



THE PLURALIST THEORY OF THE STATE

*Selected Writings
of
G.D.H.Cole, J.N.Figgis, and H.J.Laski*

*Edited by
Paul Q. Hirst*

**Also available as a printed book
see title verso for ISBN details**

THE PLURALIST THEORY OF THE STATE

English political pluralism is a challenging school of political thought, neglected in recent years but now enjoying a revival of interest. It is particularly relevant today because it offers a critique of centralized sovereign state power. The leading theorists of the pluralist state were G.D.H.Cole, J.N.Figgis and H.J.Laski, and this volume brings together their most important ideas, making accessible a crucial body of work on radical political theory. It includes their major writings, mostly out of print and difficult to obtain, and here gathered together in an anthology for the first time.

Current in the first two decades of this century, English political pluralism offered a convincing critique of state sovereignty and proposed a decentralized and federated form of authority—*pluralism*—in which the affairs of society would be conducted by self-governing and independent associations. Paul Hirst's comprehensive introduction situates English political pluralism historically and gives a critical account of its main theoretical themes and the debate surrounding them.

The book will be of great interest to those who see radical reform as vital for the future health of democracy, to students of political theory and the history of political thought, and also to students of jurisprudence and legal theory interested in the pluralist debate as it affects the concept of legal sovereignty.

THE PLURALIST
THEORY OF THE
STATE

*Selected Writings of
G.D.H.Cole, J.N.Figgis, and
H.J.Laski.*

EDITED BY PAUL Q.HIRST



London and New York

First published in hardback 1989
Paperback edition first published 1993
by Routledge
11 New Fetter Lane, London EC4P 4EE

This edition published in the Taylor & Francis e-Library, 2005.

“To purchase your own copy of this or any of Taylor & Francis or
Routledge’s collection of thousands of eBooks please go to
www.eBookstore.tandf.co.uk.”

Simultaneously published in the USA and Canada
by Routledge
29 West 35th Street, New York, NY 10001

© 1989, 1993 Paul Q.Hirst for the introduction
and collection as a whole. (c)

The Cole estate for extracts from *The Social Theory*. (c) The Laski estate
for extracts from *The Foundations of Sovereignty and Other Essays* and
Studies in Law and Politics.

All rights reserved. No part of this book may be reprinted or
reproduced or utilized in any form or by any electronic,
mechanical, or other means, now known or hereafter
invented, including photocopying and recording, or in any
information storage or retrieval system, without permission in
writing from the publishers.

British Library Cataloguing in Publication Data
A catalogue record for this book is available from the British Library.

Library of Congress Cataloging in Publication Data
has been applied for.

ISBN 0-203-98600-8 Master e-book ISBN

ISBN 0-415-03371-3 (pbk)

ACKNOWLEDGEMENTS

I am grateful to the Cole and Laski estates for permission to use copyright material.

I wish to thank Phil Jones, Kelvin Knight, D.Nicholls, and Jonathan Zeitlin for help and advice in preparing this volume.

CONTENTS

<i>Introduction</i>	1
<i>Suggestions for further reading</i>	46
PART I: THE SOCIAL THEORY by G.D.H.Cole	
1. Some Names and their Meaning	51
2. The Principle of Function	61
3. The State and Inclusive Association	69
4. Democracy and Representation	83
5. Government and Legislation	93
6. Coercion and Coordination	101
PART II: CHURCHES IN THE MODERN STATE by J.N.Figgis	
7. The Great Leviathan	115
PART III: THE FOUNDATIONS OF SOVEREIGNTY AND OTHER ESSAYS by H.J.Laski	
8. The Problem of Administrative Areas	133
9. The Personality of Associations	165
10. The Pluralistic State	185
PART IV: STUDIES IN LAW AND POLITICS by H.J.Laski	
11. Law and the State	199

<i>Bibliography</i>	229
<i>Index</i>	237

INTRODUCTION

The purpose of this book is to put a neglected but important body of work back on the current agenda of political theory. English political pluralism—represented here by selections from the work of its three major exponents: G.D.H.Cole, John Neville Figgis, and Harold J.Laski—offers a vital and missing contribution to the very active contemporary debates on the problems of democracy and the forms and directions of further democratization of both state and society. Political theory has once again become a politically consequential discipline and one directly concerned with the institutions of state as an object of theoretical reflection. These debates on democracy and the problems of modern government have interrupted the long period of torpor in political theory.¹

Since 1945 the majority current in political theory has taken liberal democracy and representative government as its point of departure. The experience of Fascism and Stalinism discredited a variety of alternatives to and critical views of representative democracy. Thus Anglo-American liberal individualism has dominated, with considerable challenge in the 1960s and 1970s from the sub-text of its Marxist critique. Both excluded consideration of specific constitutional and political issues in relentless forms of abstraction. For the liberal individualists this takes the form of the analytic exploration of concepts like obligation, rights, liberty, equality, etc., in virtual isolation from politics—the vitality and success of representative democracy being taken for granted. For the Marxists constructive engagement with specific forms of democratic government and constitutions as ongoing entities was impossible; they were merely objects of critique. Such ‘bourgeois’ concerns are of no value because the ultimate aim of Marxism is to smash the state and abolish

2 INTRODUCTION

government as such, and in the intervening period to rely on post-bourgeois forms of popular democracy.²

English political pluralism shared with the classical political theory of the seventeenth century to the nineteenth century a primary concern with political institutions, but it offered a critique of the institutions founded on and justified by classical political theory. Its main objects of attack were the theory of unlimited state sovereignty developed by Bodin and Hobbes, and refined by John Austin;³ the theory of popular sovereignty vested in a representative national government inaugurated by the French Revolution, and in substance little more than a democratization of the claims of royal absolutism; and the theory of representative democracy as embodying the 'will of the people'. Central to pluralism were the belief in the vitality and the legitimacy of self-governing associations as means of organizing social life and the belief that political representation must respect the principle of function, recognizing associations like trade unions, churches, and voluntary bodies. In the pluralist scheme it is such associations that perform the basic tasks of social life. Pluralism is strongly anti-statist in its basic principles. Respect for the autonomy of associations freely formed of citizens and the principle of functional representation both involve a limitation and not an enhancement of the scope of state power. It is thus quite unlike other schemes of functional representation, such as Mussolini's corporativism, which compulsorily mobilize social interests to provide legitimacy for an unreformed centralized sovereign state power. The pluralists differed on the extent to which functional representation was to supplement or to replace bodies elected by citizens organized in representative territorial constituencies. But all the pluralists sought to replace a centralized state which claimed a plenitude of sovereign power, and which must if it followed the logic of its own claims regard all associations as its own creations existing by concessionary licence or as mortal threats to its own existence, with a state in which power and administrative capacity were diffused to autonomous functional and territorial bodies; to self-governing associations and to local authorities.

English political pluralism labours under a difficulty in that it shares the word with a different, influential, and contemporary conceptual scheme. 'Pluralism' is a familiar term in modern social science. Its main contemporary meaning refers to a body of modern American political theory which defines democracy as a

form of stable and institutionalized political competition.⁴ In this competitive process a plurality of organized interests strive to control government through taking part in electoral contests and/or strive to influence the policies a government adopts, and in either case each of the competing interests has some reasonable chance of success in the contest for office or influence. Inspired by de Tocqueville and developed by modern American thinkers, the most rigorous of whom is Robert A. Dahl, pluralism in this sense places great emphasis on secondary associations which are independent of government.⁵ It is the existence of such associations which is the social foundation of democracy and the state control and direction of such associations is a key element in the pluralist concept of 'totalitarianism'.

This current of American pluralism has avoided the abstract conceptualism of much Anglo-Saxon political theorizing. American pluralism considers associations as part of a process of political competition and tends to treat the state and government as intermediary networks through which competing interests strive to influence policy and through which the objectives of the dominant organized interests on any particular issue are carried out. It accords little autonomous role to state institutions and it is not especially concerned with theorizing the institutional forms of political authority. Thus, despite its emphasis on the role of secondary associations, it is very different in substance from English political pluralism.

Pluralism in this latter sense is less a doctrine of political competition than a critique of state structure and of the basis of the authority of the state. The English pluralists challenged the theory of unlimited state sovereignty and of a unitary centralized state embodying such sovereign power in a hierarchy of authority. A 'pluralist' in the American sense could still claim, and with good reason, that the process of political competition in such a sovereign state, if it is effective, made that state democratic. In that case the limits to formal state authority would be mainly the norms and conventions of the political process subscribed to by political actors and publics alike.

English and American pluralism have rather different concepts, objects of analysis, and political emphases, but their schemes by no means lack points of contact nor are they incompatible in principle. In a unitary state with a centralized administration which can effectively claim unlimited sovereign power the

restraints on such power *are* indeed normative and conventional. When such normative restraints break down then pluralist political competition becomes the struggle by antagonistic interests for control of unlimited state power to use on their own behalf. The development of antagonistic pluralism in the American sense is facilitated by the type of state which is the object of English pluralist criticism.⁶ In a democratic state with a legislature that claims unlimited sovereign power a narrow majority enables the victors to determine how others shall live through their access to legislative and administrative power. Elective despotism is wielded in the service of a fraction of society. De Tocqueville and Mill warned of the threat of the tyranny of the majority, but they could not fully comprehend the pernicious nature of antagonistic pluralism under a modern party system in which the political ‘majority’ may be dependent on the support of no more than a minority fraction of society. Dahl is clear about this danger but he tends to emphasize in explaining it the breakdown of consensual norms and of the whole political culture, thereby tending to ignore the effect of political *institutions* in making such antagonistic political pluralism possible.

Figgis was clear about the tyrannical tendencies of such an elective despotism. The phrase ‘elective despotism’ is now commonplace. It was first used by Macaulay and resurrected by Lord Hailsham in the late 1970s when he feared that a left Labour government might gain and abuse a narrow parliamentary majority.⁷ But if Westminster is a spectacular example of centralized, unlimited, and omniscient sovereign power, it is merely one of a species. The very concept of a national assembly representing the people’s sovereign power contained a real threat to autonomous associations; for the independent life of such associations challenges the principle of sovereignty and if their actions clash with state policy they must be broken if that principle is to be preserved. Long before the experience of Hitler’s and Stalin’s tyrannies, Figgis perceived the threat implied in the monopoly of social power which the claim to state sovereignty seeks to realize. We should not forget that the Nazi terror began with a constitutionally appointed government using the emergency powers of the constitution. Figgis saw this threat in the milder phenomena of Bismarck’s *Kulturkampf* against the Catholic church and the anti-clerical politics of Emile Combes at the turn of the century in the Third Republic in France. He

understood how centralized state authority claiming unlimited sovereign power could seek to destroy an association which, for its own function, enjoyed the voluntary support and loyalty of large numbers of people. Figgis did not restrict this lesson to the primary object of his own concerns, religious associations, but recognized the threat posed to trade unions too.

Twenty years ago the ideas of Cole, Figgis, and Laski were a dead letter. In 1968 conventional politicians could recognize no danger in a stable two-party system in which both parties were moderate and obeyed the unwritten rules of behaviour in government that allowed the system of political competition to work. A centralized state and legislative sovereignty in the hands of one party simply allowed efficient modernization; particularistic authorities and constitutional limits on legislative and state power were simply brakes on efficient government. The student radicals opposed to conventional politics, on the other hand, sought a participatory democracy without elaborate structures, formal rules, or codified degrees of authority. Political pluralism would be no more than arcane nonsense to them. Moreover, Cole and Laski had entered that fatal period for reputations when once influential figures recently dead have no claim on public attention. Laski died in 1950 and Cole in 1959. Moreover, they had long before abandoned an active advocacy of political pluralism.

