

Queen Mary, University of London

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**European jurisprudence and the intellectual
origins of the Greek state: the Greek jurists and
liberal reforms (ca 1830-1880)**

PhD thesis submitted for the partial fulfillment of the
requirements of the Degree of Doctor of Philosophy

Statement of originality

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Abstract

This thesis builds on, and contributes to recent scholarship on the history of nineteenth-century liberalism by exploring Greek legal thought and its political implications during the first decades after independence from the Ottomans (ca.1830-1880). Protagonists of this work of intellectual history are the Greek jurists—a small group of very influential legal scholars—most of whom flocked to the Greek kingdom right after its establishment. By focusing on their theoretical contributions and public action, the thesis has two major contentions. First, it shows that the legal, political and economic thought of the jurists was not only conversant with Continental liberal currents of the Restoration, but, due to the particular local context, made original contributions to liberalism. Indeed, Greek liberals shared a lot with their counterparts in France, Italy and Germany, not least the belief that liberty originated *in* law and the state and not *against* them. Another shared feature was the distinction between the elitist liberal variant of the ‘Romanist’ civil lawyers such as Pavlos Kalligas, and the more ‘radical moderate’ version of Ioannis Soutsos and Nikolaos Saripolos. At the same time, the Greek liberals, seeking not to terminate but to institutionalize the Greek revolution, tuned to the radical language of natural rights (of persons and states) and national sovereignty. This language, which sought to control the rulers, put more contestation in power and expand political participation gained wide currency during the crisis of the 1850s, which exposed also the precarious place of Greece in the geography of European civilization. The second contention of the thesis is that this ‘transformation of thought’, informed the ‘long revolution’ of the 1860s and the new system of power this latter established. By so doing, it shows that liberal jurisprudence provided the intellectual foundations upon which the modern Greek state was build.

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formatting of the thesis. As for the style of thesis, apart from my two supervisors, Bridget Martin's contribution was priceless.

Note on transliteration

The absence of a standard system of transliteration poses problems for the rendering of Greek names and references into languages written in Latin characters. The only standard system that exists is that used for the transliteration of classical Greek. This is, however, quite inappropriate for modern Greek. The system adopted in this thesis has been based largely on modifications, which have been proposed by Greek historians such as Paschalis Kitromilides in recent publications, mainly by the Edinburgh Press and Harvard University Press. These modifications are the following:

i) Diphthongs have generally been retained, except in those cases where the modern pronunciation of Greek requires a consonant to be adequately rendered (e.g. 'aftou', not 'autou').

ii) The Greek vowels 'η' and 'ι' have been uniformly rendered with 'i', and similarly 'ο' and 'ω' have been rendered with 'o'. The Greek 'υ' has been rendered with 'y' except when it forms part of a diphthong; then it is rendered by 'u' (e.g. 'tou'). The rough breathing has been dropped.

iii) Consonants have generally been rendered phonetically. Thus the Greek 'β' has been rendered by the Latin 'v' rather than 'b'. The Greek consonant 'φ' is rendered by 'ph' in all words with an ancient Greek root. Conversely, Greek names with Latin roots (e.g. Constantinos) have been transliterated as closely as possible to their original form.

Exceptions to the general rules were made in the case of names of places or areas which have a standard English form (e.g. Piraeus, Thessaloniki), otherwise they have been transliterated following the general rules mentioned above. Accordingly the names of modern Greek authors appear in the form used by the authors themselves, if they have published work in a foreign language (e.g. Aristeides Hatzis or Kitromilides). Inevitably some inconsistencies will remain, but I hope the reader will show some understanding for a thesis of this nature.

Calendar

Greece adopted the Gregorian calendar on 1 March 1923 (16 February 1923 according to the Julian calendar previously in force). Most sources used in this thesis were dated according to the Julian calendar whereas some were dated according to both. In order to avoid long citations and confusion, I have chosen to provide only the original date in the Julian calendar even for those sources which contained both dates.

Footnotes citations

A study of this sort contains a lot of sources in Greek which, as already alluded to, need to be transliterated. In order to avoid long references in the footnotes, the reader should consult the bibliography for the full references to the sources in Greek. The text references give the name in the Latin alphabet, the date of publication, and the title translated into English within brackets (not in italics and without quotations marks unless it is chapter from a book or an article).

In addition all translations from the Greek texts are mine, unless otherwise stated.

List of abbreviations

AP: Areios Pagos ('Supreme Court')

EES: Episimos Ephimeris tis Synelefseos (Official Gazette of the (National) Assembly)

EK: Ephimerida tis Kyverniseos, ('Government Gazette')

GAK: Genika Archeia tou Kratous ('General Greek State Archives')

FO: Foreign Office

PPK: Prokiryxi tis Prosorinis Kyverniseos (Proclamation of the Provisional Government)

PSE: Praxi tou Symvouliou tis Epikrateias ('Act of the Council of State')

Introduction

This thesis is intended as a contribution to the study of the development of Greek political culture in the nineteenth century. It seeks to examine the formation and transformation of that cluster of ideas associated with liberalism, nationalism and state formation which decisively affected the way in which Greek society attempted to come to terms with the problems of modernity. It does so by tracing the history of Greek legal thought and its political implications during the first decades after Greece gained its independence from the Ottomans (1830s-1880s).

This is not a work of legal history, the primary aim of which has been conventionally to explain why the legal system developed in the way it did, by tracing the origins and development of specific doctrines and institutions. Rather, this thesis purports to be a work of intellectual history, in which the history of legal thought and legal development is linked with political history. In other words, it takes 'thinking' and 'talking' about law as fundamental components of a broader 'political' discourse and changes in law as parts of broader changes in political culture. In addition, contrary to both legal historiography and a large part of Greek historiography, which usually relates, if at all, context only to the immediate political sphere, the thesis contends that in order to understand Greek legal thought and offer a critical balance sheet of its intellectual and political achievements, it is imperative to locate it within the European and transnational liberal debates on law and politics taking place at the time. This means that Greek legal thought will be treated as a variant of that complex phenomenon of nineteenth-century European liberalism, and that this work ultimately aims to contribute to the rich and ongoing historiographical debates on the history of liberalism.¹

¹ As several historians have argued, in the years after the defeat of Napoleon, the term liberal was a rather vague category, which acquired a plurality of meanings as it came to be increasingly employed in political settings across and beyond Europe. The literature on the history and meanings of liberalism in the nineteenth-century is quite large and expanding. Although more will be mentioned in the following pages, two good starting points which show the breadth and interconnectedness of liberalism are Maurizio Isabella (2009), *Risorgimento in Exile: Italian Émigrés and the Liberal International in the Post-Napoleonic Era*, Oxford: Oxford University Press, pp. 21-31, and Gabriel

The thesis focuses on the public lives and the legal and political thought of a small but very active and influential group of legal scholars—or the jurists as they will be referred to—most of whom flocked to the Greek kingdom right after its establishment. Convinced as they were of their moral duty to shape the new state and educate the nation, scholars such as Pavlos Kalligas, Nikolaos Saripolos, Petros Paparrigopoulos, Georgios Rallis, Markos Renieris, Kyriakos Diomidis and the political economist Ioannis Soutsos (also professor at the Law School) among others, came to play a key role in shaping legal scholarship and a liberal political language. What is probably more crucial is that they also managed to put their ideas into practice by influencing the lawmaking process and by devising and consolidating liberal legal reforms and novel political institutions. Ultimately they played a large role in shaping the political structure of the Kingdom and in introducing ideas about the state which lay at the background of its novel and enhanced role during and after the 1870s.

The period under consideration was indeed a period of great uncertainty and political fluidity. After the formal establishment of the Greek state by an international diplomatic act in 1830 (consolidated in 1832), the new Bavarian monarchical authorities and the ruling elites set out to build a westernized, or what should more accurately be called an ‘enlightened princely’ state (see next chapter). At the same time, although Greece was formally an independent state, its sovereignty was severely curtailed, as a result of its perception by European powers as a ‘stillborn’ state which could not claim full membership in the standard of civilization. This second gear status in the interstate system of the European Concert was reflected both in the ‘protection’ offered to Greece by the Great Powers and in the constant financial and political pressures that these exerted on the new state.

In the following decades, nevertheless, Greece underwent several transformations. The establishment of a version of ‘orleanist’ constitutionalism in 1844 was followed by a full-blown revolution in 1862, the dethronement of the king, the selection of a new one and the setting up of a National Assembly, which would in essence reconstitute the political order by the constitution it promulgated in 1864. In the next decade several less acute political crises took place with the one of 1874-75

giving some partial answers to difficult political questions. Thus Greece, from an 'enlightened absolutist' state, with weak finances and constant failures at following an irredentist foreign policy, turned into a monarchy under constitutional and eventually parliamentary rule which, from the mid-1870s onwards, could proceed more consistently in modernizing policies under the leadership of Charilaos Trikoupis. But it was ideas and institutions introduced in the preceding years which laid the foundations for these changes and which were to leave a lasting impact on Greek political culture.

The jurists were direct witnesses and participants in these developments. As writers, professors, lawyers, judges, political activists, civil servants and at times politicians, they occupied leading positions in Greek public life from the late 1830s up to the 1880s. The pivotal position they enjoyed, both as observers and as primary agents of change, can thus provide us with a privileged access to that critical moment in modern Greek political and intellectual history. In the end, their aspirations were to a large extent fulfilled. The revolution of 1862, the constitution of 1864 and the elections thereafter, a number of laws promulgated during the 1860s and 1870s, and of course the establishment of majority rule in 1875, were all changes that re-configured political institutions, changed the character of the state and put the monarchy on a new institutional footing.

Underpinning this settlement was a variety of liberal arguments, all in direct contact with ideological currents of Restoration Europe. Thus, far from being merely an academic issue, legal scholarship had far-reaching implications for political culture and the building of institutions. At one level then, this thesis is a history of ideas, tracing as it does, the shifting meanings attached to the ideas of nationalism, liberalism, and the state. At another, it attempts to consider the nature of the political changes, which were partly cause and partly consequence of the emergence of new ways of thinking about the state, the government and the law.

Explaining nineteenth-century political transformation: The ‘Age of Revolutions’, ‘failed’ liberalism, and the traditional elites²

Greek historiography has conventionally explored the period before and after the revolutionary war against the Ottoman empire in the context of the ‘Age of Revolutions’—seen in general as the period when the institutions of the ‘*ancien regime*’ broke down, the monarchical states and the political and commercial relations that characterized the early modern world unraveled and new polities and connections came to the fore.³ In its Greek variant the principal thrust of scholarly research has focused on the period which started approximately in the 1770s and culminated in the Greek War of Independence and eventually in the establishment of the independent state in the early 1830s. Influenced very much by ‘modernization’ theories, this was a historical narrative which fitted the priorities of several historiographical agendas. For nationalist historians, this was a period when the Greek nation—which they perceived as a ‘historic’ and ‘old’ nation, even if they acknowledged influences by developments in Western Europe—was regenerated and rose up against its Ottoman oppressors. For Marxist historians, the changing economic structures of the late eighteenth century and the emergence of commercial capitalism were presumed to have produced discernible political consequences which did not fit with the backward Ottoman context.⁴

What is more, this framework, as it was formulated by R.R. Palmer, has left its deep mark on the history of ideas. This was manifested in the paradigmatic works of historians such as Constantinos Dimaras and Paschalis Kitromilides, who studied (the former from the 1950s onwards and the latter from the 1970s onwards) extensively

² Every chapter contains a discussion of historiography. In this section I will confine the analysis to the grand narratives within Greek historiography. I will also give reference to the most absolutely needed sources (prioritising those that have not been used in the rest of the text) in order to limit repetitions as much as possible.

³ Robert R. Palmer (1959), *The Age of Democratic Revolution: A Political History of Europe and America, 1760–1800*, vol I-II, Princeton: Princeton University Press . For a reappraisal see David Armitage and Sanjay Subrahmanyam (eds) (2010), *The Age of Revolutions in Global Context, 1760–1840*, London: Palgrave.

