opinion") or, in other words, from the minority to the majority.

Physiocrats (Turgot, Condorcet, etc.) developed notions of natural law applied to organization of agricultural economy, directing their attack against the feudal structure. In England, where Ind. Rev. was beginning, liberalist economic thought represented by Adam Smith and Jeremy Bentham. In Germany, von Humboldt.

This change in the target of liberalism can be best seen in the changing meaning of the term "the people".

1. England – not until 1884 good working class receive the franchise; not until 1918 were remaining restrictions removed.

2. Continent – general universal suffrage granted 1870 (in Germany, not in the local elections until 1918).

Civil liberties were generally not repressed during this whole period. But of course the entire economic structure – in which the laboring classes were forced to spend all of their working hours and work – militated against any development of free and autonomous individuals.

All this occurred with the liberalist framework. Thus when a new force arises – namely, the Socialist and Communist movements – the liberals feel themselves threatened by the very things which they supposedly supported. For the radical spokesman accepted the liberalist idea

of a free and rational society; but they challenged the liberal notion of natural laws of social development: society for them was a historical, not a natural fact.

Obviously “the people” were outside the liberal framework, if we consider them (as did Robespierre and Saint Just) as the majority of the population. But by the second half of the 19th century the expansion of industrialism had led to increasing material benefits – and following this increasing sociopolitical importance – for the laboring classes, to the point where “the people” can be identified with the majority.

At this point the tone of liberalism changes. Ideally liberalism should have been at this point without an enemy. But for J.S Mill, and others like him, “the people” took on an ugly cast and could no longer be considered a spokesman of the majority.

From Aristotle onwards the outstanding thinkers have seen that the ideas of freedom and liberty cannot pertain to those who are condemned to labor for the greater portion of their working hours, who must spend their life in procuring the necessities of life.

During the last part of the 19th century “the people” begin to be fully integrated into the established society. At this point there is a great divide in political theory, between those who think that liberalism can be reformulated to account for new developments and those who appeal to that part of “the people” not yet integrated – the working classes – in the name of a new social theory (socialism and communism).

For Mill the new problem was the “tyranny of the majority”. But he still viewed this as the result of improper education and training of the majority. The protection of threatened minorities he left to the freedom of speech, press, and communication – upon whose absolute guarantee he insisted – which would at least ensure that each man's opinion would be his own. These two last propositions Mill insisted upon as the irreducible conditions of liberalism.

Summary: in classical liberalism civil liberties – free speech, press, assembly, etc. – Are correlated with the economic principles of free enterprise and free competition. But in the last half of the 19th century new economic forms of organization growing out of free enterprises itself subverted the foundation of liberalist economics (especially with the Corporation). Thus even Mill, towards the end of his life, was forced advocate socialist measures in the economic sphere in order to ensure the political goals of liberalism.

Reason for shift in political theory from France and England to Germany:

Because of its division into feudal principalities – political backwardness – German thinkers developed in the realm of thought what the other developed in practice (Marx: Germany always accomplishes its revolutions in the area of thought). Kant's *Kritik* is the intellectual

counterpart to French Revolution). Cut off from practice, theory becomes freer (i.e. not impeded by constant need to measure theory against reality), more pure, more abstract, and more important.)

Idea of Reason = according to Newtonian conception, “reasons” is in the nature of things (in nature – and society – itself) and thus can be understood by human understanding.

This conception was inverted by German idealism: reason is in the mind, and has the power to organize the phenomena of the natural and social worlds according to its own conceptions. This is not subjectivity since we can no objects only insofar as they correspond to the rational structure of the mind, the structure has the highest possible objectivity. Secondly, it's attributes to human reason a range of power never before claimed – it is an extraordinarily active theory of mind, as compared with the passive Tabula Rasa of the empiricists. The moral order follows from this – it's sources human reason above, and it imposes its moral imperatives upon the world.

All of the German idealists enthusiastically defended the French Revolution.

Politics: legitimacy of political organizations must be derived only from the concept of freedom and no other (not even happiness). The aim of society is neither happiness nor security, but rather self determination of individuals according to the categorical imperative. The three qualities of civil society are liberty under law, civil equality, and independence (Bürgerlicheselbständigkeit).

On this standard the shopkeeper is free whereas the wage laborer is not, because the latter sells himself, whereas the former sells only commodities.

Fichte.

The real world is the intelligible world (Geistigewelt).

The material world is a system of images which received real content only by the working of the human mind.

Philosophy is knowledge concepts (as against the common sense understanding of things, mere unreflective perception): thus philosophy is in constant conflict with common sense understanding and also those institutions in society which support it.