Today things look rather different Mrs Thatcher's government has shown both the dangers of antagonistic pluralism and the defects of the British 'constitution'. Silly people are wont to compare Mrs Thatcher's actions and attitudes with Fascism and even exceedingly intelligent people have claimed her aim is a 'post-democratic bourgeois society'.⁸ On the contrary, Mrs Thatcher constantly insists that hers is a democratically elected government and that it has a 'mandate' for change derived from three successive general election victories. Mrs Thatcher needs 'democracy' in its unreformed and increasingly unsatisfactory British form. It provides an essentially plebiscitarian legitimation for her legislative actions against independent associations in civil society. She is using the great authority given by democratic elections for what are often highly unpopular and divisive policies, but she is not alone in this. Many elected governments in other countries have acted in a similar manner.

The relevant point of comparison for Mrs Thatcher is with a democratic politician like Emile Combes rather than with dictators

like Mussolini or Hitler. The object of her most draconian measures has been the trade unions rather than the Catholic church, but both are associations freely formed of citizens, with a life and loyalty of their own. Mrs Thatcher has set out to use her majority, a form of *minority* rule with 43 per cent of the popular vote, to dictate by constitutionally unchallengeable state authority and unlimited legislative sovereignty how others shall live. She has further centralized an already highly centralist governmental system and she has treated civil servants as if they are indeed 'servants' of the state, that is, no more than agents of sovereign power who enjoy the duties of unlimited loyalty and obedience but no political rights specific to their position.

Each of these features of modern Conservative government was identified by the English pluralists as obnoxious long before either big government or prime ministerial primacy in the modern sense existed. The pluralists sought a state that was a partnership between authority and associations freely formed of citizens. They sought a system of representation that would be complex and complete enough, paying due regard to function, so that no mere mathematical majority could prevail over the complex web of interests in society. Figgis in particular sought a form of legislative power that could not abolish or override the distinct autonomous bodies and dimensions of authority within its domain but which would concentrate on regulating the interaction of independent associations and on supervising the functionally and territorially specific and autonomous authorities.

Modern critics identify well enough the political dangers and deficiencies of the Conservative government's utilization of the despotic tendencies built into the British constitution. They are, however, either less than radical in the remedies that they propose ('radical' in the sense of going to the root of the problem—which is centralized and hierarchical sovereign state power) or, while seeking extensive social and political changes leading to the radical pluralization and decentralization of authority, lack a coherent theoretical rationale to tie such changes together. A good example of the former case is *The Noble Lie* by Ian Harden and Norman Lewis (1987) and of the latter case, *The People's Kingdom* by Richard Holme (1987).

The widely canvassed measures of political reform such as proportional representation, a Bill of Rights, and a Freedom of Information Act, while desirable changes in themselves, do not

fully touch the issue of centralized sovereign state power in a situation where there is no consensus as to how it shall be used. Such measures are restraints on state action rather than a change in state organization such that the state's capacities for action are altered in a way that lessens the need for restraint.

David Marquand's excellent book *The Unprincipled Society* (1988) demonstrates clearly the baleful political inheritance under which modern Britain suffers, and yet which most of our elected politicians regard as the best possible model of parliamentary democracy—the 'Mother of Parliaments'. That inheritance is threefold: the doctrine of unlimited parliamentary sovereignty; the appropriation by the executive of the prerogative powers of the monarch; and the fiction that civil servants are merely executors of their political masters' will and that therefore ministers alone are accountable to Parliament for their actions. He shows how the 'Westminster Model' of government has served in Britain as an obstacle to the evolution of a modern 'developmental state'. Marquand powerfully argues the need to build a consensus for political and economic change through the dialogue of the major organized interests, but he stops well short of conceiving the institutions appropriate to such a dialogue. Such institutions imply the explicit representation of interests and groups according to function and the elaboration of policy by bargaining rather than its promulgation as legislation by a single party with undisputable control of the means of government. Successful 'developmental states' like Sweden have evolved social equivalents of what the English pluralists sought in constitutional terms through forms of corporatist representation outside their parliaments and through accepting the need to make policy through the extensive consultation of organized interests. That route is not currently open to the UK and in the long run constitutional change is needed if we are to have a 'developmental' and yet democratic state.

The Westminster Model is an extreme case of centralized sovereign power in the democratic world, but the relevance of the English pluralist critique does not stop twelve miles from Britain's shores. The most successful and explicitly corporatist developmental states are nearly all small areas like Austria and Sweden.⁹ It is difficult to see how such formal or quasi-formal arrangements can simply be transferred to the level of the large national state, let alone the European Community. The Community is faced with both the need for greater economic

integration and the need to evolve developmental capacities which ensure that growth and prosperity are relatively evenly shared. No one imagines that a centralized European super-state can do this and preserve accountability, nor can such integration be left to informal or quasi-formal arrangements between national governments' ministers and major organized interests being generalized to the Community as a whole. The Community needs an explicit system of political organization and accountability, but not one founded on the model of national sovereignty writ large. A complex confederal structure of plural authority and a complex multi-layered scheme of representation in which territorial units and social functions are represented in the central community parliamentary bodies are a possible answer. English pluralism provides both a justification and a model for such plural authority and multi-channel representation.

Pluralism is thus of contemporary relevance, it addresses contemporary debates on the nature and future of democratic government, and it adds an important missing ingredient to these debates. But we should not imagine that the Westminster Model has prevailed without challenge until today. It would not be exaggerating to say that English political pluralism set the agenda for political theory in the first two decades of this century in Britain. In 1915 Ernest Barker could feel confident he represented the conventional wisdom of advanced opinion when he claimed that 'the state has generally been discredited in England'.¹⁰ This would appear to be an extraordinary statement, but it reflects the widespread influence of anti-statist opinion in English intellectual circles at this time. Foremost in that challenge to state centralism and growing collectivism were the pluralists. Pluralism was less a tightly integrated intellectual 'school' than a current of opinion. The pluralists differed radically in emphasis and often in basic propositions. Pluralism was also an international movement, with a very strong current of pluralist legal and constitutional theorizing in Europe, notably from the Dutchman Hugo Krabbe and the French theorist Léon Duguit.¹¹ In Britain, however, pluralism was more than a current in legal theory. It was a political idea which significantly influenced movements such as Guild Socialism, and the Guild idea was popularized among the intelligentsia by periodicals like *The New Age*.

In the early 1920s pluralism in Britain reached its apogee. Its theoretical work was widely reviewed and critically discussed in

Europe and the United States.¹² In 1920 even the Fabian collectivists Sidney and Beatrice Webb sought to counter Guild Socialist political success and pluralist intellectual success by incorporating elements of pluralism and functional representation into their *Constitution for a Socialist Commonwealth of Great Britain* (1920). Pluralism's decline was then rapid and dramatic, as was that of Guild Socialism as a political movement. By the late 1920s pluralism's influence had declined to university teaching, to critical asides, and to footnotes in other people's books, and the leading pluralists were either already dead, in the case of Figgis (in 1919), or had abandoned pluralist propositions more or less explicitly, like Gole and Laski.

Who were the pluralists? Such a diverse current of opinion is difficult to unravel, particularly as it ended so dramatically and ceased to have any direct influence. The principle of selection of the three authors offered here is both that they were very influential at the time of pluralism's popularity and that their work is of lasting quality and relevant to contemporary debates. Some possible candidates for inclusion in a 'pluralist anthology' are relatively easy to exclude. Ernest Barker, for example, was influenced by and interested in pluralism, but wrote no major pluralist work and later became decidedly critical. A.D.Lindsay was likewise an early sympathizer but not a major figure.¹³ Bertrand Russell actively embraced pluralism during the First World War, before moving on through a long journey of changing causes and ideas.¹⁴

Others are less easy to exclude. Writers like Hilaire Belloc, author of *The Servile State* (1913), and A.R.Orage, editor of *The New Age*, as anti-collectivists shared some of the pluralist's pre-conceptions. *The New Age* gave a strong impetus to Guild Socialist and functional democratic thinking. It first published S.G.Hobson's articles expounding an industrial democracy based on national guilds, later collected as *National Guilds: An Inquiry into the Wage System and the Way Out* (1914), and it also published the essays of the Spanish philosopher Ramiro de Maeztu in which he expounded a theory of functional democracy.¹⁵ On the criterion of contemporary influence they should certainly be in, but in the end their work is less comprehensive and coherent than that of Cole or Laski.

The only person who meets both criteria and is not included here is Frederick William Maitland, the great Cambridge legal

historian. Maitland is important because he was responsible for the English reception of Otto von Gierke's theory of associations and his defence of corporate personality, a central stimulus in English pluralism, and because he was the major formative influence on Figgis in matters non-theological. I have excluded Maitland from this collection with great reluctance for two main reasons. First, while his introduction to Gierke's *Political Theories of the Middle Age* (1900) is invaluable, it is primarily historical, being concerned to demonstrate among other things the modernity of the theory of state sovereignty. It is also currently in print in an inexpensive edition (Gierke, 1988). Second, his contributions to legal history are informed by pluralism and the concept of corporate personality are difficult reading for the non-specialist in legal history and the pluralism is implicit rather than theoretically developed (see Maitland, 1911). Maitland's most explicit and accessible piece is a lecture, 'Moral personality and legal personality', which is already reprinted as an appendix to the best modern book-length introduction to English pluralism, David Nicholls's *The Pluralist State* (1975).

Each of the major pluralist writers I have included here, Cole, Figgis, and Laski, presents special problems of selection and treatment. To begin with Figgis, Maitland's disciple and a formative influence on the young Cole and Laski. Figgis (1866–1919) was an Anglican priest. He was active in church politics—a political radical and an Anglo-Catholic theological conservative. Figgis's views on church government and the relationship of church and state, intimately connected with his pluralism, remained influential in Anglican circles long after the demise of pluralism as a political theory. Such prominent Anglicans as William Temple were advocates of his views on the church as a political society.¹⁶ Figgis's *oeuvre* is complicated. It includes a number of exclusively theological works such as *The Fellowship of the Mystery* (1915). Figgis saw the Anglican church as an association voluntarily entered and dependent on a loyalty stemming from a common love of and search for Christ, not as a state-licensed and state-enforced compulsory association. As a state church the Anglican communion was a relic of the days of compulsory religious obedience and its tie to the state was a brake on the development of the church as a religious community. Figgis's religious concerns are not, therefore, irrelevant to his pluralism. His lectures *Churches in the Modern State* (1913) are

his most explicitly political, most articulately pluralist, and most contemporarily relevant work. *Churches in the Modern State* explores problems of church government and the relationships of church and state. These are set in the context of a pluralist account of the rise of the modern doctrine of state sovereignty and offer a blistering critique of its implications for religious liberty and the autonomy of religious associations. I have chosen the second lecture, 'The Great Leviathan', which deals with the rise of the modern theory of state sovereignty and its consequences.