⁴ Nikos Svoronos (1999), [Overview of Modern Greek history], Athens: Themelio; Vasilis Kremmydas (2012), [Concise history of the modern Greek state], Athens: Kalligrafos.

and rather innovatively the intellectual movement of Modern Greek enlightenment.⁵ In place of the 'exceptional' or 'unique' national path, these scholars stressed comparisons, exchanges of ideas and generally placed the Greek case in the transnational context of European enlightenment. These studies were in line with dominant approaches of the time, which put the emphasis on the reception of ideas that had originated in Western Europe—usually confined to the Anglo-French world, seen as the centre of modernities.⁶ More generally, historians writing under this paradigm saw one pathway to political modernity and implicitly or explicitly perceived the political thought of the countries which did not belong to the European core as imitators of its Anglo-French antecedents. Similarly, Greek intellectual historians saw, by and large, the liberal national movement and the revolution that ensued as derivative of Western developments. Although both Dimaras and especially Kitromilides have stressed the originality of the modern Greek enlightenment and its political thought, the general idea that one gets is that the origins were exogenous, consisting in large measure of translated texts and 'transferred' ideas.⁷

To be sure, these assumptions have been subjected to criticism and, to a certain extent, have been debunked.⁸ Yet, Greek historiography has remained quite unaffected by this revisionist approach. In addition, these assumptions have informed also studies about the period that followed independence. And what is probably more important for this thesis, this was coupled by the fact that this has

⁵ Constantinos Dimaras, (1969), *La Grèce au temps des Lumières*, Geneve: Droz; idem (1977), [Modern Greek Enlightenment], Athens: Ermes. Kitromilides's first contribution was his PhD in 1979. For a recently reassessment of his research: Paschalis Kitromilides (2013), *Enlightenment and Revolution: The Making of Modern Greece*, Cambridge, Mass.: Harvard University Press. See also Paschalis Kitromilides (2010), 'The Enlightenment and the Greek Cultural Tradition', *History of European Ideas*, vol. 36, pp. 39-46.

⁶ See Paquette (2014), 'Introduction', pp. 1-3.

⁷ Paschalis Kitromilides has argued that the Greek case should be studied as 'paradigmatic'. By this, he did not mean the content of the political ideas which were articulated but the particular social and cultural conditions of the Balkan context in which 'European' ideas came to be diffused and adapted. See Paschalis Kitromilides (2009), 'Paradigm nation: the study of nationalism and the "canonization" of Greece', in Roderick Beaton and David Ricks (eds) (2009) *The Making of Modern Greece: Nationalism, Romanticism and the Uses of the Past (1797-1896)*, London: Ashgate, pp. 21-31.

⁸ Indicative examples: Shmuel N. Eisenstadt (ed.) (2005), *Multiple Modernities*, New Brunswick and London: Transaction Publishers; John Robertson (2005), *The Case for the Enlightenment: Scotland and Naples, 1680-1760*, Cambridge: Cambridge University Press; Gabriel Paquette (ed.) (2009), *Enlightened Reforms in Southern Europe and its Atlantic Colonies, c. 1750-1830*, Farnham and Burlington: Ashgate.

been a period which from the perspective of the history of ideas remains rather understudied. According to the conventional narrative, although the ‘reception’ of ideas from Western Europe continued, the early liberalism of Greek political thought developed by Korais and his circle in Paris was gradually distorted and replaced by romantic nationalism (its very opposite, as it were). And this underpinned also the irredentist politics of the Greek state.⁹ In other words, not only were the origins of Greek liberalism exogenous, but they were indeed feeble and without roots in Greek intellectual life. The few studies that exist gave thus priority to the ideological battles within nationalist and conservative thought at the expense of other ideological currents or indeed of a critical appreciation even of those currents which were deemed radical conservative or bourgeois.¹⁰ In the most simplistic versions of this line of argument, the Greek elites – no matter what kind of elites they were – were fundamentally conservative, oligarchic, anti-revolutionary, bourgeois, and at the same time reluctant to endorse the individualism of European liberalism.

This lack of an interest in delving into the details of the political ideas of the period under consideration was complemented by another historiographical agenda – also deeply influenced by the ‘modernization’ paradigm – which emerged in the 1970s and has been alive ever since.¹¹ Historians, lawyers and political scientists, left aside the study of political struggles, ideologies and revolutions and concentrated on the relations between institutions and society. By focusing on the Greek state and using procrustean ideal models – in the form of a traditional, backward Ottoman state which they opposed to the modern western ‘national’ state – the central

⁹ Paschalis Kitromilides (1991), [‘Ideological currents and political claims’], in Georges B. Dertilis and Kostas Kostis (eds), [Themes of Modern Greek history], Athens: Ant. Sakkoulas, p. 63 (pp. 59-70). Socrates Petmezas—one of the very few to have focused on the mid-nineteenth-century ideological trends and the political languages of the period—has given the most recent and consistent account of this line of argument; see Socrates Petmezas (2009), ‘From Privileged Outcasts to Power Players: the “Romantic” redefinition of the Hellenic nation in the mid-19th century’, in Beaton and Ricks (eds), *The Making of Modern Greece*, pp. 126-139.

¹⁰ Vasilis Bochotis (2003), [The Radical Right: Antiparliamentarism, conservatism and unfulfilled fascism in Greece, 1863-1911], Athens: Vivliorama, Giorgos Kokkinos (1996), [Political irrationalism in Greece: the work and thought of Neocles Kazazis, 1849-1936], Athens: Trochalia.

¹¹ After the financial crisis that hit Greece in 2008, there was a revival of ‘failed modernization’ interpretations which traced ‘failure’ all the way back to the establishment of the Greek state. The recourse to such outdated and analytically insufficient interpretations—based on concepts such as ‘backwardness’, ‘tradition’, ‘eastern’ or ‘underdog’ mentality and conceived mainly in the 1970s and 1980s—has probably more to do with the ‘persistence of the old regime’ within the ‘cosmos’ of Greek academics and administrative elites than with its interpretative value at this critical moment.

question that they sought to answer was the reasons why the Greek transition to 'modernity' had been feeble and deviated from the western path. The most common interpretation was that the adoption of a modern Western institutional framework which was introduced by the Bavarian authorities was eroded by the traditional power structures of Greek society, based as these were to clientelism and backward (Ottoman) political practices.¹² At the same time the constitutional and political changes of the nineteenth century were either downplayed or ascribed to causes such as the frustration among segments of the population due to the failed royal irredentist policy, the local resistance to the centralizing tendencies of the Bavarian monarchy or the external (Western) diplomatic pressures.

However, in the last ten years, new revisionist studies have put under scrutiny past conventional interpretations. First, Nicos Alivizatos, the leading Greek legal historian, revisiting his earlier work on modern Greek constitutional history, put more emphasis than in the past on the international political context and on the role of 'liberal' and 'democratic' ideas in driving political change. Notwithstanding this fresh look, Alivizatos' work is still characterized by a certain teleological perspective, in that it treats nineteenth-century political changes as gradual steps towards parliamentarism and the eventual triumph of a liberal and democratic order.¹³

Second, social and economic historians have criticized both the teleological and the 'modernizing' readings, by challenging the emphases on discontinuity upon which the 'Age of Revolutions' and the nationalist historiographical traditions were predicated. Kostas Kostis, a central figure of this revisionist current, severely criticised the vague ideal types and the weak data on which several studies of the Greek state and of Greece more generally have been based. Instead, he urged historians to try to understand each time what this state wished to accomplish and what kind of ideas informed its policies. In his own work, by paying attention to local politics and stressing much more continuities with the past, he argued that contrary to older conventional interpretations, the Greek state in the first decades of its life

¹² Although conservative interpretations agreed on the 'foreignness' of the institutions, they saw in their introduction the reason why traditional society was disorganized and 'Greekness' distorted. For a bold criticism of both interpretations see Kostas Kostis (2002), 'The formation of the state in Greece, 1830-1914', in Marco Dogo and Guido Franzinetti (eds), *Disrupting and reshaping: Early stages of nation-building in the Balkans*, Ravenna, pp. 47-64 (p. 48).

¹³ Nikos Alivizatos (2011), [The Constitution and its enemies, 1800-2010], Athens: Polis.

was not a modern 'national' state because this was not in the priorities of the Bavarian authorities (more will be said on the following chapters, but Kostis' work is much more ambitious than just being a history of the Greek state).

This revisionism has certainly enhanced our knowledge of the role of power politics in nineteenth-century political change being closer to the actual political experience of historical actors. And in fact my research draws much sustenance from the revisionist accounts. For example, it treats the Bavarian state and the ideas of governance that informed Bavarian policies in their own terms. In addition, it subscribes to the shared view among revisionist economic historians that it was in the second half of the nineteenth century (from the 1870s with the Trikoupis administration) that a significant change occurred in the economic role and indeed in the nature of the Greek state.¹⁴

At the same time, the thesis departs to a significant degree from this revisionism. The main reason is that this latter has been mainly a story of institutions, having put the emphasis more on the outward manifestation of authority than on political beliefs, ideology and theories of government. What is more, most, though not all, revisionist accounts have treated political claims as instruments of other motives and constitutional and other public documents as bearing no evidence of why people acted as they did. For example, Kostis explained political change by arguing that the adoption of constitutional and representative claims by the local elites was the means through which they attempted to take part in the exercise of political power and thus preserve their old privileges.¹⁵

By contrast, the thesis takes its cue from a rather commonsensical view among intellectual historians, namely that political ideas cannot be studied just as instruments which were manipulated by rational elites. Even if one accepts this latter historical explanation in its most vulgar version, it would be impossible to explain

¹⁴ From an administrative mechanism that worked mainly as the executive branch of the Bavarian royal authorities (a governing model that has been defined as the Greek version of 'cameralism', for the period 1833-1862), from the 1860s onwards, the state's role expanded significantly by modernizing the army, investing in infrastructures, introducing tax reforms and by being incorporated in the international financial markets, see Kostas Kostis and Socrates Petmezas (2006) (eds), [The Development of Greek Economy during the 19th Century], Athens: Alexandria, especially the ['Introduction'], pp. 21-37, and Kostis's contribution, ['Public Economics'], pp. 293-335.

¹⁵ Kostas Kostis (2013), [The spoiled children of history: The Development of the Greek state, 18th - 21st century], Athens: Polis, pp. 270-275.

conceptual and political innovation or at least ignore the possibility of ‘unintended consequences’. My research is thus based on the conviction that in order to understand the transformations in the structure of politics and in Greek political culture we need to combine an analysis of local politics with an assessment of a ‘transformation of thought’ that took place around this time. In other words, it maintains in the first place that an ideological transformation took place in the 1850s and 1860s with which a new conception of politics was introduced—of what the state was, what it should do and how the political community was to be organized. In the second place, it argues that it was this intense political thinking which was the driver of the political transformation of the 1870s, not least of the nature of the state itself.

By examining thus, the impact of ideas on political decisions and reforms, the thesis seeks to redress the lacunae of Greek historiography in explaining political change. In order to do so, it will draw attention to the intellectual motivations and the political thought of those who facilitated the process of change and have gone somewhat neglected: the Greek jurists. Indeed, one of the most notable but overlooked aspects of Greek high legal culture during the nineteenth century was the existence of a small group of highly trained lawyers that were part of the same social and cultural milieu, followed the same professional trajectories (in the University, the Bench and the Bar, the civil service and the Parliament) and communicated their thoughts through the same journals and in the milieu of learned societies.