Philosophy of the state:

The state cannot be a mere expediency: it pertains to the very essence of man, and thus can be derived as a pure concept of reason (not true, of course, for the forms of the State). The state

is actually a moral institution whose function is to create the conditions under which the freedom of man can operate.

Kant.

1. Uncompromising liberalism and authoritarianism exist side-by-side in his writings.
2. Civil society is built on contracts, in which individuals agree how to use each other (matrimony is a contract between individuals to use each other's sexual organs for life) see relations among men are as relations among things. The merit of individuals is considered in terms of contribution to society.
3. Property arises from legal sanctions. A valid justification of property can be abstraction. At one time all property was held by society; it was subsequently parceled out by decision of the general will.
4. Society requires legitimate unfreedom, general restrictions and restraints. The mechanisms of artificial unanimity and said that consent must be created to make citizens amenable to the purposes of the government. Then certain elements of the population can guarantee the order and unanimity of the whole.

Kant viewed whole of society as based on contract: all ideology is discarded. He is the direct heir of the Enlightenment in subjecting established conditions to the critique of reason: the rationalism stands opposed to empiricism, which regards facts as the last tribunal. To be viable ideas must be critical. Far from being an empty concept, human reason becomes a dynamic realm of higher values which judges the established order.

In a social system, politics is contained within the sphere of ethics he was concerned with establishing absolute moral principles (the categorical imperative! No man should be used as a means to an end, but always as an end).

In his essay "What is Enlightenment?": Great mass of men must be maintained in state of immaturity, because there is no natural common interest (if individual interests are to be allowed free reign). Established law and order is infinitely preferable to any change, no matter how great its future benefits. But in this essay he also stated that children should be educated to criticize the existing order and that the wealth of the few increases with the misery of the many. On balance, however, Kant emphasizes the maintenance of the established order under all conditions.

(1) origins of political society must not be investigated, and the fiction of divine sanction should be instilled in men's minds.

(2) there must be no change from below; reform may only come from the established institutions. The whole – as represented in the institutions of society – is greater than the sum total of individuals.

(3) as rational examination of the origins of private property can justify its existence. Thus, he argues that originally all property was owned by the society but sometimes the general will decreed that these should be private property.

(4) the defense of existing order follows Hobbes: ruler has rights and no duties. Thus, execution of monarchy is attack on very idea of right, law and order. (Individual ruler is embodiment of universal). Ruler is supreme owner of all things; and right of resistance is completely rejected.

However:

(1) all constitutions must correspond to the “Principles of Freedom”. (Freedom must be the condition of all compulsion). But freedom can only be individual freedom: (a) all societies are by nature under free; (b) must be reconciled with legitimate unfreedom necessitated by society. In other words, unfreedom came about through choice of free individuals.

(2) a rational society must be under the rule of law, this is the only way in which individual freedom can be reconciled with legitimate unfreedom of society. Compulsion of law must always come from within.

(3) once a revolution has succeeded, the revolutionary government can justly claim legitimate authority and a new principle of right takes over. Kant regarded the French revolution as the greatest event in Western civilization. Louis XVI effectively transferred authority to the people by convening the States-General. (For his eulogy on the French Revolution: “Conflict among the Faculties.”)

These conflicting principles are resolved by distinction between legitimacy and right. What is legitimate is not necessarily right.

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Kant defines freedom as autonomy: free is the human being who is the own legislator of his life, who gives himself the laws of his behavior; this is accomplished by virtue of his pure reason. Negatively, if his reason is not governed by sensuous drives; positively, subjecting all immediately given conditions to the tribunal of reason, then he is free.

Thus, freedom and reason are one and the same thing. Reason is universally valid faculty to which all can attain. Rules guiding one's own conduct must be formulated so that all will agree: the common and individual interests are one.

Kant distinguishes between public and private uses of freedom. Public use of freedom (i.e. That which scholars exercises in relation to reading public) must remain unrestrained; but private use (all else) must be restrained.

“Public” use of freedom is that which can and must abstract from specific empirical conditions under which individual lives, thinks, and acts. Man is too involved in everyday activities – involving constant and necessary compromises to recognize universal truths. Only those who by training are remote from everyday activities are capable of exercising freedom (akin to “philosopher kings”)

Freedom and compulsion: Individual must act according to his pure reason: this is freedom. As soon as individual becomes involved in everyday activity he departs from realm of freedom: this unfreedom is a prior condition of social existence. General legislation is therefore required to regulate the relationships in society; this is compulsion. But this compulsion is designed solely to remove the impediments to individual freedom. Law, right, or justice is simply the universal form of this compulsion.