Figgis also wrote three major books on the history of political thought: *The Divine Right of Kings* (1914), *Political Aspects of St Augustine's 'City of God'* (1921), and *Studies of Political Thought from Gerson to Grotius* (1916). All are still valuable and the last is, in my opinion, the best introduction to early modern political thought in existence. These books suffer from their own virtues when considered for inclusion in the present collection: they are resolutely historical and the pluralist perspective, deployed to show the historicity and modernity of the doctrine of state sovereignty, is not over-forced to draw lessons of contemporary relevance. Finally, Figgis wrote a spirited and sensitive critique of Nietzsche, *The Will to Freedom* (1917), challenging his view of Christianity as a life-denying religion expressing the *ressentiment* of the uncreative and envious herd. In this work, Figgis anticipates the disastrous consequences of a doctrine that denies full dignity to all people being adopted by those in political power.

G.D.H. Cole (1889–1959) was a prolific author who wrote some dozens of books and countless pamphlets and articles on many subjects, from poetry and detective stories to social history and socialist planning, in the course of a long and varied career. Cole began his intellectual life as a political philosopher, and his political life in the Fabian Research Department and as a prominent Guild Socialist. Choosing from Cole's work in the period he was influenced by pluralism presents its own difficulties. Cole changed his mind rapidly and radically, virtually with every book he wrote. There is in consequence no representative 'Cole' for his Guild Socialist and pluralist period. *The World of Labour* (1913), *Labour in the Commonwealth* (1918), *Self-Government in Industry* (1917), and *Guild Socialism Re-Stated* (1920a) are all largely concerned with how the trade unions can fully develop their function by aiding the organization of industry by labour in a true industrial democracy, and the last is concerned with the

detailed working out of the arrangements for a guild-based organization of national production. They are more or less influenced by pluralist ideas but do not fully develop the theoretical basis of pluralism. *The Social Theory* (1920b) is an exception. It explores the social-theoretic basis for a doctrine of democracy based upon function rather than the fiction of the representation of individual wills. It is pluralist in that it denies the need or legitimacy for a concentrated state power claiming sovereignty over society, and it seeks the merging of state into society, of administration into functional-democratic self-organization, and of imperative authority into coordination by the active co-operation of self-governing bodies. A large part of *The Social Theory* is included here, Chapters II and III and V–VIII. The essentials of the political theory of representation and the critique of the state are retained here. Chapters I and IV and IX–XIV have been excluded. Chapters I and IV are primarily concerned with definitions. Chapter XI deals with the economic structure of society, Chapter X with regionalism and local government, Chapter XII with churches, XIII with liberty, Chapter XIV with the authority of institutions, and Chapter XV is the conclusion. While some of these chapters contain relevant material, they are secondary to the main arguments about association, pluralism, and the paramountcy of function, and can often be deduced from the latter. Chapters II and III set out Cole's conception of the nature of communal life and social organization, arguing that associations are central to society, and they are included here for that reason, since they form the theoretic underpinning of his pluralism.

H.J.Laski (1893–1950) was equally prolific and he later turned completely from pluralism to a combination of a simplified Marxism and a radical commitment to democracy. Laski's intellectual career began as a legal and political theorist. Laski was strongly influenced by Figgis when in England, and through him Gierke and Maitland. Later, when in America at Harvard (1916–1920), he was subject to a wide variety of influences, notably the critical tempering of his very idealistic pluralism by the measured criticism of Oliver Wendell Holmes. Laski also became very strongly influenced by the work of Léon Duguit.¹⁷

Laski regarded sovereignty as a legal fiction, and was primarily concerned with the legitimacy of the claims made upon the citizen by the state. Viewing political obligation as a *moral* problem, Laski could see no moral superiority in the claims of the state to

regulate conduct and enforce obedience. In the matter of obligation the state was not superior to associations, like trade unions, even if it did possess a *de facto* monopoly of the means of violence and a great power of compulsion. Laski's pluralism 'denies, ultimately, the sovereignty of anything save right conduct'.¹⁸ This extreme pluralism stemmed from Laski's own struggles with the legitimacy of authority and was not a defect shared by some other pluralists like Figgis, as we shall see. It also enabled Laski to treat state power in a remarkably objective and matter-of-fact way. This was something that drew him to and that he drew from Duguit, and which later made it easy for him to view the state in quasi-Marxist terms.

Laski's early works, like *Studies in the Problem of Sovereignty* (1917) and *Authority in the Modern State* (1919), are essayistic; their pluralism is often implicit in the text, and they are often written in a prolix style. His monumental *A Grammar of Politics* (1925) and its many subsequent editions mark a critical distancing from pluralism, a distancing that grew into a break by the late 1920s. *A Grammar of Politics* is a complex and transitional text, even if many of its formulations, e.g., on the issues of sovereignty and the federative nature of social life, are sharper than his early works. The principal reason for excluding any material from *A Grammar of Politics* here is that it is still in print in an inexpensive edition.¹⁹ The most effective and accessible pluralist works of Laski are the essays collected in two collections, *The Foundations of Sovereignty and Other Essays* (1921) and *Studies in Law and Politics* (1932). The most important of these essays is 'The problem of administrative areas'. This rather curiously titled text is about the defects of the 'Westminster Model' of parliamentary sovereignty and about how elements of functional democracy and the pluralist autonomy of subordinate authorities may evolve in the British System. Laski regards all society, and political authority along with it, as necessarily federative in principle. Absolute sovereignty is therefore a dream and delusion of certain power-holders. 'The problem of administrative areas' explores the problem of how to recognize that federative reality in appropriate political structures, including discussions of the role of local government and both the self-government and the wider political representation of industry. Laski was over-optimistic about the capacities of trade unions to seek political power and to exercise administrative responsibilities. He was also over-optimistic about

the scope of the Whitley Councils and the prospects for genuine industrial democracy. But if mistaken about the trends in current politics, Laski's essay is clear about the *need* for such changes and the defects of both the Westminster Model and the existing pattern of Labour-management relations. Laski was no fool, however, for, in fact, the period immediately after 1918 offered political possibilities that were not subsequently realized: of government support for social reconstruction, and of moves by unions like those of the miners and railwaymen to take an active role in running their industries if they were to be nationalized.

'The personality of associations' is a valuable and effectively condensed review of the debate concerning corporate personality: a central concern of pluralism, which I shall cover in greater detail below. 'The pluralistic state' is a short summary of the quintessential concerns of pluralism. All these three essays are from the 1921 collection. From the 1932 collection I have included 'Law and the state' which explores in an accessible form the relationship between pluralism and jurisprudence.

Essays from the 1921 collection not included here for reason of limited space but of direct relevance to pluralism are 'The theory of popular sovereignty' and 'The foundations of sovereignty' (a piece I would have included here did it not overlap so closely with Figgis's lecture II from *Churches*). From the 1932 collection, 'The state in the new social order' is interesting because it is transitional between Laski the pluralist and Laski the semi-Marxist Labour Party radical.

It is necessary to caution the reader about the texts included here and their relation to the originals. I have made extensive cuts in several of the texts, most notably *The Social Theory* and 'The problem of administrative areas'. These cuts are essential to eliminate repetition and redundancy, and to exclude discussion of issues relevant at the time of writing but now no more than an obstacle to the argument. These cuts are clearly indicated. I have also reduced the original authors' notes and references to contemporary literature to those inescapable in terms of sense or where the authors cited are still of relevance. I have occasionally interpolated explanatory editorial notes.

A word of caution about the style and structure of the pluralists' arguments. In devising this book a clear choice presented itself between selecting original texts and offering instead a modern exposition of the pluralists' main themes. In some ways a thorough

summary would be more comprehensive and coherent than the texts offered here. The pluralists were, however, *not* a comprehensive and coherent academic school, and it is important to preserve the open-ended and provisional, indeed ‘pluralist’, character of their discourse. Moreover, their writings have real virtues which summary exposition obliterates. Figgis and Cole in particular did not write for academic audiences or for some ideal reader in posterity. They wrote for popular and political effect. Figgis wrote well and eloquently, but for the intelligent common readers who still existed then. Cole often wrote in a hurry and, even in *The Social Theory*, with Board School educated trade unionists and political activists in mind. In consequence they do not argue as an analytic philosopher might wish or in a way that a Marxist-schooled sociologist might recognize as theory. But there is a strong set of arguments and important concepts there. Provided one persists in seeking them through the somewhat paradoxical ‘difficulties’ of plain English and easygoing exposition.

Perry Anderson claimed that in the twentieth century the English lacked a native tradition of high social theory.²⁰ One might say that he didn’t look very hard for one or that he expected such theory to look like the work of Max Weber or Theodor Adorno. But he has a point. A great deal of the most powerful social and political theory in Britain has been studiously neglected by both the academy and political circles. Cole, Figgis, and the pluralists are one clear example, while R.G.Collingwood is another and a shocking one. One of the reasons for that neglect, by the academy at least, is that these authors do not conform to the current models of intellectual rigour and theoretic depth which are a precondition for reception as a ‘great thinker’; that is, to write in approved Continental models for some contemporary academics, or to use Anglo-Saxon analytical methods for others.

Having introduced English political pluralism in general terms it is necessary to offer some more substantive comment on a number of the pluralists’ major themes and the issues relating to the pluralist current of opinion in early-twentieth-century Britain.

These are:

1. Corporate personality and associationalism;
2. Pluralism and the critique of sovereignty;

3. The principle of function and the critique of representative democracy;
4. Pluralism and Guild Socialism

CORPORATE PERSONALITY AND ASSOCIATIONALISM

Pluralism is both an anti-statist, anti-collectivist doctrine and also one strongly opposed to the extreme individualism of free-market liberalism and the narrow definition of human purposes and goods implied in classical utilitarianism. As such it cut across the major currents of opinion in the late-nineteenth-and early-twentieth-century political debate. A.V.Dicey in *Law and Public Opinion in England in the Nineteenth Century* (1905) saw collectivism as a current of opinion and policy that developed inexorably as the latter part of the century progressed. The Liberal governments of 1906 and 1910 marked in many critics' eyes a decisive shift to collectivism, particularly with the enactment of Lloyd George's social insurance legislation in 1911.

The pluralists were different in that they did not reject collectivism in the terms of Spencerian anti-statist individualism. They rejected collectivism not because it offered public action to meet social needs, but because in meeting such needs collectivism enhanced the power of the state as a compulsory organization and thereby diminished the wellsprings of true collective action through the freely associated activities of citizens. The pluralists owed a good deal to the constructive side of English Idealism, represented by T.H.Green and F.H.Bradley. They regarded Bernard Bosanquet, however, with considerable dismay as an Hegelian state-idolater.²¹ From Green and Bradley they took the view that persons enjoy freedom and the ability to pursue the good because they are social. The egoistic wants of isolated social atoms necessarily diminish human aims and lead to a sand-heap of several and private purposes and not to a society. But the pluralists claimed that there is no single entity 'society' nor a single common good. Persons develop through contributing to associations in order to fulfil definite purposes. Society is composed of associations freely formed of citizens. It is as a plurality of lesser societies that it exists in any sense as a whole. Figgis conceived the public power as a society of societies, as an association of associations, charged with the task of making the continued existence and mutual

interaction of such associations possible through setting rules for their conduct.