Some notes on method and the research agenda

Some of the figures focused upon in this thesis, such as Pavlos Kalligas and Nicolaos Saripolos, have been objects of some scholarly attention. But this interest has been either of a biographical nature – they have been depicted as liberal heroes to be emulated or as bourgeois scapegoats to be dismissed – or has taken the shape of narrow doctrinal approaches to their work. In these latter cases, jurisprudence was, if at all, located within political divisions, which were usually defined in very

general terms (romantics vs. liberals) and rarely analysed. In any case, the jurists have rarely been taken as historical figures defined by, and thinking in terms of their own time. In order to redress this imbalance the thesis takes as its starting point the contextual approach through which Quentin Skinner and the 'Cambridge school' redefined the history of political thought. Rather than only looking at texts from a privileged contemporary position, Skinner invited intellectual historians to look for ideological meaning in the immediate discursive environment in which texts, canonical and non-canonical, were produced.¹⁶ And as most intellectual historians have argued, context should not be understood in a narrow fashion. Most interpretations by Greek historians have failed to acknowledge the broader ideological context in which the jurists and other intellectuals of the nineteenth century came to form their theories and act politically. In that sense, in this thesis, the jurists are taken as scholars and political actors who did not just use but also adapted and creatively re-invented certain political languages—which were European in range and in scope—at a certain moment in a very particular society. Our concern must then be to understand what that language meant at the moment of its appearance.

In exploring nineteenth-century political languages, Greek historiography has put a lot of emphasis on nationalism. And of course the language of law, had a very crucial role in the political representations of the nation, and was widely responsible for what Christopher Bayly has called 'internationalization of nationalism'.¹⁷ Yet, my analysis does not confine itself to the ways in which the nation as an imagined community in its cultural dimension came to be conceptualized by the jurists. It accords due weight to politics, ideology and law. It is my contention that people at the time were as much interested in fostering Greek nationalism as they were in dealing with issues such as liberty, sovereignty, representation, property, individual rights, the state and above all the best form of government - key themes in European-wide liberal discussions. So, in short, rather than viewing liberalism as a transcendent notion that was available as a systematic legal doctrine which was

¹⁶ Quentin Skinner (2002), *Visions of Politics: Regarding Method*, vol. I, Cambridge: Cambridge University Press.

¹⁷ Christopher A. Bayly (2004), *The Birth of the Modern World 1780-1914*, Oxford: Blackwell, pp. 199-243.

manipulated by nation builders, the thesis treats liberalism as an artifact of intellectual endeavor at this particular historical moment. This approach requires that contemporaries' assertions be viewed as claims rather than as statements of an essential or immanent reality. And a last note: I have chosen to focus upon those areas of legal thought in nineteenth-century Greece which had the greatest impact either upon political debates within the country, or else upon the history of legal and political ideas in their wider international constituency.¹⁸

Three main objectives lie at the heart of this thesis. Firstly, it seeks to assess the theoretical contributions of the jurists and their role in the development of Greek jurisprudence and legal academic culture more generally. The jurists introduced new ways of 'doing' and thinking about law, most of which, if not all, emanated from liberal thinking as this was formed after the French revolution and especially after the fall of Napoleon. In that sense, they offer a lense through which to see how major currents of European political thought, especially liberalism, nationalism and republicanism were creatively accommodated into the Greek context. That is not to say of course that their political beliefs and especially their liberalism were imitating European theoretical models. Nor does it mean that their liberalism was in any way homogeneous. As we will see, and as was the case elsewhere in Europe (and beyond) at the time, people had different understandings of what 'liberalism' was. At the same time, however, even the most apparently diverse thinkers were in fact thinking through the same political and intellectual concepts. By so doing the thesis aims also to put into question the alleged backwardness, conservatism or limited scope of post-independence Greek liberal thought.

Secondly, the thesis aims to explore the intellectual origins of the Greek state and the extent to which state formation was as much an intellectual process as it was an institutional one. It will do so by looking at the ways in which legal ideas facilitated wide-scale political reforms and the significant political transformations that went under way in Greece during approximately the 1830s and the 1880s. And in light of the significant political events (revolts, revolution, the dethronement of a

¹⁸ This basically means that criminal law and canon law have been left aside. This is not to deny their importance. The opposite is the case. But they were never politicized as strongly as those fields of jurisprudence that the thesis has focused on.

King, two constitutions, political crises) that took place during these years, there is a more general point to be made here, along the lines of comments made by François Furet on French historiography and the French Revolution: It is astonishing that for events so extraordinarily political, people for so long wanted to see either social transformation, the emergence of capitalism or power games among elites.¹⁹

And this is all the more strange given that intellectuals of the period under consideration, such as Konstantinos Paparrigopoulos and Pavlos Kalligas—writing from rather different perspectives—had stressed the primarily political nature of the transformative events of their era.²⁰ As will be shown, the theory and practices of liberal jurisprudence were unusually bound up with the political struggles and allegiances of the protagonists, and more generally with the terms of political argument in Greece. An underlying assumption therefore is that it is only by exploring the emergence of novel ideas about government, the state, the monarchy and the sources of political legitimacy that the political changes and the new role of the state after the 1860s-1870s can make sense.

Thirdly, by establishing the identity of this crucial ‘liberal moment’ in Greek political thought and practice, the thesis seeks to locate Greek liberalism in the wider discussion of European liberalism. Although recent scholarship in the history of political thought has enhanced our understanding of nineteenth-century liberalism, Greek debates have largely been neglected. Indeed, as we will see, Greek jurists were conversant with different branches of European liberal thought. But they also recognized that the circumstances of Greece in the 1850s and 1860s required at times different solutions than those proposed by their Western European counterparts. In other words, while drawing inspiration from diverse European sources, the jurists made original contributions to liberal debates given the particular political context of a nascent nation-state such as Greece. This raises in turn two

¹⁹ François Furet (1981), *Interpreting the French Revolution*, Cambridge: Cambridge University Press.

²⁰ Konstantinos Paparrigopoulos (1860), [‘Review of ‘On the Renaissance of Greece, or Collection of the “constituted polities”, laws and official acts from 1821 to 1832, published by A.Z. Mamoukas’], *Pandora*, v. XXI, pp. 284-288. All texts by Pavlos Kalligas were reprinted in Pavlos Kalligas (1899), [Studies, legal, etc., collected and edited by G. Kalligas], vol. I-II, Athens: A. Konstantinidou. All references therefore are taken from this publication. They will include both dates, the title, the pages in these vols and the original publication if deemed necessary. In this case Pavlos Kalligas (1858, [1899]), [Historiographical thoughts], vol. I, pp. 1-57, (*Pandora* IX, n. 206-208).

questions which lie at the heart of the attempt of this thesis to highlight the importance and inventiveness of Greek liberalism in a European context. Given the controversial place of Greece within the civilisational scale during the nineteenth century—seminal due to its past but not yet full member due to its present—how did the Greek jurists attempt to reconcile the tension between the language of liberal nationalism and that of European cultural hierarchy? And, more importantly, provided that this was a reflection of a European-wide tension, what can it tell us about the meanings of liberalism in the nineteenth century?

Greek liberalism in nineteenth-century historical and comparative contexts

Addressing these research objectives with the above methodological observations in mind will certainly enhance our understanding of European liberalism. But there is more that can be drawn from this research agenda than just locating Greek liberalism in its wider ideological context. And that is because Greece had a peripheral status, which compares to an extent to other peripheral cases such as the Iberian and Italian peninsula. As Gabriel Paquette observed in a recent programmatic article related to another peripheral context, a productive question should be whether alternative, ‘hidden’ or ‘parallel’ histories of liberalism, which defy the previous conventional accounts of a unitary trajectory and of the simplistic ‘diffusionist’ model, could serve to revise the major assumptions on which the history of nineteenth-century liberalism has been based.²¹ Indeed, new scholarship on liberal thought in contexts other than the core European countries—Christopher Bayly’s work on Indian liberalism, Maurizio Isabella’s on the Italian exiles and Paquette’s own work on the Luso-Brazilian and Iberian world among others—have given a different and more complicated picture of liberalism.²² ‘One’, as Paquette

²¹ Paquette, ‘Introduction’, p. 4.

²² Isabella, *Risorgimento*; Christopher A. Bayly (2012), *Recovering Liberties. Indian Thought in the Age of Liberalism and Empire*, Cambridge: Cambridge University Press; Gabriel Paquette (2013), *Imperial Portugal in the Age of Atlantic Revolutions: The Luso-Brazilian World, c. 1770-1850*, Cambridge:

argued, ‘that is multi-faceted, heterogeneous, palimpsestic, and polycentric’.²³ Does that mean, however that liberalism was so open-ended that it would be futile to talk about European liberalism in the nineteenth century?

In fact, notwithstanding the differences and the fact that liberalism was in the making as an ideological current during this period, most self-styled liberals did share several traits, which, according to Alan Ryan, centered on the avoidance and suspicion of arbitrary power.²⁴ In other words, although liberalism after the fall of Napoleon was a rather vague category of political thought, common traits within liberal political language included a support for constitutions, the rule of law, the protection of individual rights, some sort of ultimate popular or national sovereignty and an account of freedom as absence of interference. What is more, historians have argued that these connections among liberals went beyond mere ideological affiliation. Maurizio Isabella has shown the extent to which after Napoleon, a ‘liberal international’ came to be formed, a transnational civil society that is, which was deeply related to the interconnected revolutions that swept Southern Europe in the 1810s and 1820s. Based on a cosmopolitan opposition to conservative regimes and its network of expatriated activists, this ‘international community’, according to Isabella, fused ‘liberalism, patriotism, and republicanism’ into new political movements that combined nationalist goals with a transnational appreciation for cultural diversity and political freedom. He additionally argued that it was this transnational context and the networks established therein, which determined the ideological framework in which the Risorgimento was conceived as a political and intellectual project.²⁵

As we will see, the Greek case does in fact bear evidence of the existence of this common agenda. But whereas the scholarship mentioned above has focused on the early decades or the first half of the nineteenth century, this thesis seeks to push the chronological boundaries of this sort of historical research well into the nineteenth century. In addition, just like most studies on the history of liberalism have argued,

Cambridge University Press; Juan Luis Simal (2012), *Emigrados: España y el exilio internacional (1814–1834)*, Madrid: Centro de Estudios Políticos y Constitucionales.

²³ Paquette, Introduction’, p. 5.

²⁴ Alan Ryan (2012), *The Making of Modern Liberalism*, Princeton: Princeton University Press, p. 29.

²⁵ Isabella, *Risorgimento*, p. 24 and p. 30.

the local context needs attention since in each context, different priorities gave prominence to different concepts. Based on this recent scholarship, Paquette has proposed a research agenda - long-standing questions and unresolved debates in the existing scholarly literature – which a revision of liberalism must address: the relationship between enlightenment and liberalism and that between republicanism and liberalism, the extent to which liberalism was homogeneous or constantly in flux, and the transnational connections between different strands of liberal thought.

Indeed, the thesis engages throughout the text, implicitly and explicitly with the above questions. To start from bottom to top, one of the distinctive features of Greek legal thought is its striking reliance on and blending of different European legal and political traditions. And in fact this selection was rather large in range and time, drawing on eighteenth- and nineteenth-century sources and on different countries. To give some illustrative examples, legal scholars draw extensively and at different times on Montesquieu, the *monarchiens*, Italian moderate liberals, the German historical school of legal science, the *Doctrinaires*, Benjamin Constant, but also from J. B. Say's and Sismondi's republicanism. These last references allude to the fact that the relationship of Greek liberalism with the republican thought of the Restoration was not one of complete estrangement. As recent scholarship has shown on a European scale, the relationship between the two was rather complex. Quentin Skinner and Philip Pettit have maintained that there was a paradigmatic rupture between republicanism and liberalism. Whereas republicans stressed the absence of dependence as constitutive of liberty, the liberals had a thinner version of liberty, defined as absence from interference.²⁶ Other scholars have argued that these sharp distinctions are misleading and that the two currents were in constant flux.²⁷ Although most part of the discussion has centred on British and French sources, the cases of Greek scholars, such as Ioannis Soutsos, a political economist, and Nikolaos Saripolos, a professor of constitutional law, do show that there were constant relations between the two ideological currents. And as we will see, it was the

²⁶ See Quentin Skinner (1998, [2012]), *Liberty before Liberalism*, Cambridge: Cambridge University Press, p. 84.