Freedom is the guide to moral, esthetic, and even to political action. The line of development from Kant via Fichte and Schelling to Hegel (German idealism) – at the end of which the connection between freedom and action is clear – is a direct one.

The “pure doctrine of right”: concept of pure reason, a priori, valid independently of any empirical verification. This is an attempt to base political philosophy on the idea of pure reason. This is different from all other Enlightenment uses of the term “reason,” in that all other thinkers used the term as synonymous with expediency – reason is the same as “reasonable.” Also, that society as well as nature is governed by universal and necessarily valid laws.

But for Kant, the principle of universality is human reason itself. On the basis of this we must assume a pure concept of right upon which all specific empirical concepts of right are based.

Freedom:

- 1) In the negative sense, it is the ability to act independently of sensuous motives and conditions, i.e., not only independently of sense perception but also of passion and desire. [Note here Kant’s theory of mind: active and productive, as contrasted with its passive quality in British empiricism.
- 2) In the positive sense, as the ability to act in accordance with principles of pure reason: self-determination in practice under the categorical imperative.

The “person”: Man insofar as he is obedient to no law except what he gives himself; he is a citizen also if and when the positive law corresponds to the moral law.

General Principle of Right: “every action is right if it is compatible with the freedom of every other individual in accordance with general law” (i.e., the maxim of this action can become the maxim of any other action without injuring anyone). Right is the concord of general mutual constraint and general freedom.

Law.

- 1) Positive: actually existing legislation of various governments.
- 2) Natural: principles that are applicable to each and every human society.
 - a. Natural rights: all those which make possible the harmony of “Right”; these form the “privatrecht,” the rights of the private person.
 - b. Civil Rights: public law governing the individual as citizen, which is adjusted to conditions regulating specific societies at specific times.
 - c. Private property pertains to the domain of privatrecht (or mein und dein); it is a pure concept, a priori, and thus universal, as an inalienable right of the person; but it is secured by civil law.

Intelligible possession: an a priori concept, pure principles of reason universally valid, upon which all forms of empirical possession are based.

Problem: By what right do I call things my property which I do not possess (in a physical sense) at the moment? But, since this is actually the case, then it follows that there must be a pure concept of property involved. This is derived from an a priori postulate of practical reason, namely, “that which is useful should not remain nobody’s property.”

The State.

Definition: Union of a multitude of men under laws derived from the principle of Right.

Legislative power can only be exercised by the united will of the people. Qualities of the citizen: liberty under law, civil equality, and civil independence (i.e., one must be entirely independent of the will of others in order to be a citizen). The legislature cannot rule wrongly, since there is no higher judge of its actions.

All modern political theorists (including Kant) agree that the State exists for the preservation of the inalienable rights of man.

But for Kant there is one [supreme] right: freedom. All others are accidental. Freedom applies to the person, as a moral being, as a subject of self-constraint, as an autonomous individual, as subject to the general law which combines my freedom with that of all other persons. There

must be also an external sphere in which a person's freedom manifests itself, and this is property, the distinction of *mein und dein*, which is thus closely linked with the inalienable right of freedom.

Kant starts with the notion of an original common property in the soil. Thus, appropriation of private property is just because (a) it originally belonged to no one, and (2) property must be used, and only a person can use it. But this attempt to establish private property as an a priori concept pertaining to the essence of man as a moral person fails, because it ignores the fact that the first possession is actually accidental (whoever happened to be present at the time), and thus it cannot be a universally just act.

Kant rejects the labor theory of value (Locke) by saying that no one has the right to mix his labor with the common property in the first place.

The State (cont'd).

It exists to preserve the freedom of the person, for freedom pertains to the very essence of the state. Thus any form of government which succeeds in preserving the freedom of the persons under its charge is a good government. But the origins of government should not be investigated, and the existing government should not be questioned or resisted: submission is necessary for the preservation of the aspects of freedom which exist at the moment. There is no institutionalized right of resistance, for there cannot be a judge of legitimacy who is above the people; only gradual reforms should be attempted.

Public and private freedom: The public use of freedom, e.g., the scholar [who stands] before the universal reading public, may not be restricted under any circumstances; but the private use of reason, such as the freedom of a civil servant in his office, may be restricted.

The difference between the Liberal – Enlightenment concept of reason and that of Kant:

- 1) The former sees the world of nature and society as containing all objectivity, operating through fixed laws of development; the latter sees all objectivity as grounded in subjectivity, i.e., in the very structure of the human mind itself which imposes its categories of understanding upon the outside world.
- 2) The former sees the interplay of private interests as automatically resulting in the free and rational society; the latter requires active participation of the intellect – moreover, Kantian reason circumscribes the sphere of sensibility according to its own principles (in this sense it is repressive and domineering).