Figgis never denied the need for a public power to make and enforce law, as Cole and Laski sometimes seem to do. His point was that the state as at present constituted did not and could not confine itself to that role. In claiming an unlimited plenitude of power it converted legal sovereignty into a doctrine that could only strike at the root of the freedom and the organic self-development of associations. The modern state adopted the concessionist view of secondary associations: they are creations of state law and licenced to act only in the forms prescribed by law. Ultimately, for the concessionist, only the state and the individual are real entities. The state, because it embodies in democratic doctrine the sovereign will of the whole people, is necessarily superior to all more partial associations. Associations and corporate bodies are thus legal constructs for particular purposes and enjoy no other legitimacy than that conferred by their state-sanctioned articles of association.

Through Maitland, Figgis found the intellectual means to challenge the legal positivist and concessionist conceptions of associations, that is, the historical work and the *Genossenschaft* theory of Otto von Gierke.²² Gierke's views are complex and Maitland and Figgis each adapted them to their own purposes, subjecting them to a definite 'reading'. In particular Gierke did not reject the theory of state sovereignty and was a patriot for the new German empire.²³ What Gierke offered was twofold: first, a history of political thought before the advent of the modern theory of the state, showing the possibility of thinking about politics in terms other than those of Machiavelli and Hobbes; and second, a view of associations as corporate personalities, as real bodies with a life of their own which were not mere legal 'fictions'.

The 'fiction' theory of the corporation was no mere jurisprudential concept but an active doctrine of legal interpretation. The view of corporate personality as no more than a convenient legal fiction and the concessionist theory of corporation as no more than state legal constructs both had real and damaging effects. Associations were viewed by the courts as bound to the powers outlined in their articles of association, and thus denied the capacity to decide for themselves how to develop. In the absence of unanimity in deciding on any change an

aggrieved member could insist on the original articles and terms as a matter of strict contract.

Figgis was much exercised by the Free Church of Scotland case.²⁴ In 1900 the Free Church merged with the United Presbyterian Church on a majority vote of 643 votes to 27. The dissenters members took the case to law and claimed that the union of the two churches was an *ultra vires* act of the majority and was, therefore, null and void. The House of Lords finally decided for the dissenters and awarded all the property of the church to them. This decision involved the courts, in the course of deciding whether the action of the majority was or was not within the powers of the church's constitution, in determining the meaning of Calvinist theology and the appropriate doctrines of religious government. Thus, the courts were determining in effect what the church should believe in if it wanted to keep its original corporate existence and property. This was an irony which Figgis did not fail to point out, citing Mr [later Lord] Haldane lecturing the judges on these theological matters as part of a legal argument.²⁵

Figgis saw clearly that 'unless groups are allowed free development the self-development of individuals will be hindered' (1913:12). An association is just such a means of self-development. It is a body through which people seek common purposes, including the pursuit of religious or industrial freedom in the case of churches or trade unions. It is not just an aggregation of property for private benefits, to which individuals 'subscribe' without any commitment beyond the satisfaction of their given individual interests. Great associations like churches or trade unions are not just clubs, they demand commitment and loyalty from their members, and thus they have some of the same attributes as 'public' agencies.

Figgis was primarily concerned with such 'public' associations but both he and Laski were also interested in the consequences of the fiction theory in judgments under company law. This is shown clearly in Laski's 'The personality of associations', included in this collection. Laski cites numerous cases of the *ultra vires* rule being applied in respect of commercial companies with decidedly inconsistent results. This issue has now died away. For example, Megalith plc, a multi-industry, multi-national group of companies, could hardly be challenged under the rule if its business is anything and everything. The issue of *ultra vires* now largely appears in

legal disputes between the central state and local authorities. But the general issue of the powers of associations remains firmly alive. The complaint that 'trade unions are outside the law' is no longer much heard, mainly because they are so much inside the law that even minor details of their internal voting and balloting procedures are now legally prescribed. The Conservatives' industrial relations legislation denies the trade unions any autonomy in procedures for action and self-government. Whatever the faults of the unions, this is an unjustifiable intervention in the affairs of free associations. Figgis would turn in his grave. We should be shocked too that this assertion of unlimited state sovereignty should have been greeted with such complacency. The unions may have been both unpopular and too powerful in the later 1970s. They were also undoubtedly short-sighted, conservative, and complacent about their own internal procedures and hostile to genuine democratization. However, their internal reform by state *fiat* is both tyrannical and counter-productive. This is because union activists bitterly resent much of the new legislation and, as soon as a political opportunity presents itself, they will throw off as much of it as they can.

Company law is an area where the state's action has been by contrast largely permissive. The Companies Act of 1862 envisaged, as part of its scheme of regulation for the protection of investors, companies as self-governing republics of their own shareholders. This is now a complete fiction and was largely obsolete before the nineteenth century was out. Companies are typically run by a senior managerial oligarchy which is self-renewing if things are going well and with the support of major corporate institutional shareholders. Managements face almost no threat from democratic accountability. Their actions are governed less by shareholders' meetings than by the dual fears of the company's quotation on the Stock Exchange and of takeover bids by rival management cliques in other companies. As far as its employees and the general public are concerned the company is largely unaccountable. For the former the company is an hierarchical authority in whose decisions they have no say and for the latter the company is under no special legal obligation to consult interested parties or pay due regard to community interests. As long as they do not break contracts or commit torts, companies do not have to answer for their actions to employees or to the communities in which they operate. They have to comply with

state law, but it places them under no special obligation to answer to anyone with an interest in the company other than a proprietorial one. Companies cannot be treated as self-governing associations freely formed of citizens in the pluralist sense, but rather as analogous to centralized sovereign states and, therefore, to be changed and reformed.²⁶

It is interesting to note how the issues of industrial democracy and of the accountability of the company to employees and to the community are now on the agenda of mainstream political theory. They are no longer confined to the radical fringes of the advocates of 'workers' control'. Norberto Bobbio, for example, regards big business as one of the 'great blocks of descending and hierarchical power in every complex society' and until this hierarchical power is changed 'the democratic transformation of society cannot be complete' (1987:57). The acid test of how democratic a country is, is no longer *who* can vote but *where* they can vote. Again, Dahl in *A Preface to Economic Democracy* (1985) argues that until the ownership of property is democratized through the widespread adoption of self-governing co-operatives as alternatives to corporations then the lack of *economic* autonomy of individuals and the concentration of economic power in the hands of corporations will undermine political democracy. The English pluralists would probably have heartily approved.

It is often asserted that the pluralists were committed to a set of romantic metaphysical illusions in their assertion of the real personality of groups. The young Laski did indeed metaphysicalize a good deal and received sharp criticism from the American philosopher Morris Cohen for it.²³ Cohen asserted that the unity of a group is simply the relation between its members. That is a distinct relation to be sure but not a new entity over and above the elements so connected. Laski later introduced substantial elements of American pragmatism into this thought; so pluralism is clearly not dependent on a particular metaphysical view of groups.²⁸ But, as it happens, Cohen was mistaken. The issue is less that of the nature of the group as an entity in a metaphysical sense, than of how it is regarded by other actors which have power over it. If it takes two oxen to make a plough team, as in the example that Cohen uses to make his point, then certainly he is right that there are still only two oxen in the team and not a new collective animal. But of course it *does* take those two oxen (together with a plough, a yoke, and a ploughman) to do the work of ploughing. It

will not help to do the work of ploughing if certain people insist on pulling them apart because of certain anti-metaphysical beliefs that they hold. If the group is a necessary relation then it will not help group life to insist on the primacy and reality only of the elements related.

Figgis is concerned to assert the unity and organic life of groups: a life based on the active co-operation of the people involved in them. He is less interested in a metaphysics of group personality than in the way that the state, law, and other social actors give recognition to groups. In contesting the fiction theory, Figgis saw the association as a living entity only in the sense that it should be left to decide its own internal affairs and to change by its own agreed procedures. This did not lead Figgis to deny the role and value of the legal regulation and recognition of groups, but rather to question the doctrine governing the current form of that regulation. The pluralistic state, as the necessary public power in a society of free associations, has the principal task of both facilitating the formation and activity of groups through its legislation and ensuring through regulation their fair and peaceful interaction.

As David Nicholls says, the pluralists ‘saw that *all* legal personality (including that of the individual) is “artificial”, and that ‘it is created by being recognised in legal practice’ (1975:70). The issue between concessionism and realism is not that of a metaphysics of corporate personality but is about *how* the law constructs corporate persons and what capacities it recognizes for them in doing so. For the pluralists, law is not a pure *voluntas*, a positive sovereign will; rather, law must also embody reason attuned to the needs of society.²⁹ The functions that associations serve and their need for autonomy in performing them are not created by the law. That is so even if associations are necessarily defined in a particular institutional form with certain capacities by the law and could not effectively exist otherwise.

Certainly the actual content of the pluralist defence of the ‘real personality of groups’ does not require any supposition of a ‘group mind’. To Figgis, Christian and libertarian, the very idea would have been repellent. Groups do not have ‘minds’ but they are collectivities with decision procedures. The outcomes of those procedures are not reducible to the wills of the individuals who take part in them. That would be to regard individuals as if they existed only in isolation. Groups imply the institutionalization of

new types of activity, and with them new issues, interests, and constraints that did not and would not exist but for the group. The existence of groups creates issues *sui generis*, requiring special decision procedures, and not entities *sui generis*. Methodological individualism may be a good solvent of cloudy metaphysics, but the resulting acid is too strong altogether and it dissolves along with that metaphysics most of the phenomena of group life.

PLURALISM AND THE CRITIQUE OF SOVEREIGNTY

To a casual reader much of the pluralist argument against sovereignty seems like an over-energetic debate with a pale phantom. Surely it is no more than an argument about the history of political thought? Does it really matter today? That the Middle Ages had no developed concept of sovereignty and a more pluralistic political structure is irrelevant since we are unlikely to re-create the social conditions which sustained them—the days of neo-Medievalist ‘hey nonny no’ and attempts to resuscitate the Guilds are long past. Bodin, Hobbes, and Austin are also long obsolete and their conceptions of the sovereign state are now primitive caricatures.

This simply isn't the case. At the time of the referendum on Britain's entry into the EEC in 1975, left and right, in the respective shapes of Michael Foot and Enoch Powell, both argued for a ‘no’ vote because to enter Europe would involve the surrender of the sovereignty of Parliament. Parliamentary sovereignty and its legitimation by electoral victory is the basis for Mrs Thatcher's abolition of local authorities like the Greater London Council, the direction of the policy of other surviving local authorities to the last detail, and the legal prescription of how free associations like trade unions should conduct their internal affairs. If sovereignty is a ghost, then it has recently been given a lot of blood to drink.

Pointing to the interdependence of states in the modern world or to the internal complexity of advanced industrial states simply cannot dispose of the issue of sovereignty. Of course it is true that the state's power cannot be unlimited. All power is necessarily limited simply by the very means of its exercise. It is also true that no state is so homogeneous that a single sovereign will could prevail within it without a complex process of mediation that dilutes and

even destroys that will. But the pluralists never imagined that sovereignty was a description of state power. Sovereignty is not and never has been a state of affairs, the pluralists were clear about that. Sovereignty is, of course, enmeshed with the history of political thought and with political argument today because it is less a fact than a doctrine. But it is a politically highly consequential doctrine if political actors continue to subscribe to it and if it is not replaced by other doctrines that enable different political consequences to predominate.