²⁷ Andreas Kalyvas and Ira Katznelson (2008), *Liberal Beginnings: Making a Republic for the Moderns*, Cambridge: Cambridge University Press, pp. 4–5, Eugenio Biagini (2003), 'Neo-Roman Liberalism: "Republican Values and British Liberalism, ca. 1860-1875', *History of European Ideas*, vol. 29, pp. 55-72.

different international context within which Greece was situated that made Saripolos turn to a language of 'non-dependence' in his international law treatise.

The case of Saripolos points also to the difficult relationship between liberalism and enlightenment thought. Greek historians have generally made a direct connection between liberalism and enlightenment. This has been most clearly manifested in the distinction they have drawn between a liberal nationalism stemming from the movement of modern Greek Enlightenment (under the leadership of Korais) and a romantic and conservative irredentism of the mid-nineteenth century. As we will see, however, the Greek jurists who lived in what historians consider the 'romantic era', evoked to a large extent eighteenth-century political traditions. In addition, Greek historiography has been based on a number of misunderstandings. To give two examples: nineteenth-century scholars who conceived of the royal power of the monarch as the centre and origin of all political decision-making, have been deemed conservative and certainly enemies of enlightenment. Yet, it was the contrary that was probably closer to historical reality. In addition, Nikolaos Saripolos, who was by all historical accounts a liberal and one of the very few who carried on the tradition of enlightenment political thought in the Greek state, was the most vocal advocate of national sovereignty. But this was a concept identified with the revolutionary tradition and one of the most notable gaps between liberalism and enlightenment thought.²⁸ What such examples indicate is that Greek legal thought as part of European legal thought was rather diverse and that liberalism was a broad and open system of values and thought.

Two questions then arise. First what were the commonalities and differences among Greek liberals, if there were any? And second and more importantly, whether there was anything distinctive in Greek liberalism in light of the different political context. As the thesis will show, there were indeed some 'core' components in the political thinking of the Greek scholars, which were also articulated through the common stylistic devices of academic writing. These included a shared belief in progress, law, reforms, the standard of European civilisation, mixed monarchy as the best form of government and a defense of individual rights. At the same time there

²⁸ Paquette, 'Introduction', p. 5.

were many differences among the Greek liberals. And it is indeed by looking at the range of nineteenth-century Greek liberal thought and the internal relationships of its different strands that its sophistication and sheer inventiveness can be highlighted. As will be shown, two different strands of liberal thought were articulated. One defended mainly by the Romanists, which was much more oriented towards the state, commerce and the respect of the individual's formal rights, while the other, as it was expressed by Ioannis Soutsos and mainly Nikolaos Saripolos, was oriented much more towards 'communitarian' values and natural rights.

Although there were some subtle differences regarding what type of liberty each one stressed, one crucial difference between them was their conception of the state - its role, its character, its source of legitimacy. And here lay also what can be deemed as a possible distinctive feature of Greek liberalism. Because, compared to other currents of liberal thought around Europe, Greek jurisprudence and Greek liberalism were constantly preoccupied with the state. Underlying, that is, all the debates and differences of opinion during these first decades after Independence was a fundamental question that the jurists, the royal authorities, and the (limited in number) high bureaucracy had to answer: What role should the state play, what function should it perform in relation to that fundamental and natural interplay of private interests?

Recent scholarship has shown that the nineteenth century saw a theoretical turn to or a revival of the state.²⁹ As Duncan Bell has argued on the case of Britain, although terms such as 'government' and 'nation' continued to feature throughout the nineteenth century, during the closing decades of Victoria's reign, discussion about the nature of political organization orbited around the concept of the state. In addition, constitutional thought of the time and indeed legal thought in general from the mid-nineteenth century onwards should be seen as a manifestation of this

²⁹ For the case of France, see Hugh S. Jones (1993) *The French State in question: Public law and political argument in the Third Republic*, Cambridge: Cambridge University Press and Pierre Rosanvallon (1990) *L'Etat en France de 1789 à nos jours*, Paris: Seuil. For the case of Britain, see James Meadowcroft (1995), *Conceptualizing the State*, Oxford: Oxford University Press and in the context of debates about empire and the state see Duncan Bell (2007), *The Idea of Greater Britain: Empire and the future World Order, 1860-1900*, Princeton: Princeton University Press, pp. 98-99. For a comparative perspective see Cecile Laborde (2000), 'The concept of the State in British and French Political Thought', *Political Studies*, vol. 48, pp. 540-557.

efflorescence of interest in statehood.³⁰ In a way, Greek scholars addressed the issue earlier. What is more, many European liberals debated about the state mainly in terms of putting limits to its exercise of authority (although this does not do justice to the issue). In the Greek case the discussions among liberals about the state acquired a perspective that went gradually beyond this debate.

This was of course due to the historical context. As Paschalis Kitromilides has argued, after independence, the construction of the state became the fundamental issue for Greek thinkers and scholars of all ideological persuasions.³¹ Greek liberalism was formed, thus, gradually by the jurists as a language of statehood, as a form of legitimation of the state, not necessarily as a device for the limitation of its role as in other European cases. There was general agreement among them in advocating reforms and the need to put the state on a better and more efficient economic and legal footing. At the same time there were different understandings of what these reforms would contain and what that footing would be. Underneath these different visions lay different conceptions of the state. These differences were as much about the degree to which state institutions should intervene in society and the economy, as they were about the necessary and sufficient conditions of statehood. And this was all the more important in the case of Greece given the place of the country in the geographies of civilization and its precarious position in the international arena. It was in this vein that accounts of the state increasingly embodied pronounced moral or metaphysical dimensions and the state came to be seen not just as an instrumental-functional set of institutions, but as a being that articulated a moral purpose in the eyes of its proponents. In that sense, it should come as no surprise that the intellectual origins of the Greek state lay in legal thought.

³⁰ Duncan Bell, *The Idea of Greater Britain*, pp. 98-99.

³¹ See Paschalis Kitromilides (1998), 'On the intellectual content of Greek nationalism: Paparrigopoulos, Byzantium and the Great Idea', in David Ricks and Paul Magdalino (eds) (1998), *Byzantium and the Modern Greek Identity*, Aldershot: Ashgate, pp 25-33.

Who were the jurists?

It is not in my intentions to provide a social history of Greek academics, a task that is still to be addressed and not just for academics but for most ruling elites in Greece at the time under consideration.³² I will simply note that, if one was to look at the post-independence intelligentsia, the following picture emerges: on the one hand, *literati* (men of letters, *savants*) and teachers that had played an active part in the pre-revolutionary educational institutions; and on the other hand, much younger graduates, who had been born in the wider region of the Eastern Mediterranean during the early 1800s and had subsequently studied in various European universities during the first decades of the nineteenth century. The scholars who would dominate legal science after independence came from this last matrix. Sociologically, they were either sons of merchants coming from Cyprus, the Ionian Islands, and regions which later were included in the territory of the Greek kingdom, (Nikolaos Saripolos, Pavlos Kalligas, Vasileios Oikonomidis, Emmanouil Kokkinos, Georgios Rallis, Markos Renieris), or descendants of Phanariot families, who were related somehow to those in high places in Ottoman administration and who after the outbreak of the Greek Revolution found their position (and indeed their life) threatened (Ioannis Soutsos, Petros Paparrigopoulos, Georgios Mavrokordatos, Periklis Argyropoulos).

These, then, were all men of letters, whose intellectual formation and social experience was rather cosmopolitan, having studied in different European universities and having lived in different European cities. What is even more crucial was that their lives were deeply affected by the outbreak of the Greek Revolution: not just as a political event that had an intellectual effect on these young legal scholars in the making, but as an event that had repercussions on their very lives. In most cases they were forced to move and this displacement was due to the Revolution. So it was mainly, young, highly trained and sophisticated intellectuals, mostly *hererochtones*—that is to say, born outside the Greek state—who had arrived in Greece during the first years after independence that came to dominate the scientific, intellectual and cultural scene.

³² For details on their life, educations, professional occupations etc, see the Biographical Appendix.

The role of these scholars was not confined to law and to their occupation at the Law School of the University of Athens. They were central actors in the political and intellectual process that led to the constitutional changes of the 1860s and 1870s. Not only did they lay the groundwork for the reforms that went under way from the 1850s onwards influencing and orchestrating the movement of the 1860s, but to a certain degree they also founded the new regime that was established in 1864. In fact, they participated in the revolution of 1862, and as members of the National Assembly, they were instrumental in devising and promulgating the new constitution. Some of them had longer or shorter political careers, either as ministers, deputies in the Parliament and at times advisors to prime ministers and the king. In addition, they were among the best-known intellectuals of their time, who intervened regularly in public debates. And of course it goes without saying that they were considered by most of their contemporaries as legal experts having long experience in both the Bar and the Bench. In short, they actually shaped Greece's intellectual development well into the nineteenth century.

The following part of the thesis will begin by examining the role that legal reforms had in the Bavarian political agenda and the ways with which the jurists both complemented this process and increasingly raised their concerns for the logic that underpinned these reforms. This was in a way the period which motivated the jurists to take a more active role in the public sphere and act for the first time as intellectuals. It was the following decades that constituted the golden years of nineteenth-century Greek jurisprudence. From the 1840s onwards, not only did the scholarly publications of the jurists proliferate but their public and political role was enhanced significantly. Thus, the three chapters that follow are devoted to subdivisions of jurisprudence – Roman law, Political economy, Constitutional and International law.

By locating the jurists' contributions into the intellectual and political context of the time these chapters examine the ways in which the jurists thought about and developed these subjects. In addition they explore the broader role of legal thought and of the jurists themselves in fostering and influencing reforms. Last but not least, they underline the main lines of division within Greek liberal thought, evident especially among the Romanists and scholars such as Ioannis Soutsos and Nikolaos

Saripolos. The last chapter is more ambitious. It explores the relationship between the 'transformation of thought' that the previous chapters have delineated with the political transformation that took place from the early 1860s onwards. In other words, by giving due attention to ideas as drivers of political change, it attempts to offer an explanation of a rather understudied subject in modern Greek historiography - the revolution of 1862 and the crisis of 1875. In that sense it shows that nineteenth-century liberalism was not just a corpus of ideas discussed by armchair scholars but constituted an active political language which was used by scholars in the realm of politics and underpinned the formation of the Greek state.

1. Bridging the Legal Gap (1832-1844): Legal modernization, the role of the Law School and the limits of translation

Introduction

In 1832, following the Greek Revolutionary War and long diplomatic negotiations, the Greek state was formally established. According to the Treaty of London, the Bavarian Prince, Otto was recognised as the first incumbent of the Greek throne and sovereign of the state under the 'guarantee' of the Great Powers (Great Britain, France and Russia). Immediately after their establishment, the central authorities—the monarchy and the high political elite—set out to build a European-style centralized state. The building of a legal system had a central place in this process. This chapter explores the key role that the young, western-educated jurists who flocked to the newly born state had in transmitting legal ideas and models during the first years of its life. The historical context coincides with the era of absolutism (1832-1844) during which the Regency, which governed the country until the young Prince came of age, and later Otto himself introduced the first institutions of a modern centralized state. Even though the jurists initially welcomed and complemented the reforms undertaken by the authorities, they increasingly came to raise significant criticisms.

Although the main work of the jurists was developed later on, this chapter will explore their early contributions focusing especially on what drove the anti-despotic criticisms they formulated during these years. By so doing, it will show that the scholars who contributed to these debates were neither 'democrats' nor advocates of authoritarianism (as part of historiography would have us believe). Influenced by currents of European jurisprudence of their time, and without questioning the role of the monarchy as such, they came to form a liberal legal and political project different from and, to an extent, critical of the type of state and law that the Bavarians attempted to set up. Thus, a central aim of the chapter is to understand what this liberal project of the jurists consisted of and the impact it had.