- 3) Idealist philosophy marks a turning point in political theory – it cannot be Liberal, because there can be no automatic confluence of private wills resulting in the general welfare. [Idealism] derives the idea of the authoritarian state from the necessity of suppressing the disastrous conflict of private interest in modern society – a conflict which can only be resolved by establishing an absolute authority over and above society which will harmonize and regulate private interests.

Freedom is a moral concept, the autonomy of the person in the intellectual and moral spheres. It denigrates distinctions of political organization, although both Kant and Fichte considered a republican government to be the most conducive to the reality of freedom.

State and Society.

The State has the function of establishing those minimum social conditions which will enable man to act according to the Categorical Imperative. Thus the end [purpose] of the state is a moral one. This exalted function requires that the state must have independent power over and above the rest of society.

The political philosophy of German Idealism accepts the familiar distinction from other theories between self-interests and the general interest, private and public wills, individuals and citizens; these are forms of the basic gap that cannot be bridged. Thus the Sovereign must be outside of these basic conflicts so that it may adjust them impartially.

Fichte's *Ueberrecht* (freedom): Man is free if he is the cause of his own existence in the material world, i.e., if he really determines his own life. But this freedom must be compatible with that of all other persons, according to the Categorical Imperative. Thus, again, an impartial agency, equipped with unconditional power and standing over and above society, is necessary; this is the state.

Hegel.

Preface to *The Philosophy of Right*: "What is real is rational, and what is rational is real." Not everything that exists is real. Reality corresponds to the *potentiality* of existing forms of life; their actual existence is a barrier to the fulfillment of their potentiality. Thus, there is an eternal conflict between existence and reality.

All things occur within an historical framework: thus, the central role of the philosophy of history in Hegel's philosophy. History reveals "progress in the realization of freedom." Reality is the realization of reason, a process that takes place in history and that is the end [purpose, goal] of history.

State and Society.

Civil society is torn apart by irreconcilable conflicts, the basic one being that between particular wills and the general interest. Thus, the society needs an outside force which can tame and reconcile the terrible conflicts which would otherwise tear apart the framework of society; this is the state. (It differs from Hobbes' *Leviathan* in that it has a moral and ethical function, whereas the Englishman's is purely efficient power; also, whereas for Hobbes there are no limits, for Hegel the state is based on the rule of law which must be of universal validity.

The state is the highest institution of human society. For Hegel the best form of the state is the hereditary constitutional monarchy; admittedly, this rests on the irrational principle of birth, but in dialectical fashion this irrationality becomes rational in that it is the only way to preserve the structure of that society as it is (namely, in its irrational character).

Reality itself is divided into possibility and actuality: there is in the essence of Hegel's philosophy a tension between the "given" and the "ought."

Philosophy of Right, paras. 243-245: The increasing gap between wealth and poverty threatens the existence of society. What is needed is a state powerful enough to solve this primary problem.

Freedom is the end of alienation, the state in which the Subject finds harmony with the Objective world. This has obviously not been achieved in the 19th- century state; only in the realm of thought is it accomplished, and this is the highest sphere of human existence.

Freedom is existing and acting on the basis of a comprehensive situation. It ceases to be primarily a quality of the individual {as yet in Kant and Fichte} or Subject and becomes part of the Object (which includes the individual); concisely, freedom is "to be oneself in others." Hegel thus asserts that alienation is a necessary part of existence; freedom is not now only a *condition*, but a continuous *practice*, activity: it is liberation. Man must be reconciled to his alienation through the historical process.

Reason asserts itself in the concerted effort of man to negate existing conditions and to transform them into others more suited to his nature. Man finds himself in a world not immediately suited to him {Object}; through history a reconciliation can be achieved between Subject and Object. Historical reason accomplishes its ends "behind the backs" of individuals (who act on the basis of personal wants and ambitions). Freedom is always achieved in the whole – but never on the basis of the enslavement of individuals, only restricted by conditions of necessity which apply to the whole. Thus man can be free only insofar as he understands the requirements of necessity at every given historical epoch. Comprehensive and understanding consciousness are thus indispensable components of freedom. (Only the concept is real.)

Note: Topics for final exam:

1. Decisive difference between medieval and modern political theory
2. Problem of right of resistance in medieval and modern political theory
3. The social contract
4. The law of nature, state of nature (natural law)
5. Conflict between liberty and authority