Sovereignty is a doctrine that allows political actors to advance claims and to utilize these claims to further their political objectives. The central claim is that some agency enjoys of right a plenitude of power, that it may make any rule or policy within a given territory and put it into effect. Typically the agency now cited as the sovereign power is the Parliament or national assembly of a centralized state and its members enjoy that power because they represent the people. In the classic conception of sovereignty, legal and political power are fused in a single agency; legislation and administration give effect to the 'will' of that agency. This view of sovereignty, the basis for the pluralist critique, is contrary to that held by the defenders of the doctrine of state sovereignty. On the one hand, many legal theorists regard it as no more than a necessary device to assert the primacy of legal over other rules;³⁰ and, on the other, the active defenders of the political sovereignty of the state see it less as doctrine or claim than as fact. For Tony Benn the people *are* sovereign, and give their plenitude of power to Parliament.

Why are such claims to sovereign power effective? Ultimately because they are widely believed and because the state possesses an effective monopoly of the means of violence. The pluralists saw in the early-modern conception of sovereign state power something entirely new. Maitland and Figgis, for example, were not ignorant of the doctrines claiming for the Roman Emperor a plenitude of power and to be the sole source of law. Is not the essence of sovereignty to be found in the *Lex Regia*?³¹ Yes and no. Hobbes was new because he stated an unlimited plenitude of power for a state with a monopoly of the means of violence and a society whose members were equally citizens—subjects, subordinated to the sovereign power in an equal way. Between the state and the individual citizens stands nothing that is not a creature of or licensed by the sovereign: no ancient and privileged provinces, no

private armies, no differences of status like slavery or serfdom, no self-governing communities with their own unalterable customary laws, etc. The entire structure of particular authority, privilege, and status distinctions common to both the Roman Empire and Medieval states in both doctrine and practice is swept away. The monopoly of the means of violence, the levelling of the citizen body, and the claim to unlimited sovereign power go together in a new synthesis.

Hobbes, Like Machiavelli, was an unpopular, indeed scandalous political thinker precisely because he let the cat out of the bag. No state in 1651 corresponded to the *Leviathan* and no state does today. But it mapped out the aims of royal absolutism in the seventeenth and eighteenth centuries and those of the successor revolutionary-democratic absolutisms of the French Revolution and the nineteenth century.³² Sovereign power is a project and one that is necessarily tyrannical in creating a monopoly of power, unless it is restrained by political and social forces and circumstances quite outside the doctrine. Figgis perceived that the combination of an all-powerful state and a mass of individual citizens created the space for political tyranny. Individuals can only further their own personalities and objectives through association, and if autonomous associations are regarded with suspicion and are objects of state suppression then genuine freedom is at an end.

Sovereignty was a problem for the pluralists for three connected reasons.

1. It necessarily undermined autonomous associations, as Rousseau said:

But when factions arise, and partial associations are formed at the expense of the great association, the will of each of these associations becomes general in relation to its members, while it remains particular in relation to the state.... It is therefore essential, if the general will is to be able to express itself, that there would be no partial society within the state.

(Rousseau 1762:23)³³

All political agents may not exploit the doctrine in this way but its tyrannical potential against the complex web of functional associations is always there.

2. The doctrine of sovereignty treats the state as if it were a single agent, with a single will—like an absolute monarch—whereas it is a complex amalgam of agencies and persons with different objectives and means of decision. The notion of a single legitimate ‘will’ is central to the doctrine of sovereignty. That will issues in commands to all subordinate agents that they are both obligated and compelled to obey. But there is no such ‘will’ in society. Society is also a complex amalgam of agencies, persons, and objectives. Sovereignty supposes a subjective view of political authority; will becomes command and, on the model of an individual, ‘decides’ something shall be done and issues orders to others to make it so.

3. A society in which all individuals are equally citizen-subjects, in which there is nothing between them and state power, and in which they are obliged to obey the commands of that power would by tyrannical to the point of intolerability were that power not subjected to some legitimation. Hobbes at least offers the bleak honesty of a *pactem subjectionis* made in mortal fear of civil war. Later legitimations seek to square this state power, its will to command, with a popular sovereignty, a will of the people that this power be so. Rousseau has it neatly: the people in obeying the laws of the sovereign legislature are obeying their own commands. Popular sovereignty is legitimate as expressed in state power because it embodies the general will. But this is to suppose that the state expresses a coherent ‘will of the people’, as if there could be such an entity. Once Rousseau’s conception of people-as-sovereign, giving direct assent to legislation, is dispensed with as impossible in any society above a few thousands then the notion of sovereignty as the will of the people becomes absurd. The people ‘donate’ their sovereign power to their representatives, but a will cannot be donated. The ‘will’ becomes the decision of a body of representatives not the ‘people’. Once the complexities of electoral systems and political parties are introduced, then a party representing a minority of the electorate itself directed by a small leadership stratum comes to claim the legitimacy of the ‘will of the people’.

Once the fact of plural interests and objectives is recognized, the very idea of a sovereign ‘will’ becomes absurd. At best it is the annexation of the claim to sovereign power by a fraction of society. Sovereign state power is compatible with democracy only on the assumption the people are homogeneous, have one interest, and

will one thing. This assumption is inherently implausible and can only lead to projects to make it plausible, by annihilating sources of difference and other interests by means of state power. Once this is recognized, then some form of pluralism, either the American form which mitigates sovereignty through the consensual norms of a democratic political culture or the English one which seeks to change state doctrine and institutions, becomes absolutely necessary. A democratically legitimated sovereign 'will' cannot be made compatible with the rights of either individuals or associations. Where these rights clash with a political decision, they will be swept aside, subject as they are to a plenitude of legislative power.

A representative democratic system which embodies an unlimited sovereign legislature like the British must threaten both the legitimacy of democracy and the rule of law if the normative restraints on the type of action initiated through the state by the ruling majority party break down. These political conventions are not part of the doctrine of sovereignty; they are restraints on it which come from the wider political culture but by which a party which rejects them is in no sense bound. As Franz Neumann pointed out in *The Rule of Law* (1986), the doctrines of the unlimited sovereignty of Parliament and of the rule of law are in direct conflict, and they have only been held in tension by political culture and by political outcomes which ensured that Parliament did not enact legislation that undermined the rule of law in a substantive sense. The pluralists saw this long before Mrs Thatcher's government forced it upon the attention of the more liberally minded in Britain. They understood the tyrannical potential in the doctrine of state sovereignty which no amount of 'fair weather' politics could conceal. We should remember that the last years of Liberal England were closer to the fundamentally contested politics of today and that the image of a continuous history of political stability and tranquillity in England is a myth.³⁴

What sort of political doctrine and what form of state did the pluralists envisage as a replacement for the doctrine of sovereignty and the centralized state with a monopoly of legislative power? As one might expect, the pluralists were largely in agreement in their critique of the ruling doctrine of sovereignty. Figgis and Duguit, Laski and Cole advance with variations the same arguments, Cole drawing on Figgis, Laski on Duguit and Figgis. But they did not agree on what should replace the object of criticism. This should

hardly surprise us, for if pluralism had not given birth to a variety of alternative conceptions and institutional arguments rather than one dogmatic and monist counter-proposal to sovereignty it would have betrayed its own assumptions. Figgis does not envisage the abolition of a public power, the main function of which is to make laws for associations to thrive and coexist. Duguit does not imagine that the state is other than a coercive and administrative power, but for him the state is subject to a juridical principle (*une règle de droit*). State action is governed by law. The law which is above the administrative apparatuses of the state and which can judge and review their actions is not superior because of a natural law but because of certain objective necessities of carrying on the affairs of state that are recognized in the law. Law has social utility in prescribing for the state the demand to meet certain needs which arise from society as a solidaristic body. For his conception of social solidarity and the complex intermeshing of interests in a division of labour, Duguit is dependent on the sociology of his colleague at Bordeaux, Emile Durkheim.³⁵ The state is an organ of social coordination and, under modern industrial and social conditions, it is necessarily a collection of public service agencies unified in a legally codified form. The judicial principle governing its actions is that of the demands of carrying on a service and Duguit illustrates this in *Law and the Modern State* (1913) by the growth of French administrative law and the growth of legal review of the state's administrative action.

Figgis and Duguit in their different ways give a place both to legal regulation and to a public power. In the work of Cole and Laski this is often less clear. Laski's work before 'The problem of administrative areas' and *The Grammar of Politics* often appears to see the state as merely one association among many, and one whose claims to loyalty and legitimacy are no higher than those of other associations as far as the conscience of the citizen is concerned. The authority of the state is thus dependent on consent in more than the formal sense of representative-democratic legitimation. The citizens' consent cannot simply be presumed from a political device like elections. A citizen may find it necessary to give greater loyalty to another association if the state's policy is contrary to conscience.

In 'The problem of administrative areas' and *The Grammar of Politics* Laski was to give greater emphasis to the necessarily federative structure of society and, therefore, to the plural

structures of authority and obligation that arise from it. We shall discuss this further when we consider the functional principle of representation in greater detail below. Cole, like Laski, carried his anti-statist impulses further than Figgis. Cole's pluralism is inextricably tied in with his Guild Socialist conception of a society based on self-governing associations of producers, and in that society what central power there is arises from the co-ordinative co-operation of associations and the *ad hoc* adjudications of his court of functional equity. We shall cover this in greater detail in the sections of functional representation and Guild Socialism below.

Cole and Laski in their more unguarded moments are sometimes open targets for the anti-pluralist critics. Critics, like K.C. Hsiao in *Political Pluralism* (1927), often concentrate on what they see as the inherent contradiction involved in the denial of legal sovereignty. How can one have more than one set of laws? If law is to be primary in regulating conduct and at least tolerably consistent, then it must have a single source in a legislature that claims to predominate over all others. This is specious, since pluralism never argued against a legal order. To suppose it did is to identify all legal regulation with the full consequences of the doctrine of sovereignty.

Pluralism is not an anti-legal political theory like Marxism, which conceives law either as an instrument of class oppression or a phenomenon associated with commodity production and exchange, and contends that it will wither away like the state in a socialist society. Even Cole does not deny the need for regulation or the need to achieve co-ordination in the organization of social affairs. One may question the effectiveness of his arrangements— a congress representing all the functionally organized bodies in society and a 'democratic Supreme Court of Functional Equity' (1920b:137)—but the aim is a coordinated pluralist system in which agencies know what they can and cannot do and in which they can appeal in cases of clashing functions to the decisions of the court. In fact, the *ad hoc* decision-making of Cole's court would undoubtedly hinder coordination, producing inconsistencies and anomalies that require further *ad hoc* adjudication to sort them out, and so on *ad infinitum*. To recognize this defect in Cole's argument is to accept the need for formally codified law and settled judicial procedures, not to wallow in the excesses of the doctrine of sovereignty.

Figgis's conception of the pluralist state as the association of associations defines a state which is both a public power, able to ensure public peace, and a legal order, which sustains that peace through the rule of law. In Figgis's view the more of the work of society done by associations freely formed of citizens the better. The pluralist state will be a minimal state but one whose primary task is to create the conditions for associations, and through them individual citizens, to be free to pursue their purposes. A pluralist legal order, in defining the rights of associations, would pay due regard to their autonomy and their right to develop as determined by their own internal decision procedures. It would also police the conduct of associations to ensure their stable and equitable interaction. It would set rules of conduct with regard to other associations and individual citizens, whether they be members or not, and provide means of pursuing relief for those who had suffered harms.