Modern Greek historiography has stressed the critical role that the 'transfer' or 'transplantation' of a 'European' legal institutional framework had in the Bavarian

political agenda.³³ Most accounts of the period have dealt with the institutional aspect of this transfer process, focusing on legal reforms (especially the drafting of the legal codes) and the introduction of a ‘physical structure’ of a justice system during the Regency years and under the guidance of the Regent Georg Maurer.³⁴ At the same time, the role that the practice of translation had in this early transfer process has also been emphasised. What is more, by expanding the comparative aspect, recent legal scholarship has complicated the standard picture of the exclusively Bavarian influences in the drafting of the codes, and has shown that the new legal framework was the outcome of a process of translation of codes and statutes already in force in Bavaria and France, not excluding other influences.³⁵ In essence, legal codification stemmed from an elaboration of diverse European legal examples, thus revealing an attempt to create a synthesis of different models and ways of thinking about law.³⁶ It is worth noting that historiography has drawn attention to both the ‘civilising mission’ of law—a means used by the monarchical state to bring the ‘European’ civilisational standard to Greece and thus facilitate the transition to political modernity—and the centrality of transfers in the accomplishment of this aim.³⁷

³³ The historiography is voluminous. A general overview is given in Dertilis and Kostis (eds) (1993), [Themes of Modern Greek History]. The work of John A. Petropoulos (1968), *Politics and Statecraft in the Kingdom of Greece*, Princeton: Princeton University Press remains indispensable for the political history of the era of absolutism. All references are taken from the 1997 Greek edition and referenced as, Petropoulos, [Politics and Statecraft]. Recently, Georges B. Dertilis reconceptualized the process as building the state ‘*ex nihilo*’: Georges B. Dertilis (2005, [2009]), [History of the Greek State, 1830-1920], Athens: Estia, pp. 66-68, pp. 187-329, pp. 405-434.

³⁴ During 1833-1835 under the guidance of Georg Maurer in his capacity as Viceroy (he was dismissed in 1834), four codes were published: the Criminal Code, the Code of Civil Procedure, the Code of Criminal Procedure and the Commercial Code. In 1834, the statute also organising the system of Justice was promulgated. See [GAK: Ottonian period, K-Civil Justice, a. Civil Legislation, etc., 1.1834-1836].

³⁵ In general these reforms followed the Napoleonic legislation, but with several adjustments. The scholasticism of the new codes and the role accorded to customs were influences of the Bavarian and other codification examples of German-speaking lands. See Alivizatos, [The Constitution], pp. 44-47.

³⁶ For the complicated history of European legal codification: See O. F. Robinson et al. (eds) (1994), *European Legal History: Sources and Institutions*, London: Butterworth & Co, pp. 242-260. For the politics of each case, see Peter Berg (2007), *The politics of European Codification: a history of the Unification of Law in France, Prussia, the Austrian Monarchy and the Netherlands*, Groningen: Europa La Publishing.

³⁷ For the ‘civilising’ mission of law in the Bavarian vision of politics, see Michalis Tsapogas (2003), [The Renewal of law. Official law and local customs 1833-1871], in Vasilis Panagiotopoulos (ed.), [History of Modern Hellenism, 1770-2000], vol. 4, Athens: Ellinika Grammata, pp. 52-63, (p. 52 and p. 54).

This emphasis on institutional legal transfers, however, has a number of limitations. As already mentioned in the introduction of this thesis, one limitation is that which arises from the procrustean use of models in the analysis of the Greek state. For Greek historians, the transfer and adoption of 'Western-like' institutions was the key point in the establishment of a modern 'national state'. What this state-building process meant and how it was put into effect, however, was rarely analysed; rather, it was (and still is, in many studies) usually conceptualised quite vaguely as if, the adoption of some institutions from the 'West' resulted in an ideal type of state, i.e. modern and centralized.³⁸ This approach was best represented by studies of law, in which the process of legal formation was restricted to studying the building of institutions. But, even though legal forms and procedures (courts, codes, statutes) are important in their own right, as E.P. Thompson has argued, '[...] modern law cannot be subsumed in these institutions. The law may also be seen as ideology, or as particular rules and sanctions which stand in a definite and active relationship (often a field of conflict) to social norms'.³⁹

In general, this was a process with which political power and, in this case, the state and the monarchy, attempted to acquire legitimacy. And as Jean Starobinski has shown for a different case, in order for this to be successful, language and the production of a discursive power were important. Institutional sites where this latter was exercised were (and are), first and foremost, the Bar, the Bench, the Parliament, and the academic Chair. And of course books and the press were the means through which this language was diffused to the public.⁴⁰ Indeed, as most historians of post-revolutionary Greece have observed (in what could be called an 'unexplored commonplace'), political and public rhetoric was saturated with the notion of law. A basic contention of this chapter therefore, is that an analysis of the translation

³⁸ Greek historians and lawyers have rarely, put the Greek legal experience under a comparative perspective. Although the colonial context was different, it was characterised at times by the same conviction that the introduction of a 'European' legal framework would transform the 'backward' colonial societies. For the case of the British in India, see Sandra den Otten (2007), 'A legislating empire': Victorian political theorists, codes of law, and empire', in Duncan Bell (ed), *Victorian Visions of Global Order: Empire and International Relations in Nineteenth-Century Political Thought*, Cambridge: Cambridge University Press, pp. 89-112.

³⁹ Edward P. Thompson (1975), *Whigs and Hunters: Origin of the Black Act*, New York: Pantheon Books, p. 260.

⁴⁰ Jean Starobinski (1997), 'La chaire, la tribune, le barreau', in Nora Pierre (ed.), *Les Lieux de mémoire*, Quarto 2, Paris : Éditions Gallimard, pp. 2009-2062, (pp. 2009-2010).

process has to give equal, if not more, weight to jurisprudence and the legal ideas (powerful forms of this discursive power) that underpinned this institutional process.

It was only very recently that an attempt was made to understand what the Bavarians tried to accomplish and what kind of ideas regarding the state and the government informed the state-building process which they initiated. According to Kostas Kostis (who put emphasis not on the normative institutional framework but on the goals, the organization and the exercise of state power), in order to analyse the formation of the Bavarian state, we need to understand – along with the international and local politics - that it was informed by the *Polizeiwissenschaft*, the theory or technology of the *Police state*.⁴¹ It was this theory, along with *cameralism*, the science of the economics of government, which ‘saw in the welfare of the state the source of all other welfare’ that lay at the background of their state policies.⁴²

Although, as we shall see, this has been an important contribution to our understanding of the early history of post-revolutionary Greece, it is still premised on a state-centred perspective which pays little, if any, attention to those intermediaries who facilitated the transfer process, complemented the implementation of state policies and, more importantly, at some point raised significant and critical concerns over the process.⁴³ This is a significant limitation because the thought and action of these intermediaries can shed light on how and to what extent central policies were implemented, the reasons why policies were altered or dropped in light of rising criticisms and what ideas informed ultimately the state building process.

Such was the case of the law scholars. After their settlement in Greece, most became immediately lawyers and judges, while the most prominent among them became members of legislative committees and the Council of State.⁴⁴ What is more, after the establishment of the University of Athens in 1837, scholars such as Pavlos

⁴¹ Kostis, [The spoiled children], pp. 248-254 (more on this below).

⁴² Albion W. Small (1909), *The Cameralists: the Pioneers of German social polity*, Franklin: New York, p. viii.

⁴³ For a theoretical framework for the role of intellectuals to transfer processes, see Christophe Charle (2004), ‘Introduction to Part II’, in Christophe Charle, Jurgen Schriewer and Peter Wagner (eds), *Transnational Intellectual Networks: Forms of Academic Knowledge and the search for Cultural Identities*, Frankfurt: Campus Verlag, pp. 197-204.

⁴⁴ The Council of State was introduced in 1833 as a double-natured institution: advisory organ and supreme administrative court. From 1835 onwards, it performed the role of a King’s Council (‘Conseil du Roi’), which was important in a regime with no representative assembly.

Kalligas, Markos Renieris, Georgios Rallis, Ioannis Soutsos, Leon Melas, Periklis Argyropoulos, were affiliated to the nascent Law School, either as professors or as *privatdozenten*. The University was an important part of the modernizing policies of the central authorities—and of the ‘police state’ that they strove to establish—and from its foundation it had been invested with a mission: it was expected to act as the medium for transferring, on the one hand, European civilisation to Greece and to the East in general, and on the other, ancient Greek civilisation to contemporary Greece.⁴⁵ Through these two channels—university and juridical positions—the jurists expanded efforts made by older liberal intellectual circles, prior to and during the Greek revolution, and by state authorities to introduce thinkers and concepts of ‘enlightened Europe’ to ‘enslaved Greece’.

However, from 1835 onwards, the jurists came to realise the shortcomings of the translation process. Gradually, they were forced to confront some inner contradictions of the type of cosmopolitan liberal ideals that most seemed to share. As proponents of natural law theories, they were forced to deal with the tension between abstract principles and the propensity of these principles to stand above, and to fail to reflect, national aspirations. They realized that ideals such as self-rule, self-determination and especially national sovereignty as the main principle of organising a national community under formation could not be implemented by imitating foreign legal models and political systems. The tension came to the fore in the mid-1830s when the most controversial issue in European legal affairs at the time was initiated by royal authorities: the drafting of the Civil Code.

The issue of the Code provoked the jurists’ public intervention and a debate on codification, which echoed analogous debates across Europe. Drawing from the German historical school of legal science, scholars such as Pavlos Kalligas and Markos

⁴⁵ The University was also modelled according to European institutions, see Panagiotis Kimourtzis P. (2003), [‘The European Universities as Models: The case of Greece 1837’], *Nefsis*, vol.12, Athens, pp.146-149, Athens: Nefeli; Kostas Lappas (2003), [‘The University of Athens: Institution, Organization and Ideological Function’] in Panagiotopoulos (ed), [History of Modern Hellenism], vol. IV, pp. 145-155, Athens: Ellinika Grammata. For the mission of the University, see also Georgios Varouxakis (1995), ‘The idea of Europe in nineteenth-century Greek Political Thought’, in Philip Carabott (ed.), *Greece and Europe in the Modern Period: Aspects of a Troubled Relationship*, London: Centre for Hellenic Studies, King’s College London, pp. 16-37, (p. 24).

Renieris turned against the royal authorities arguing that law should take into account historical context. That is not to say that they turned to particularistic versions of law. Claiming that Greece was a newcomer and not yet a full member to the 'European civilisation', they approached Greek law as a national/local variant of a common European legal language, which they identified with Roman law scholarship. In other words, and contrary to what a part of Greek historiography contents, the chapter shows that the jurists involved in the debate and at least at this stage in their career, were not conservatives who wanted to turn the clock back, but liberal reformers and modernizers who sought gradual legal reforms that would express the national will.

The civil code debate initiated in the late 1830s had two implications. Firstly, through their contributions the jurists claimed a wider public role, thus gradually becoming intellectuals. Secondly, the diffusion of legal discourse and the claims put forward by the jurists informed in large measure the political language of constitutionalism and anti-absolutism that played a crucial role in the convocation of the First National Assembly (1832-1833) and the political transformation of the regime into a constitutional monarchy in 1832. Thus, from this point onwards, jurisprudence started playing an active part in the formation of legal and political culture and subsequently in political developments.

Thus, apart from complicating the picture of the jurists' politics, an equally important objective of the chapter is to show the impact that ideas and in particular liberal legal thought had in the process of state-building—a theme that has been rather underplayed in modern Greek historiography. The chapter will first focus on the first attempts of young legal scholars to translate and thus transfer European legal scholarship and especially natural law theories to Greece. It will then address the challenges that the jurists faced when the drafting of the Civil Code was raised by the royal authorities. Responding to this challenge they were forced to address both the prospect of modeling civil law on the French *Code Civil* and the role of the Byzantine legal tradition. In the last section, the ideological implications of the jurists' claims that led them to introduce the Historical School of Law will be discussed. The chapter will close with an assessment of the wider political implications of the jurists' public engagement.