Figgis's state will, indeed must, claim primacy in making rules. But it will do so only within its own constitutional limits and in terms of its own social objectives. A pluralist claim to legal primacy, with the aim of securing a pluralist political and social order, will be quite unlike the classic doctrine of sovereignty. Hsiao and others like him are logic chopping in confusing the two. The constitution of a pluralist state would seek to ensure that there is no agency that can claim a plenitude of power, that associations are consulted in the process of law making, and that the objective is to promote the autonomous action of freely associated citizens. Figgis never wrote a model 'Constitution for a Pluralist Commonwealth'; he was too concerned to *defend* the free life of associations against the claims of sovereign power. The fact that he did not do so, however, does not mean that he had no coherent constitutional doctrine in his work.

THE PRINCIPLE OF FUNCTION AND THE CRITIQUE OF REPRESENTATIVE DEMOCRACY

In a paper read to the Aristotelian Society in 1915, 'Conflicting social obligations', Cole first explicitly expressed the principle of function as the basis for a comprehensive criticism of the theory of state sovereignty and its legitimation in representative democracy. This principle was largely implicit in the early Guild Socialist

writings of authors like A.J.Penty and S.G.Hobson. Cole had been preceded in his functionalist democratic arguments by the essays of Ramiro de Maeztu collected in *Authority, Liberty and Function* (1916); de Maeztu later became a Fascist in Spain.

Cole argued that only society as a whole could contain that plenitude of powers and that omnicompetence of purposes implied in the concept 'sovereignty'. The error of political theorists like Rousseau was to vest in a specific political body, the state, what could in fact only be contained in the whole of society itself. Cole challenged three doctrines that submerged this complex whole into an undifferentiated part:

With Society, the complex of organized associations, rests the final more or less determinate sovereignty. We cannot carry sovereignty lower without handing it over to a body of which the function is partial rather than general. We must, therefore, reject the three theories of state sovereignty, Theocracy and Syndicalism, the theories of political, religious and industrial dominance. All these mistake the part for the whole: our difficulty seems to be making the whole out of their parts.

(Cole 1915:157)

That latter task is addressed in *The Social Theory* (1920b). The basis of the functional theory of democracy is a theory of social organization. For Cole, 'society' is not an entity, a totality, but a grouping made up of specific associations and institutions performing definite purposes and interacting one with another. Associations are formed by persons coming together to fulfil definite purposes that they cannot accomplish as isolated individuals. Cole is the relentless opponent of any narrowly reductive and utilitarian individualism, but the whole ethical and analytic basis of his social theory is an exalted conception of the individual. Associations are necessarily specific to certain purposes, but '[e]very individual is in his nature universal; his actions and courses of action, his purposes and desires, are specific because he makes them so; but he himself is not and cannot be made specific, and therefore cannot be expressed in terms of function' (1920b: 49–50).

It follows from this exalted conception that individuals as such cannot be represented—they are potentially infinite in their

purposes and wills while any scheme of representation, whatever its own claims, is necessarily finite. Certain necessary social functions require a form of association which is inclusive of all individuals. 'By a *political* organisation I mean an association of which the main purpose is to deal with those personal relationships which arise directly out of the fact that men live together in communities, and which require, and are susceptible to, social organisation' (1920b:67). This function is essentially regulative and concerned with the most general interactions of all social agents, But other functions do not require to be performed by a single and inclusive body such as the state. The economic and co-ordinative functions are complex and differentiated tasks, affecting different agents in different ways, and should be organized by and at the level of the agents they affect. The inclusive political association is thus far from omniscient. It need not be the only inclusive association in society. It is, moreover, not necessarily superior to those other inclusive associations outside of the sphere of its own function. Thus alongside the inclusive political association there may be an association representing certain general interests of all consumers.

It is on the basis of this doctrine of function and this conception of the individual that Cole challenges the concept of 'representation'. Representative democracy is commonly justified on the ground that it gives expression to the will of the people, and that in choosing certain persons to 'represent' them the people consent to and give a mandate for the decisions those persons assembled together may take. The legislative assembly is sovereign because it expresses the constitutive power of the people which is embodied in their elected representatives. But this political body claims for itself a plenitude of rule-making power and must, therefore, claim to represent the people in each and every possible respect: thus, whatever their representatives decide to legislate is formally to be derived from the will of the people.

An omniscient legislature must claim to represent the whole of its electorate's personalities and every aspect of their interests. If it does not, then representative legitimation is less than complete. If the legislature can pass any act concerning any aspect of life it must claim to 'represent' people in their fullness. But no 'representative' can actually represent other individuals; their actual wills are diverse. It is absurd to suppose that a political body can encompass each and every purpose of each constituent. It

is equally absurd that the complexity of all of social life can be represented in a *political* 'general will'. Hence this doctrine of representation is absurd when applied to an omniscient sovereign body. It is less effective as legitimation, however, if the doctrine of the representation of will is dropped, for then elective democracy is simply the choice of personnel and *not* of the legislative and governmental acts they perform. Democratic legitimacy then rests on the narrower ground that the governing personnel offer themselves up to veto when they seek re-election and that their acts are only thus subject to review.

Functional representation at first sight appears to get over such problems and contradictions. The representatives on the governing body of an association or those representing its interests on some co-ordinative external body can approximate to the actual wills and expressed interests of its membership because the purpose of the association is specific and the position of the membership on issues is determinable. The representatives on the governing bodies of functional associations are answerable to continuous and organized social constituencies, that is their members engaged in the activity in question, whereas the national electorate is constituted as an active body only every few years. The ordinary members of associations have as individuals as many votes as they have involvements in distinct associations. The representatives they elect are not mere delegates and fulfil a leadership function (although they should be subject to recall). Democracy thus becomes a co-ordinated system of functional representation.

Cole tended to slip into the view of functional democracy as 'true representation' (1920b:119n.). Yet in terms of his critique there can be no such thing. It is true that functional representatives are likely to be concerned with fewer constituents and a more specific range of issues than the members of a parliament, but the problems of 'representing' wills remains if the number of persons to be represented is greater than a single agent and if the issue in question is more than a single discrete decision with a yes/no answer where the members' views can be canvassed and reported.

Functional representation cannot, therefore, be 'true representation', but simply a less defective and less generalized form of representation which still suffers from the same defects as all other members of the class when presented with the problem of expressing the actual wills of the represented. In fact Cole recognizes this, citing Rousseau as the source for the proposition

that '[a]ll action through representatives...involves to a certain extent the substitution of the wills of the representatives for those of the represented' (1762:120). At points Cole comes close to accepting the logic of Michels' *Political Parties* (1911), which would vitiate the democratic logic of any scheme of functional democracy.

Or would it? A series of functionally specific associations in which organization indeed leads to oligarchy would be less of a disaster than one inclusive and omnicompetent body in which the same substitution of the wills of the representative for those of the represented must necessarily occur. A plurality of specific oligarchies touches individuals less; since the purposes of associations are specific, and since they are not inclusive, members may withdraw from them, which they cannot do with the state. Thus overweening associational cliques face a real check. If Cole had kept to the critique of representation and not tried to eat his cake and have it by talking of the 'true' representativeness of functional democracy his position would have been more coherent and yet not less substantial.

The logic of function is the logic of plural association. One body cannot include all purposes and all individuals. Once we ignore the issue of the true representation of actual wills then it is likely that specific functional associations will indeed be more accountable to their members, but only if those members choose to involve themselves actively in their affairs. If they do not, then presumably cliques will run things and the members will tolerate this state of affairs because the very specific purpose of the organization leads them to respond on a 'limited liability' basis.

It might be argued that Cole's criticisms of representativeness follow from sticking too closely to the problematic of Rousseau. Yet Cole's choice of Rousseau is sound. Although it must be said that Rousseau sets the stakes impossibly high:

The problem is to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while united himself with all, may still obey himself alone, and remain as free as before.

(Rousseau 1762:12)

But then the justificatory pay-off of any doctrine of representation that even approaches Rousseau's is correspondingly high, if it were to work. The concept of a represented popular will is the one way to square a sovereign legislative power with a strong doctrine of the rights of the governed. Democratic theory gropes toward Rousseau's problem whenever it is set a hard task of legitimacy practice. The French Constitution of 1791 is a good example; in this the national assembly embodies the sovereign power and will of the people, and simultaneously recognizes the inherent and inalienable 'rights of man and the citizen'.

Other conceptions of representative government which make less play with representing the will of the people involve fewer contradictions but also involve a weaker legitimation of the procedure. For example, the view of democracy as a decision procedure for selecting governing personnel and, thereby, offering some constraint on their actions if they subsequently wish to be re-elected is defensible but offers only a minimal justification. It is little more than a claim of 'what else?' It is a doctrine of the lesser evil, which relies on wholly unaccountable political power as its foil to make the minimal chance to reject rulers seem a real gain. It has worked to a considerable degree in the twentieth century, but largely because nakedly dictatorial power without real electoral challenge has existed aplenty. Cole was thus right to emphasize the doctrine of the representation of the will of the governed, because only such a doctrine can make the decisions of government appear to arise from the represented rather than their representatives.

In Britain, moreover, constitutional doctrine has been well hidden. Politicians have talked a language of democracy, mandates, the will of the people, etc., to the people, while constitutional lawyers talk another language entirely. British parliamentary government pre-dates modern representative democracy and the classic constitutional doctrine of the unlimited sovereignty of the King in parliament is entirely pre-democratic. Parliament is not sovereign because it is elected by the people but because it claims for itself a constitutive power. It can by a simple legislative act change its own procedures for elections or suspend elections altogether and indefinitely. This is indeed contestable constitutional law; although the idea of 'law' when confronted with such a boundless power seems absurd in all but the formal sense that laws are what Parliament enacts. It is, of course, lousy democratic legitimation, and even so formidable a constitutional lawyer as

Dicey was driven to try and square the circle by positing a correspondence between the sovereign acts of Parliament, unconstrained and inimitable, and the wishes expressed by the people in elections. Here we have the coincidence of unconstrained political will and an electorally expressed will. While this avoids the problems of wills being ‘represented’, the notion of coincidence presents him with even greater problems. In the end it rests on nothing more than providential beliefs about British political life.³⁶

Laski’s defence of the principle of function is somewhat different from that of Cole. Laski conceived the real relations of authority in modern complex societies as federative and this ‘federalism’ as based on the interaction of social interests. Merely territorial units of representation and government tend to deny this complex pluralism adequate expression. Laski does not argue ‘that representation by function is more real than representation by area’ (1921:69). Territorial units have a place. Rather, he argues, that ‘the political opinions of men are largely determined by their industrial situation’ (*ibid.*). Laski is not in favour, in ‘The problem of administrative areas’, of adding functional representation to that of territorial constituencies, nor of suppressing the latter. The answer is to give to major industrial interests full self-management:

The real way, surely, in which to organize the interests of producers is by making out a delineation of industry and confiding the care of its problems to those most concerned with them. Anyone can see that the railways are as real as Lancashire; and exactly as the specifically local problems of Lancashire are dealt with by it, so could the specifically functional problems of the railways be dealt with by a governing body of its own.

(Laski 1921:70)

Ultimately such devolved functional self-managements would come to see the need to federate to solve common problems. Such an economic federation would carry on its business much like the self-governing Dominions before 1931: decentralized and outside Parliament’s active control, but still under the formal scope of its legislative power.³⁷ Laski insists that democracy is incomplete despite the fact that the worker has the vote. For workers are limited in *where* they can vote: they can influence the complexion

of the national government but lack even influence over the affairs of their place of work. As he says, 'It must be understood that there is a politics of industry not less real than the politics of the House of Commons' (1921:84).