Translating the European Legal Ideal

Students of the Modern Greek Enlightenment have maintained that one of the major sources of anxiety among learned scholars and men of letters from the late eighteenth century onwards was the place of Greece within the ‘civilised’ world.⁴⁶ This concern remained a recurrent theme in most cultural and political debates of Greek society in the course of the nineteenth century and the early decades of the twentieth century, if not until today. As Georgios Varouxakis has argued, commenting on the period immediately following the establishment of the Greek state, ‘[...] at the time in question and at an increasing rate as the century progressed, statehood itself as well as the state’s relative position in the international arena were closely connected with cultural achievements and each nation’s “progress in civilization”. Therefore the Greek’s assertion that they were Europeans was crucial for the plausibility of their claims to independence initially, to the expansion of their state subsequently’.⁴⁷

Unlike other domains of cultural production, such as history and literature, where the question was to prove to Europeans that the modern citizens of Greece were descendants of the glorious ancient Greeks, in legal studies and scholarship, as in legislation, the criterion and the validating principle was mainly conformity and proximity to the patterns of ‘Civilised Europe’.⁴⁸ If the new state always had to be measured against both ancient Hellas and modern Europe, as it claimed to be both Hellenic and European, for legal practitioners and theorists the criterion was primarily, if not exclusively, conformity to European jurisprudential standards. Admittedly, the presence of ancient Greek writers in their writings was constant, but mostly as a reference intended to prove deep learning and philosophical erudition.⁴⁹

⁴⁶ See Paschalis Kitromilides (1995), ‘Europe and the Dilemmas of Greek Conscience’, in Philip Carabott (ed.), *Greece and Europe*, pp. 1-15, (p. 2).

⁴⁷ Varouxakis, ‘The Idea of Europe’, p. 18.

⁴⁸ Elli Skopetea (1988), [The Model Kingdom and the Great Idea], Athens: Polytypon, p. 192ff; Ioannis Drosos (1995), [Essay on Greek Constitutional Theory], Athens: Sakkoulas, p. 142; Dimitris Dimoulis (2001), [‘People, Nation and Citizens in Greek Constitutional History’], in idem, [The Law of Politics: Studies of Constitutional History and Interpretation], Athens: Ellinika Grammata, pp. 410-473, (pp. 417-418).

⁴⁹ Drosos, [Essay on Constitutional Theory], pp. 129-148.

The extent to which European legal models remained authoritative in this period was demonstrated by the process of translation that continued uninterrupted in the years after liberation from the Ottomans.⁵⁰ Even ideological disputes revolved around the choice of which foreign texts would be translated. And in most translations it was European liberal legal thought and practice that was in the centre of the preoccupations of the Greek jurists. In their Prologues, the jurists almost unanimously stressed the importance of European political theory and jurisprudence for the political development of the still immature nation. As P. Argyropoulos argued: ‘within European scholarship and languages, ideas have taken root, they have become clear and transparent after all the doubts have been set aside; doubts that still blur our vision [...]’.⁵¹

However, within legal circles there was an underlying distinction which reflected a generational difference and also a degree of participation in political decision-making. On the one side stood an older generation of jurists, who had exerted significant political influence since the Greek War of Independence and for whom French jurisprudence, and especially French codification, remained a constant point of reference. This generation functioned, in a way, as a bridge between revolutionary patriotism of the Modern Greek Enlightenment period and early liberalism of the period after 1820. On the other side, the younger jurists, not yet full participants in politics and law making, focused their interest largely on the introduction of legal scholarship, privileging natural law theories. Both groups were influenced by political

⁵⁰ Since the era of Modern Greek Enlightenment, major works of European letters had been translated into Greek by several scholars. Some of the most influential included: i) Cesare Beccaria (1802), [On Crimes and punishment: Political Essay by Cessare Beccaria, translated and with notes by Ad. Korais], Paris. For Korais role in the translation process: Paschalis Kitromilides (2000), [Modern Greek Enlightenment: The political and social ideas], 3rd edition, Athens: MIET, pp. 381-427, ii) Destutt de Tracy (1823), [Commentary on Montesquieu’s Spirit of the Law], Messolonghi iii) [The Declaration of Independence of the thirteen United States of America, redacted in the Congress of 4th July 1776, translated by A. Polyzoidis], 1824, iv) Jean Jacques Rousseau (1818), [Discourse on the Origin and Basis of Inequality among Men, by J. J. Rousseau, translated from the French language by Dim. Aristomenous], Paris; idem (1828), [Of the Social Contract, Or Principles of Political Right translated from the French by Grig. Zalykos and published with an introduction by Kon. Nikolopoulos], Paris. Generally, for intense intellectual relations with France, see Paschalis Kitromilides (1979), *Tradition, Enlightenment and Revolution: Ideological change in 18th and 19th century Greece*, Cambridge Mass.: Harvard University Press, pp. 262ff., and Paschalis Kitromilides (1990), [The French Revolution and South-eastern Europe], Athens: Diatton, pp. 54ff., p. 105 and p. 122.

⁵¹ K. Makarel (1836), [Elements of Public Law, translated with an introduction by M. and P. Argyropoulos], Athens: K. , p. 8.

languages based on liberalism and on moral arguments centred on the ‘civilising mission’ of law.

Regarding the former group, Christodoulos Klonaris deserves to be mentioned since he had a key role in political and legal developments.⁵² In 1829, he published his first and only treatise, entitled *Criminal Procedure* (‘Εγκληματική Διαδικασία’). Klonaris was influenced by eighteenth-century natural law theories of the Enlightenment and liberal political thought of the nineteenth century.⁵³ His work relied deeply on the French ‘*Code d’Instruction Criminelle*’, many parts of which were translated and incorporated into his treatise. Being at the time a close collaborator of the Governor, Ioannis Capodistrias, Klonaris was trying to present progressive liberal legislation and some kind of foundations in the enormous effort to legally form the Greek state. Klonaris, it must be noted, remained a strong advocate of the introduction of French legislation in the next two decades.

Two years later (1831), the younger generation made its first contribution to the transfer process by translating into Greek a seminal work of European International Law or, more appropriately, of the ‘Law of Nations’: Emerich de Vattel’s *Droit des gens; ou, Principes de la loi naturelle appliqués à la conduite et aux affaires des nations et des souverains*. The translation also marked the first appearance in Greek world of letters of Georgios Rallis, a key figure in the formation of legal theory and institutions in Greece.⁵⁴ Although his second translation was destined to become more widely known, Vattel’s translation was largely unmentioned.⁵⁵ The reception and dissemination of Vattel’s translation was the first among many to show that Greece was touched in these years by emerging global currents of liberal thought. Indeed, it cannot but be identified as part of a cultural process with direct political

⁵² Klonaris - a disciple of Korais - wrote and published what was probably the first article in French on the legal state of contemporary Greeks under Ottoman rule: Chrysanthos Klonaris (1819), ‘Coup d’oeil sur la législation qui gouverne aujourd’hui le Grecs sujets de l’empire ottoman’, *Themis ou Bibliotheque du Jurisconsulte*, v. 1, Paris. See also Dimitris Seremetis (1961), [Christodoulos Klonaris and his contribution on the Renewal of Justice, 1788-1849], *Epistimoniki epetiris sxolis Nomikon kai Oikonomikkon epistimon*, Thessaloniki, p. 20, and also Michalis Stasinopoulos (1961), [Notes on Christodoulos Klonaris, first President of the Supreme Court], Athens.

⁵³ Christodoulos Klonaris (1829), [Criminal Proceeding], Nafplion.

⁵⁴ Emerich de Vattel (1831) [The Law of Nations, Or the Principles of Natural Law Applied to the Conduct and to the Affairs of Nations and of Sovereigns, translated by G.], vol. I-II, Nafplion: K. .

⁵⁵ Later on, he co-translated with Markos Renieris the work of Ferdinand Mackeldey (1838), [Handbook of Roman Law translated from the German by M. Renieri and G.A. Ralli], Athens: K. .

repercussions that E. Di Rienzo has called a 'Vattel Renaissance' in Restoration Europe.⁵⁶ Although, in the Anglophone world, Vattel had been a longstanding authority since his first translation in 1759, interest in Vattel re-emerged in Europe, after a temporary oblivion during the Napoleonic era, when it was appropriated by European liberals to challenge the Vienna settlement.⁵⁷ As Maurizio Isabella has argued, Vattel was quoted and used extensively by the liberal Italian exiles and in particular by Alerino Palma, who was also directly involved intellectually and politically in the Greek Revolution.⁵⁸ In a treatise published after 1825, Palma had already used the anti-despotic implications of Vattel's arguments in order to argue for the lawfulness of the intervention of the European nations against the Ottomans in support of the Greek cause.⁵⁹

In the same vein, by using Vattel, Greek liberals challenged the reluctance of the Concert of Europe to intervene in favour of the Greeks. But there was also a more profound criticism of the international order that the Vienna settlement had established. This was related to the treatment of the Greek issue after the Revolutionary War.⁶⁰ For Vattel, the international community was made up of equal sovereign states with bonds that made them a 'sort of a republic', and 'since the sovereign is he to whom the nation has entrusted the empire and the care of the government, it does not, then, belong to any foreign power to take cognizance of the administration of that sovereign, to set himself up for a judge of his conduct, and to oblige him to alter it'.⁶¹

⁵⁶ Eugenio Di Rienzo (2002) 'Decadenza e caduta del cosmopolitismo: Francia/Europa, 1792-1848. Note per una ricerca', in Lorenzo Bianchi (ed), *L'idei di cosmopolitismo: circolazioni e metamorfosi*, Naples, (p. 419-455), p. 449.

⁵⁷ For the authority of Vattel in the Anglophone world and especially in America, quoted by James Madison, Judge Marshall and others, see Charles Fenwick 'The Authority of Vattel', *American Political Science Review*, vol. 7, issue 3, pp. 395-410, pp. 395-410.

⁵⁸ Isabella, *Risorgimento*, pp. 99-100.

⁵⁹ Alerino Palma (1825/26) [Collection of the Principles of the Original Right of Nations Deriving from the European Treaty Regarding Sea-booties and Neutrality], Hydra. For the earlier use of Vattel by Palma, see Alerino Palma (1821), *Difensa Dei Piemontesi Inquisti: A causa Degli Avvenimenti del 1821*. For Vattel and the right to war, see Simone Zurbuchen (2009), 'Vattel's law of nations and just war theory', *History of European Ideas*, vol. 35, n. 4, December 2009, pp. 408-441 (pp. 411-414).

⁶⁰ During the time of the publication Greece's military and economic condition was desperate and could be dealt with only through foreign assistance: see William P. Kaldis (1963), *John Capodistrias and the modern Greek state*, Ann Arbor, Michigan: Edwards Bros, p. 101.

⁶¹ Emer de Vattel (2008), *The Law of Nations, Or Principles of the Law of Nature Applied to the Conduct of Nations and Sovereigns* (edited by Bela Kapossy, Richard Whatmore and Knud

For many liberals, diplomatic settlements in the late 1820s had taken the opposite direction, undermining Greek statehood and sovereignty. Some—including the Governor, Capodistrias—claimed that Ottoman domination had been replaced, up to a point, by a kind of European hegemony.⁶² The international treaties, which had been signed by the Great Powers and in which Greek state authorities had never been asked to participate, were the legal expressions of this state of affairs.⁶³ The liberals thus used Vattel in order to support the idea that Greece had to participate as an equal and independent member in the Congress of London and consolidate in this way Greek statehood. In his short Introduction, Rallis alluded to the liberal ideals of ‘humanity’, ‘citizenship’ and ‘freedom’. The political implication was telling since he dedicated his translation to Capodistrias.⁶⁴

Vattel’s translation initiated an important intellectual stream in Greek jurisprudence, namely natural law scholarship. This was manifested in the translation of the treatises by J. J. Burlamaqui, K. Makarel and Albert Fritot.⁶⁵ Natural law theories were premised on the belief that there are certain ethical principles, ideals and higher laws which are applicable to all, irrespective of time and place. These cosmopolitan principles, which were independent of human artifice, were the basis with which positive laws and codes must be consistent. In introducing natural law, the Greek jurists had three objectives, all related to the ‘civilising role’ they accorded to jurisprudence. The first was to diffuse modern European legal scholarship in

Haakonsen), Liberty Fund, p. 290. On Vattel, see also Nicholas G. Onuf (1998), *The Republican Legacy in International Thought*, Cambridge/New York: Cambridge University Press.

⁶² According to Capodistrias: ‘The insistence of the Great Powers to curtail the territorial expansion of Greece indicates their willingness to relegate the country into a colony or, in other words into an avenue accessible only to France and England.’ Quoted in Pavlos Petridis (1992), [Ioannis Capodistrias 1776-1831: the foremost Greek European], Athens: Govostis, p. 123.

⁶³ Ioannis Petropoulos and Aikaterini Koumariou (1982), [The foundation of the Greek state, 1833-1843], Athens: Papazisis, p. 12. For Ioannis Drosos the independence and political form—an absolute monarchy—of Greece had been ‘granted’ by the European powers: see Drosos, [Essay on Constitutional History], pp. 149-167. As the Treaty of London that established the Greek state in 1832 read, ‘La Grèce sous la souveraineté du prince Otton de Bavière et la garantie des trois Cours formera un État monarchique indépendant’ (article 4): in Triantafyllos Gerozisis, Antonis Pantelis, Stefanos Koutsoumpinas (eds) (1993), [Texts of Constitutional History: 1821-1923], vol. 1, Athens: Sakkoulas, p. 23. Hereafter Gerozisis et al.

⁶⁴ Emmerich de Vattel (1831), [The law of Nations], pp. 1-2.

⁶⁵ Apart from Makarel, [Elements of Public Law], Jean Jacques Burlamaqui (1839), [Elements of Natural Law, translated for the French according to the last edition by Cotel by G. A. Metaxas], Ermoupolis; Albert Fritot (1836) [Course of Natural Law: public, political and constitutional: Study written in French from A. Fritot, translated and published with notes and prologue by I. Kokkonis], Athens.

Greece, which they viewed as necessary for developing the civic virtues of their fellow citizens. The second, which stemmed from the first, was to undermine traditional practices of social inequality that they thought were characteristic of pre-revolutionary Greek society.⁶⁶ The third was to facilitate the process of legal codification, which they also viewed as crucial for the civilisational progress of Greece.

This last point was of major importance for the jurists because natural law was an important source of inspiration for legal reforms and especially codification. The latter especially was another crucial indicator of achieving membership in the 'European' family. It was for this same reason that Jeremy Bentham's *On Civil and Penal Legislation* was translated.⁶⁷ Although Bentham was not a natural law theorist, he was a strong advocate of law codes. Thus, during the early years, the jurists, through their legal expertise, their linguistic capacities and their scholarly preoccupations, complemented the attempts of the authorities to implement a modern legal rule. Their efforts had impressive results since within a few years the structure of a legal system had been completed. Increasingly, however, criticisms against further codification were heard. These criticisms took a new turn after 1837. The prospect of codifying civil law—the heart of modern law—posed a challenge to the jurists, revealed the limitations of the transfer process and ultimately brought about a change of course in Greek jurisprudence.

'Enlightened reforms', the Polizeistaat and the limits of translation

In order to understand the criticisms raised by the jurists after 1837, it is imperative to understand the kind of state that the Bavarian authorities sought to establish and the role of legal codification in this process. According to J. A. Petropoulos, in the eyes of the royal authorities every source of power and legitimacy

⁶⁶ See the Introduction by Periklis Argyropoulos in Makarel, [Elements], pp. 1-20.

⁶⁷ Jeremy Bentham (1834), [On Civil and Penal legislation: Essay written in the French language and published according to the manuscript of J. Bentham, Edited by E. Dumont, translated by G. Athanasiou], vol. 1, Athens. The second volume was published in 1842.

emanated from the King as the divinely ordained sovereign. Especially after the first two years of the Regency (1833-35), it was the King himself who managed power through the regulation and the control of the contradictory interests of the political parties or, to put it more accurately, the political factions. In other words, power constituted a personal right and its exercise was complemented by groups, the control of which constituted a basic priority for the royal authorities. The main governing organs were the Royal Private Council (*Ανακτοβούλιο*)—made up of Bavarian bureaucrats and other appointed civil servants—and the Cabinet. The former had extensive powers, being the main mechanism through which the King was ruling the state. The latter was controlled by the King but had a rather circumscribed executive role.

Conventionally, this political arrangement, which lasted up to 1844, has been characterised as absolutism without much further elaboration. Although the theoretical structure of the monarchy was much more complicated and will be discussed in later chapters, suffice it to state here that what, until recently, remained rather understudied was the character and the goals of the Bavarian state. According to a recent study by Kostas Kostis, the Bavarian understanding of the state and their reform agenda was influenced by the German science of *Polizeiwissenschaft*—the administrative science of the ‘police state’ (*Polizeistaat*). As he argued, the term ‘Αστυνομία’, which was frequently used by the Bavarians—and many studies on nineteenth-century Greece confuse references to the term with what police means today—designated a specific science of government which was the administrative equivalent of mercantilism.⁶⁸

But what was the *Polizeiwissenschaft*? In fact it was not a novel idea. Being a part of a set of administrative techniques that made up *Kameralismus*—the theory of administration (and university course) which focused on statistics and mercantilism—its origins lay in the reform agenda, in the spirit of rationalism and uniformity, which was undertaken in the German lands at the end of the eighteenth

⁶⁸ Kostis, [The spoiled children], pp. 179-198 and pp. 248-254. On the *Polizeiwissenschaft*, see Paolo Napoli (2003), *Naissance de la police moderne. Pouvoir, normes, société*, Paris: La Decouverte and Keith Tribe (1995), *Strategies of Economic Order: German Economic Discourse, 1750-1950*, Cambridge: Cambridge University Press.

century and was associated with enlightened absolutism.⁶⁹ These reforms had broken with the older absolutist tradition which was based on the unlimited sovereignty of the ruler, his personal or dynastic advancement and the pre-eminence of the *raison d'état*.⁷⁰ Historians have long grappled with the question of 'enlightened reforms' and in particular with the extent of the influence of enlightenment thought on state action and the reform programmes inaugurated in the eighteenth century.⁷¹ Although some scholars have challenged the claim that there was any sort of influence, others have counter-argued that not only did the Enlightenment offer the broad intellectual context within which political reforms were fashioned but that its nature and its influence were much more homogeneous than has generally been asserted.⁷²

Indeed scholars of the latter view have also widened the scope of 'enlightened reforms', by referring not just to modifications in fiscal, legal and trade policies but also to the creation of academies, universities, investments in infrastructure and the outfitting of scientific expeditions. As Gabriel Paquette has argued, this renewal of the debate on enlightened reforms has given rise to new ways of approaching the issue, the most important of which are a smaller emphasis on the absolutist character of reforms—authority involved compromises and negotiations with elites and 'civil society' institutions—and a larger emphasis on the role of governments and the crowns not just as incubators of enlightenment ideas but also as engines of reforms.⁷³ What this implies, and what is somewhat understudied, is that these

⁶⁹ For Cameralistics, or *Cameralwissenschaft*, as these were developed from the seventeenth century in the 'chambers' of the Princes, see Michael Stolleis (1998), *Histoire du droit public en Allemagne, 1600-1800*, Paris: PUF, pp. 556-558. See also Small, *The Cameralists*. Keith Tribe has shown how the meaning of both concepts and their relation changed in the course of late eighteenth and early nineteenth century, Tribe, *Strategies*, pp. 8-31.

⁷⁰ For Foucault, the genesis of the 'political knowledge' of 'Police' did not mean the substitution of the territorial state (associated with *raison d'état*) with a new kind of state, but signified a 'shift of emphasis and the appearance of new objectives': see Michel Foucault (2009), *Security, Territory, Population, Lectures at the College de France 1977-78*, Palgrave, p. 363.

⁷¹ For an illuminating discussion, see Derek Beales (2005), *Enlightenment and Reform in Eighteenth-Century Europe*, London and New York: I.B. Tauris.

⁷² For the criticism against the validity of the concepts of 'enlightened despotism or reforms', see as an indicative example Matthew S. Anderson (1979), *Historians and Eighteenth-Century Europe, 1715-1789*, Oxford: Oxford University Press. For the counterargument, see Hamish M. Scott (ed.) (1990), *Enlightened absolutism: Reform and Reformers in Late Eighteenth-Century Europe*, Ann Arbor: University of Michigan Press, and John Robertson, *The Case for the Enlightenment*.

⁷³ Paquette, *Enlightened Reforms*, p. 11 and more general his 'Introduction'.

attempts at reforms were accompanied by novel discourses about the role of the state in generating prosperity or, in other words, by novel ideas about the state itself.

The *Polizeistaat* was an example of a novel theory of the state, or a novel 'technology of government'. In its eighteenth-century understanding, the *Polizeistaat* had two main objectives: externally, to improve the position of the state in the competition among European states, and internally, to guarantee and enhance the internal order through the welfare of the population (or through public 'happiness' or 'well-being', two key terms in its political vocabulary). In the words of one of its eighteenth-century theoreticians, *Police* meant 'the set of means that serve the splendour of the state and the happiness of its citizens'.⁷⁴ Given that the common man was incapable of understanding what was harmful and what was useful, it was entirely up to prudent and wise authorities to regulate and guide the action of the population and promote its happiness. This conception of happiness was not organised in terms of individual self-realization but in terms of good government. Hence, the reforms focused on managing public hygiene, on education and on introducing a new administrative and institutional framework. It was thus through reforms in those fields that the *Polizeistaat*, conceived by its adherents as a highly disciplined school, could bring the population to a 'higher degree of development'.

This perception of the state's goals included novel ways of thinking about a number of key issues in the administration of the state. In the field of religion, the *Polizeistaat* was to be neutral and offer an institutional framework where various denominations could flourish. More importantly, the land was not considered the patrimony of the dynasty anymore but was seen as state property, while the ruler was a 'servant of the state' who received revenue from the state. Last but not least, aiming to control the municipal authorities and disregard regional administrative traditions, state authorities sought to create a new administrative division of the realm according to a uniform and rational scheme, conceived and carried out from the centre.⁷⁵

⁷⁴ See generally Foucault, *Security, Territory*, pp. 311-328. For the quotation p. 313.

⁷⁵ Raoul C. Caenegem (1995), *An Historical Introduction to Western Constitutional Law*, Cambridge: Cambridge University Press, pp. 126-139.

Legal reforms were an integral part of the formation of such a centralizing state. Based on the criticisms against arbitrariness and inequality before the law that stemmed from Enlightenment thought, legal reforms sought to subject people to a uniform law, bring justice closer to the citizen, ensure legal security and enhance political unification. These objectives were to be fulfilled by the creation of a commonly understandable legal system that would be accessible to all and by new legislation and in particular codification.⁷⁶ The latter was guided primarily by the principles of natural law, which enlightened reformers, such as Frederick the Great, did not see as an ideal of justice with a significance greater than the positive legal order but as a body of basic principles from which positive law ought to be directly derived. Although constitutions were not necessarily included in these reforms, the codes were supposed to be binding not just for the subjects/citizens but also for the governments.

To be sure, *cameralism* and the proclivity of treating legal affairs in *camera* declined at the end of the eighteenth century. The importance, however of legal reforms carried on into the nineteenth century when bureaucrats and policy-makers attempted to come to terms with the problems of the post-Napoleonic Age. For many scholars, the Napoleonic Code was a step in the same direction, the difference being of course that, at least in theory, it was an outcome of the Revolution and not of the policies of an 'enlightened ruler' (even though the role of Napoleon made things more complex). After all, the most essential feature of all these modern codifications (revolutionary or 'enlightened') was the establishment of the monopoly of the state on the making of law within its own territory.⁷⁷

In the case of Greece, the wide influence of *Polizeiwissenschaft* on the Bavarian understanding of the state was manifested in the speed and decisiveness with which the authorities carried out administrative reforms, codification and the formation of a justice system (in less than two years, between 1833 and 1835).⁷⁸ By so doing, they

⁷⁶ Raoul C. Caenegem (1992), *An historical introduction in private law*, Cambridge: Cambridge University Press, p. 116.