Laski's argument for functional decentralization is also as much an argument against state socialism or workers' power as it is a criticism of the *de facto* control of parliament by the capitalist class. Where political power is able to subordinate the other areas of society and in the interest of a particular group then liberty is threatened. Whether the control of state power be at the service of religious dogma or economic interest, and whether that interest be that of the capitalists or the workers, the result is to 'tread the path of despotism' (1921:86). Laski thus does not favour a 'workers' state' or a system in which industrial councils enjoy *political power*, that is, power beyond their own sphere. A territorial system of representation is a check to the dangers of unconstrained industrial power. Laski would have no truck with syndicalism nor with conceptions of Soviet democracy.

Laski explicitly defends a pluralism both of social interests and of political institutions:

The real truth is that the members of a state are powerless against an efficient centralization wielded in the interest of any social fragment, however large. It prevents that balance of associations which is the safeguard of liberty.... That is why the secret of liberty is in the division of power. But that political system in which a division of power is most securely maintained is a federal system.

(Laski 1921:86-7)

Laski's defence of the principle of function is thus closely tied to the view that function is one of the core elements of a *de facto* federalism, and that as such it helps to secure liberty by devolving power to the levels where it is best exercised. Laski's functionalism is based on actual political relations rather than formal constitutional law. A formally federal constitution is no guarantee of a federative system of authority. An explicitly federal political system may be capable of a strong centralizing tendency, whereas a centralized state may coexist with extensive devolution of power to functional self-government. It was Laski's hope that the latter could occur in Britain by a process of political evolution, and that the

formal legal status of Parliament could be left untouched while a real and irreversible shift in power relationships took place outside it

That shift did not occur and Laski's point is questionable in that the British central state has been so jealous in defending its claims to sovereign omnicompetence that it is difficult to see devolutionary political change happening without formal constitutional change.

One great advantage of the pluralist critique of representative democracy is that it undermines the classic critical response to attempts to extend the corporate representation of organized social interests: the claim that it undermines the sovereignty and authority of elected assemblies.³⁸ This seems to be a suitably 'democratic' criticism, until one remembers that democracy and representative democracy are not identical and that there is more than one possible scheme of representation. Arguments like those of Cole and Laski deny to the representation of individual electors through territorial constituencies any special privilege. Moreover, if the railways *are* as real as Lancashire, then there is every reason to seek the representation of that interest as directly as possible in any council where its affairs are debated and affected. The purpose of such corporatist representation is not to make laws but to secure the co-ordination of social activity and the compliance, based on consultation and bargaining, of organized social interests in an agreement for future action. The state is not thereby diminished but enhanced, not in its role as a 'sovereign' power, but as a social leader, orchestrating the affairs of society. The sociologist Emile Durkheim defined this form of democratic state best in his *Lectures on Civic Morals*. Democracy does not consist in representative assemblies *per se* but in the close and continuous communication between state and society. Durkheim envisaged such communication and co-ordination as best effected through the corporative representation of functional associations, professional guilds. In many ways, therefore, Durkheim is close to pluralism and, as we have seen, influenced Duguit. Democracy in this broader sense, which the pluralists in substance share with Durkheim, requires functional-corporate representation rather than being negated by it.³⁹

Britain's Conservative government has set its face like flint against such a conception of the state's role and such a process of generating public policy from the co-ordinated agreement of

organized social interests. Mrs Thatcher has done everything possible to maximize the distance between state and society, to act *on* society with the concentrated power of a hierarchical and centralized state. Necessarily, therefore, she has to emphasize 'sovereignty', a plenitude of exclusively directed power. To render this tolerable she must also of necessity place an intolerable burden on the democratic legitimation of electoral victories. Pluralism's conception of functional democracy provides a *principle* to justify corporatist arrangements, rather than merely pragmatic arguments of economic necessity (as with Wilson's 'Social Contract') or the economic success of those nations which practice such arrangements.

PLURALISM AND GUILD SOCIALISM

This is not the place to retell the history of Guild Socialism in great detail.⁴⁰ Of our three writers only Cole was an active Guild Socialist —although absolutely central to the movement Guild Socialism, moreover, did not require doctrinal purity as a condition of membership and not all Guild Socialists were pluralists. For example, S.G.Hobson in *National Guilds and the State* (1920), despite his commitment to industrial democracy, seems to leave the territorial and sovereign state in place, but he is extremely vague on the matter.

Of greater interest is the parallel and rapid decline of the political movement and the theoretical idea. Guild Socialism's demise can be simply explained. As a political movement it eschewed parliamentary action and yet in practice relied absolutely on a friendly attitude or, failing that, favorable policies on the part of the state. It eschewed the Labour Party and yet depended on support for its programme from major unions. For a while unions like the Miners, Railwaymen, and, to a lesser extent, the Engineers were at least partly sympathetic in the immediate post-war period. Management, organized labour, and the state were exploring new solutions under the threat of the Bolshevik Revolution and syndicalist labour unrest in Britain—as the example of the National Industrial Conference of 1919, for which Cole helped organize the union side, indicates. The Whitley Report of 1917 promised a measure of co-determination in industry. The nationalization of the mines and railways was contemplated. The Housing Act of 1919 provided central government finance for house building and

in the form of regular advances of working capital which enabled the Building Guilds, the most successful of Guild Socialist practical ventures, to get started.

Once the post-war fear of a revolutionary crisis passed then management and the state returned to distinctly 'business-as-usual' attitudes and refused to contemplate any active policy of co-determination with organized labour. The Guild Socialists were the major losers, because without state support for co-determination they had no political space within which to push their ideas and little political credibility. With a change in the system of house-building finance in 1921 the Building Guilds collapsed for want of working capital.

Guild Socialism failed to convert the Fabian Society, let alone the Labour Party. In order to survive as a political programme it required, contrary to its own beliefs, the electoral victory of a sympathetic government. The conservative trade unionists, who saw their function as obtaining a better deal for wage labour and not an abolition of the wages system, would have none of it, and they set the agenda of the Labour Party. The Liberals when running scared of Bolshevism offered more openings in fact, but Liberalism was about to undergo a fatal and rapid decline as a party. Guild Socialism was finally rent apart when its left wing joined the newly formed Communist Party and worked to wreck the Guild Socialist movement from within.

Pluralism as a political theory expired because it lacked any credibility when there was no major political force or social interest pushing for changes in the constitution and the structure of power. State power and state sovereignty were decisively asserted over organized labour in the General Strike of 1926. The Labour Party had no serious plans for political reform. Cole and Laski both moved on to involvement in ideas and projects where they could have influence. The state which had seemed discredited before the First World War, unable to cope with labour, syndicalist, suffragette, and Irish unrest, was massively strengthened during the First World War. National ownership, planning, and the efficiency of state-run services gained a tremendous fillip, and became the model for Labour Party socialists. Anti-collectivism and anti-statism were in retreat. The Great Crash of 1929 prompted demands from the left for more not less state action.

Indeed, the statist current was massively reinforced by the experience of state economic control during the Second World War and the 1945 Labour Government. The Labour party, already set in a statist mould and rejecting all serious reform of the major political institutions, identified state provision with best practice. A large part of it still does. It has fallen to Mrs Thatcher and the Conservatives to try to 'discredit' the state in matters of economic welfare and distribution. Yet the Conservatives have a resolutely anti-pluralist conception of state power and Mrs Thatcher is the stoutest defender of the unlimited sovereignty of Parliament. If pluralism has returned to the political agenda it is because of the political excesses of an anti-collectivist and self-confessed advocate of 'rolling back the state'. This is an irony the pluralists might well have appreciated.

NOTES

1. This revival of radical democratic thinking about government is both international and so prolific that one can do little more than list some of the more interesting contributions: Bobbio (1987), (1988), Bowles and Gintis (1986), Burnheim (1985), Dahl (1985), Held (1987), Keane (1988), Rustin (1985), and Walzer (1983).
2. This may appear to be a caricature, but it is the strict logic of Marxism as political theory, and even Marxists who see that modern forms of democracy and law are complex, have real benefits, and that these benefits may need defending, like Bob Fine (1984), still end up treating them as way stations to a more real future in which the state will vanish. For the anti-political logic of Marxist political theory, its disastrous mixture of cynicism about current politics and utopianism, see Polan (1984).
3. Jean Bodin (c. 1530–96)—*Les Six Livres de la Republique* (1583): for a modern abridged translation, see Bodin (1955); Thomas Hobbes (1588–1679)—*Leviathan* (1651); John Austin (1790–1859)—*The Province of Jurisprudence Determined* (1832).
4. There is, of course, a third current of thinking in social science termed 'pluralist'—the concept of 'plural society', originated by J.S.Furnivall and critically developed by L.Kuper and M.G.Smith, in which in a colonial or post-colonial situation social groups live side by side but have a distinct communal existence, and in which they mix through and are linked only by the market. For a brief account see Nicholls (1975:119–23) and for a major statement of the position see M.G.Smith (1974: chapter 7).

5. For the clearest example of the theoretical spelling out of pluralism see Dahl (1956), and for a defence of Dahl's theory of political competition against Marxist criticism see Hirst (1987a).
6. Antagonistic pluralism is a condition in which fundamentally opposed political forces compete through formally democratic institutions to pursue their own specific interests by means of state power. In its most extreme form each of the political forces is willing to dismantle the democratic apparatus once it has propelled them into power. Late Weimar is the classic case of antagonistic pluralism and the Communists and Nazis the main players. The threat of antagonistic pluralism is accurately defined in modern pluralist analysis—see Dahl (1982)—but was first diagnosed by the conservative legal theorist Carl Schmitt. For a brief discussion of the term and Schmitt's analysis see Hirst (1986:13–14 and chapter 4).
7. See Lord Hailsham (1978).
8. The phrase is Eric Hobsbawm's in *Marxism Today* (April 1988:14).
9. For an exceptionally enlightening view of how such corporate co-determination of economic policy through inter-interest bargaining in states like Austria and Sweden has worked see Katzenstein (1985).
10. 'The discredited state', *The Political Quarterly* 5 (February 1915): 101— this is *not* the same journal as the later and better-known *Political Quarterly*, it is reprinted in Barker (1930). See also Barker (1918).
11. Krabbe's work is extensively, if critically discussed in Hsiao (1927); see also and English translation of Krabbe's *The Modern Idea of the State* (1922). Duguit is discussed below and references are given in the notes for further reading at the end of this section; see also Coker (1921).
12. For samples of the contemporary reception of pluralism see: Coker (1921), Elliott (1928), Ellis (1920), Follet (1918), Korff (1923), Renner (1921), Sabine (1923), and Schmitt (1930). Other critical receptions of pluralism are mentioned in the text and in suggestions for further reading, most notably McIlwain (1939) and Hsiao (1927).
13. See the reference to Barker in Note 10 above—his critical views on pluralism and its limitations are to be found in his textbook *Principles of Social and Political Theory* (1951) written long after the intellectual demise of pluralism. For an example of Lindsay's work in the heyday of pluralism, see 'The state in recent political theory' *Political Quarterly* 1 (February 1914):128–45; the remarks about this journal in Note 10 above apply here too.
14. For an example of Russell's view of the state in this period see his contribution to the symposium 'The nature of the state in view of its

- external relations', *Proceedings of the Aristotelian Society* NS, XVI (1915): 301–10. The other papers by C. Delisle Burns and G. D. H. Cole are of interest. See also Russell's *Principles of Social Reconstruction* (1916).
15. For studies of Orage and *The New Age* see Mairé (1936), Martin (1967), Matthews (1979), and Selver (1959). For Hobson see his autobiography *Pilgrim to the Left; National Guilds...* (1914) does not have Hobson's name on the title page and he accused Orage of plagiarizing his work; see also Hobson (1920) and (1936). For de Maetz see his *Authority, Liberty and Function* (1916).
 16. For Figgis's influence on Temple and church politics see Nicholls (1975:109–10), and for a study of Temple's Christian Socialism see Dorrien (1986).
 17. For Figgis's influence on Laski see Laski's letter to Bertrand Russell (Russell *Autobiography*: 342), and Nicholls says: 'Barker tells us that it was Figgis, and through Figgis Maitland and Gierke, who were the chief influences on Laski in his New College days' (1975: 45). For Barker's own memoirs see *Age and Youth* (1953). For Holmes's influence on Laski see *Holmes-Laski Letters* (1953). Laski's and Cole's careers proceeded on parallel lines, but there seems to have been no love lost between them, see M. Cole (1971: 201–3).
 18. H. J. Laski 'The pluralist state' in *The Foundations of Sovereignty...* (1921:244), cited by Nicholls (1975:46).
 19. See H. J. Laski *A Grammar of Politics* fifth edition (1967 and still in print).
 20. In his 'The components of the national culture', *New Left Review* 50, 1968.
 21. Cole (1920b: 93) says: 'For an awful example [of metaphysical theory of the state] see the writings of Dr Bernard Bosanquet'. For Green, see his *Lectures on the Principles of Political Obligation* (1882) and for an outstanding critical study Richter (1964). F. H. Bradley's most influential work on social and political thought is his *Ethical Studies* (1876); see Wollheim (1959: chapter 6) for a critical discussion of his ethical theory. Ernest Barker's *Political Thought in England from Herbert Spencer to the Present Day* (1915a) is an invaluable guide to political thought in this period and the context from which the pluralists emerged.
 22. For Gierke's work see *Political Theories of the Middle Age* (1900), *Natural Law and the Theory of Society* (1934), and *The Development of Political Theory* (1939), a work on the influence of Johannes Althusius.
 23. See Lewis (1935) for a valuable monograph on Gierke which makes his non-pluralism clear; see also S. Mogi (1932).

24. See *Churches in the Modern State* (1913:18–22). Lord Macnaghten in a dissenting judgment in the Free Church of Scotland Appeals case said:

Was the Church...so bound and tied by the tenets prevailing at the time of the Disruption, that departure from these tenets in any matter of substance would be a violation of that profession or testimony which may be called the unwritten charter of her foundation, and so necessarily involve a breach of trust in the administration of funds committed for no other purpose but the support of the Free Church...? Was the Free Church by the very condition of her existence forced to cling to her Subordinate Standards with so desperate a grip that she had lost hold and touch of the Supreme standard of her faith? Was she from birth incapable of all growth and development? Was she...a dead branch and not a living Church?

Orr, Report of Free Church of Scotland case
p.573, S.C.1f. 1083 (1903)

This passage is cited by Laski in 'The personality of associations' (1921:160), but is omitted in the text printed below.

25. Figgis developed the irony of the Law Lords simultaneously sticking to the terms of the original trust and in fact delving into theology to determine what powers the Church had:

Tacitly, if not explicitly [the Lords] denied any real and inherent power of development; and further, so far from refusing to consider theological questions, they listened to a long argument of Mr. (now Lord) Haldane designed to show that from the higher Hegelian standpoint Calvinism and Arminianism were really the same thing. This the Lords were forced to do in order to judge whether or no the new Act contravened the trust. Thus on the one hand the judgement denies to a Free Church the power of defining and developing in its own doctrine, and on the other, while disclaiming interference in theological matters, it practically exercises it under the plea of considering the question of whether or no the trust had been violated.

(Figgis 1913:21–2)

26. See Hadden (1977) for an account of company law from a radical perspective, which discusses the issue of legal obligation to employees and the community and how best to incorporate it in company law. See also Hirst (1979) for a critique of the Marxist account of the joint-stock company and a challenge to Marxist indifference to company law reform; chapter 5, especially pp. 127–44.
27. Zylstra discusses Cohen's critique (1970:35–7); the essay of Cohen that embodies the views which persuaded Laski is 'Communal ghosts and other perils in social philosophy' (1919).
20. Laski had the greatest respect for William James's *A Pluralistic Universe* (1909). Carl Schmitt, in an essay sharply critical of pluralism (1930), noted this influence and claimed that pragmatist (anti-)metaphysics were the 'political theology' of pluralism. 'Political theology' for Schmitt is the correspondence between theological and metaphysical world views and a definite conception of the state, see Schmitt (1985). Schmitt's (1930) critique of pluralism is the most insightful and challenging, in large measure because pluralism is in direct contradiction to his own view of politics and the state. For Schmitt the definitive feature of the political is the opposition of friend and enemy: politics is a struggle, and is only stabilized in the force of a decisive decision which constitutes the sovereign power. The very ideal of plural loyalties within the state threatens to create that *bellum omnium contra omnes* which stabilized sovereign power must use its power of decision to prevent. For this see Schmitt's *The Concept of the Political* (1976) and Hirst (1987b).
29. This is clear from Laski's 'Law and the state' below; it is also interesting to note that Laski was the supervisor of Franz Neumann's Ph. D. thesis in 1936 when Neumann was a refugee from Nazi persecution. Neumann's thesis, now at last published as *The Rule of Law* (1986), conceives law as a complex interweaving of *voluntas*, the positive political will and power to make rules, and *ratio*, the requirement that the regulative activities of law strive to embody social utility.
30. This view is strongly pressed by C.H. McIlwain in his paper 'Sovereignty' *Economica* November 1926, and reprinted in McIlwain (1939).
31. The *Lex Regia*—the claimed basis of third-century jurists for the Emperor's right to be sole legislator. That it is a fictional legitimation of a *de facto* power is clear from Buckland (1921:16). The point often made against Figgis, that the Middle Ages did indeed know and expound the concept of 'sovereignty', depends on reading into the claims of Pope and Emperor to a power of universal

dominion stretching back to Rome a modern concept of *state* sovereignty. This is not implied, since the modern concept of the state is lacking. Figgis is too good an historian to make this error; it results from absolutist jurisconsults seeking previous legitimations for the claims of absolutism, not from Figgis's misreading of the departure involved in absolutism. See *From Gerson to Grotius* (1916:7–9).

32. For an analysis of Bodin and Hobbes and their relationship to absolutism see Kosselleck (1988). It is mutual fear of civil war and unchecked religious tensions that leads both of them to support absolutist sovereign power.
33. Rousseau advocates a policy of *divisio et impera*, which strengthens the state by minimizing the power of associations if they cannot be dispensed with: 'But if there are partial societies, it is best to have as many as possible and to prevent them from being unequal' *Social Contract* (1762:23).
34. See George Dangerfield's classic *The Strange Death of Liberal England* (1962).
35. See Hayward (1960) for the relationship between Durkheim and Duguit.
36. Dicey says:

All that it is here necessary to insist upon is that the essential property of representative government is to produce coincidence between the wishes of the sovereign and the wishes of the subjects; to make, in short, the two limitations on the exercise of sovereignty absolutely coincident. This, which is true in its measure of all real representative government, applies with special truth to the English House of Commons.

(Dicey 1920:81).

I am grateful to Anthony Carty's (unpublished) 'A postmodernist critique of parliamentary sovereignty', *Critical Legal Conference* (1988), for this point.

37. That was the position of the self-governing Dominions before they were granted full legislative autonomy by the Statute of Westminster 1931—Laski's essay dates from 1921.
38. See S.Brittan (1983).
39. For discussions of Durkheim's political ideas see Hayward (1960), Hearn (1985), and Richter (1964).
40. For those interested in its history see the suggestions for further reading. Glass (1966) and Matthews (1979) have useful

bibliographies which cite most of the relevant literature; works either not cited there or to which attention must be drawn are Pierson (1979), Pribicevic (1959), and Black (1984). Two Ph.D. theses are of particular value on Guild Socialism: Keith Hotten *The Labour Party and the Enterprise*, chapter 4, pp. 186–264, University of London, 1988, and H.Irving *Romanticism and British Socialism: Art and Work in Socialist Thought (1889–1920)*, University of Sydney, 1986. Major Guild Socialist texts— other than those of Cole and Hobson cited in further reading, in Note 15 above, and in the main text—are: ‘The Storrington Document’ (1914), a brief manifesto, in Briggs and Saville (eds) (1971); G.D.H. Cole and W.Mellor *The Meaning of Industrial Democracy* (1919); G.D.H. Cole ‘Guild Socialism’, *Fabian Tract* 192 (1920); M.B.Reckitt and C.E. Bechofer *The Meaning of National Guilds* (1920).

SUGGESTIONS FOR FURTHER READING

A comprehensive bibliography of pluralist texts and commentaries on them is unnecessary as full bibliographies of pluralism are to be found in Hsiao (1927), Magid (1941), and Nicholls (1975). Zylstra (1970) contains a full bibliography on Laski, Wright (1979) on Cole.

David Nicholls’s *The Pluralist State* is the best overall book on English pluralism and also the best introduction to the ideas of J.N.Figgis. K.C. Hsiao’s *Political Pluralism* (1927) is a thorough early survey that covers both English and continental sources, but is highly and often irritatingly critical. Bernard Zylstra’s *From Pluralism to Collectivism* (1970) is the best book on this aspect of Laski’s work and is definitely superior to H.A.Deane’s *The Political Ideas of Harold J.Laski* (1955). A.W. Wright’s *G.D.H.Cole and Socialist Democracy* (1979) is excellent on pluralism and for Cole’s continuing commitment to industrial democracy and is much superior to L.P.Carpenter’s *G.D.H.Cole: An Intellectual Biography* (1973). Margaret Cole’s *The Life of G.D.H.Cole* (1971) is consistently valuable for Cole’s Guild Socialist period and beyond, if the reader is interested.

For Gierke’s thought see J.D.Lewis’s *The Genossenschaft Theory of Otto Von Gierke* (1935). For Duguit, apart from Laski’s Introduction to Duguit’s *Law in the Modern State* (1921) and Duguit’s survey of ‘The law and the state’ *Harvard Law Review* (1917, 31 (1): 1–185), see ‘Solidarist Syndicalism:

Durkheim and Duguit' by J.E.S.Hayward, *Sociological Review* 8 (1) July 1960:14–36 and 8 (2), December 1960:185–202. For Guild Socialism proper there is a vast literature. By far the best source is the contemporary blow by blow account of the American academic Niles Carpenter, *Guild Socialism* (1922). S.T.Glass's *The Responsible Society: The Ideas of Guild Socialism* (1966) is a short and useful modern introduction. Frank Matthews's 'The ladder of becoming...', in David E.Martin and David Rubenstein (eds) *Ideology and the Labour Movement* (1979), is good for the origins of Guild Socialism and the ideas of A.J. Penty and the influence of A.R.Orage.