⁷⁷ *Ibid.*, p. 125.

⁷⁸ The institutional framework was developed in six months during 1833, and the following reforms were just amendments to the existing basic framework: Kostis, [The spoiled children], p. 196. For a brief sketch of the most basic reforms, see Alivizatos, [The Constitution], pp. 79-81. For the administrative reforms, see Anne Couderc (2005), 'Structuration du territoire et formation des élites

sought to secularize the law, remove it from the authority of the religious authorities and thus to ensure the firm control of the government on legal development. These initiatives were followed by consistent attempts to organise and control the military forces (and thus monopolize legitimate violence) and the educational system (including the foundation of the University). Thus, the initial and primary goal of the Bavarians in their effort to enhance the splendour of the state and the happiness of the population was to consolidate the state as the only source of political power at the expense of the local centres of power. This they tried to do not by eliminating the local elites or excluding them from politics but by negotiating with them and managing their conflicts.⁷⁹

What all these indicate is that the Bavarian reforms should be seen as another case of eighteenth-century-inspired ‘enlightened reforms’ carried on in the nineteenth century. As historians working on Southern Europe have shown, this was hardly exceptional. But incorporating the Greek case in this scholarship is important for three reasons—and in this I am following the propositions made by Gabriel Paquette. Firstly, it further undermines the Western-Europe-centred approaches to ‘enlightened reforms’ which have conventionally neglected the experience of Southern Europe (and, in fact, even in the recent treatments of Southern-European ‘enlightened reforms’, Greece is consistently absent). Secondly, it shows that ‘enlightened reforms’ survived the demise of the *ancien regime*, thus forcing historians to expand the chronological boundaries of reforms-from-above and move them well into the nineteenth century (and even beyond 1830). And thirdly, it demonstrates, as already mentioned, that the state was an important agent of change which had at the same time to negotiate and respond to challenges to its rule in order to consolidate its power. In the case of Greece, this was all the more complicated given the previous absence of princely rule of the Western type and the persistence of connections between the old Ottoman world and the new world of the Greek state.

municipales en Grèce (1833-1843), in P. Aubert, G. Chastagnaret, O. Raveux (eds) (2005), *Construire des mondes. Elites et espaces en Méditerranée, XVI-XX siècle*, Aix-en Provence: Presses universitaires de Provence, pp. 163-184 (pp. 175-176).

⁷⁹ Kostis, [The spoiled children], pp. 189-197.

Indeed, as Greek historians have argued, challenges against Bavarian reforms and the attempts of the authorities to consolidate the power of the central state were a major characteristic of the first decades of Bavarian rule. But it has to be noted that the focus has been almost exclusively placed on the political and military resistance of local elites, especially in the countryside, and that ideological/intellectual challenges to Bavarian rule have rarely been addressed. This is an important omission because the ‘enlightened reforms’ did not go intellectually unchallenged. In fact, the intervention of the jurists against the attempts of the royal authorities to draft a Civil Code and the codification debate that ensued was just such a challenge. To be sure, the criticisms raised by the jurists were not in any way anti-monarchical. Yet, it was the first challenge of its kind by westernized elites who, as one would expect, were supposed to complement state policies. Apart from the importance of the issue *per se*, this debate also offered the jurists the opportunity to address wider public issues in their capacity as legal experts, thus introducing a characteristic in Greek intellectual life that would have significant repercussions in subsequent years.

But, before proceeding to the argument of the jurists, a brief sketch of the policies of the Bavarians regarding civil law is needed. The aim of the monarchical authorities was to settle the issue by presenting a modern code of law. According to the royal decree of 1835, the King set as Civil Law in force the so-called ‘Exavivlos’ (‘Six Books’), a digest of Byzantine laws written in 1345 by Konstantinos Armenopoulos and essentially a summary of *Basilica*.⁸⁰ The latter (‘the laws of Kings’) was a bulky elaboration and hellenization of *Justinian Juris Civilis* (A. D. 534), the cornerstone of European Civil Law. At the same time, and according to the same royal decree, a drafting committee was set up, headed by the French-educated Christodoulos Klonaris, with the task of drafting a Civil Code. In short, with this royal decree, Byzantine law (Armenopoulos’ digest) was provisionally set as law in force until a new Civil Code was published. In the following two years, several acts of the

⁸⁰ Royal Decree, 23 February 1835, in [GAK, Ottonian period, K-Civil Justice, a. Civil Legislation, etc., 1.1834-1836]. Armenopoulos was a Byzantine legal scholars and a Justice in the Supreme Court in Constantinople. His book was very popular among Greeks during the Ottoman era, considered the best synopsis of an immense body of legislation: see Aristides Hatzis (2002), ‘The short-lived influence of the Napoleonic Civil Code in 19th century Greece’, *European Journal of Law and Economics*, vol. 14, pp. 253-263 (p. 255).

royal authorities disclosed their willingness to adopt a Civil Code modelled on, if not copying, the French *Code Civil*.

Greek historiography has seen the debate that ensued as the decisive first step in an intellectual and ideological strife that was to have repercussions for many years to come, within the Law School as well.⁸¹ Lawyers have tended to highlight the ideological context of the debate, which has been usually presented schematically as a debate between French-educated liberals and German-educated Romantics, who are often also seen as conservative nationalists. At the same time, they have largely left the political context aside, being anxious to offer long-term interpretations which are usually more related to their own ideological concerns than to the period under consideration.⁸² More recently, historians have approached the period with a keen eye for the political context that shaped the mid-nineteenth-century ideological trends and the political languages used by the jurists. Nevertheless, they also insist on using binary models of conflict (liberals vs. conservatives), while downplaying doctrinal issues and subtle ideological differences.⁸³

By and large, such interpretations have failed to acknowledge the broader ideological context in which the debate took place. The focus on political divisions has overshadowed shared common understandings and cultural perceptions among the jurists, which were not confined to jurisprudence. To take the most obvious example, the French code was highly respected in legal circles, but most liberals, even the most ardent admirers of French jurisprudence, were reluctant to adopt the French *Code Civil* uncritically. As A. Polyzoidis, a liberal member of the 'Legislative Committee' of 1835 and adherent of French legislation, had argued already in 1824,

⁸¹ Spyros Troianos and Ioulia Velissaropoulou-Karakosta (1997), [History of Law: From Ancient to Modern Greece], Athens: Sakkoulas, pp. 355-356. See also Hatzis, 'The short-lived influence', pp. 255-261.

⁸² Some commentators have even seen the failure of the introduction of the French *Code Civil* as a failure of liberal ideas to take root in Greek political culture. See, for example, Th. K. Papachristou (1991), [The French Civil Code in Greece], *Nomos*, vol. 3, n. 2, pp. 133-140; Chr. G. Dimakopoulos (1993), [The legislative Committee of 1835: Composition, mission, outcome], *Mnimosyni*, vol. 12, pp. 125-144; see also Lappas, ['The University'], pp. 152-155 and Hatzis, 'The short-lived influence', p. 261.

⁸³ Socrates Petmezas has also inserted a geographical dimension to the division between Liberals and Romantics/Phanariots. Although during the 1850s, some liberal professors did in fact use this designation for their rivals within the University, for the period under question, it seems excessive. See Socrates Petmezas, 'Privileged Outcasts', pp. 126-129; Caroula Argyriadis-Kervegan (1998), 'Byzantine Law as Practice and as History', in Ricks and Magdalino (eds), *Byzantium and the Modern Greek Identity*, pp. 35-47; Alivizatos (2011), [The Constitution], pp. 135-145.

instead of a thoughtless and exact transfer of foreign political models, what Greeks had to do was to 'imitate and transfer within our own polity what is transferable, imitable and implementable'.⁸⁴ In the same vein, the supposedly French-influenced 'Legislative Committee' in its first report on the Civil Code after the publication of the royal decree took a similar line. It argued that local customs and habits should be taken into consideration. The redaction and editing of customs would be assigned to judges. This was a clear indication of two things: firstly, that justice should have a direct legislative dimension, with the judge becoming a potential lawmaker, which was one of the permanent dreams of liberal jurisprudence (and, in the case of Greece, a 'paradise lost'⁸⁵); and secondly, that for the appointed drafters of the Civil Code, imitation of a foreign model was not the best way to proceed in legal reforms.

Challenging universalism through history

As already mentioned, it was circa 1837, when the prospect of adopting a version of the *Code Civil* was at its strongest, that the jurists intervened in the public sphere.⁸⁶ The younger jurists took issue with both the Byzantine legal tradition and more crucially with the advocates of the *Code Civil*. Their stance was certainly related to the difficulties they had encountered in everyday legal practice as lawyers and judges.⁸⁷ These had also been officially acknowledged in 1835 by the Minister of

⁸⁴ Anastasios Polyzoidis (1824), [Provisional Polity of Greece. And a plan of an the organisation of its provinces, revised and ratified by the second National Assembly in Astros, accompanied by the Political Constitution of Britain and that of the United States of America. With the proceedings of their congresses according to English and French treatises, translated by Anastasios Polyzoidis], Messolonghi, p. iv.

⁸⁵ Alivizatos, [The Constitution], p. 140.

⁸⁶ During 1836-37, a translation of the *Code Civil* was published. The 'Code of Nationality', modelled on the French equivalent, had been promulgated, while the royal authorities had ordered the Legislative Committee to model the Civil Code as closely as possible to the *Code Civil*. See Hatzis, 'The short-lived influence', p. 256. Hatzis has also argued that 'the very fact that the drafting of a Code was considered necessary was an indication of the influence of French legal theory' (p. 260). Additionally, as he noted, from the 1850s onwards this influence was overtaken by that of German legal theory. This leaves unexplained the fact that legislative committees were set up for drafting a Civil Code and that it was mainly German-educated professors that participated in their workings.

⁸⁷ In practice, courts were using at times: Armenopoulos' compendium, other Byzantine sources, French law, Roman law (as this was made known through scholarship) and also customary law. Argyriadis-Kervegan, 'Byzantine Law', pp. 37-39.

Justice, Georgios Praidis, who had proposed to have translated and introduced the French law of contracts in order to address a large gap in the 'Exavivlos'.⁸⁸ Yet, the series of articles, pamphlets and books published by the jurists reveal that beneath practical considerations lay new ways of thinking about law.

Greek historians have characterized this period mainly as the era of romanticism, during which an emotional and romantic perception of the nation was formed and disseminated. By automatically identifying this romanticism with political conservatism they contrasted it to the earlier republican and liberal thought of Korais and his disciples.⁸⁹ At the same time, they treated those (few) liberal scholars as 'exceptional' men of letters unfit for their time. Curiously enough, the Greek jurists have fallen in both categories: at times they were deemed romantic conservatives and at others as 'exceptional' liberals. Yet, both characterizations are probably excessive. Although many could be deemed romantics by virtue of their sensibility and their perception of the nation, it is hardly possible to call them conservatives, if that connotes an unwillingness to change or a desire for things past. On the contrary almost all jurists (as we shall see also in the following chapters) were ardent reformers. But this does not make them in any way 'exceptional' or radical liberals either. In essence, they were moderate liberals who were very much concerned with state-building and the development of institutions.⁹⁰ And indeed nationalism was a key factor in their legal project. In fact, from this point onwards, the principal questions for them concerning legal codification were bound up with giving expression to the national will and, at least indirectly, with the question of where sovereignty was located.

The jurists first took issue with Byzantine law. They realised its importance for legal security as it was the only existent and effective law. Yet, even when related, Byzantine jurisprudence was disparaged as a product of a corrupt Empire, which in some cases was identified with the Greek Middle Ages. This also explains why Byzantine legal tradition was not a major concern for the jurists. The French *Code*

⁸⁸ Kostantinos Pitsakis (1997), ['Kalligas and Armenopoulos: a Love/hate relationship'], *Ta Istorika*, vol. 27, pp. 259-297 (p. 273), footnote 38.

⁸⁹ A classic book for the period is Alexis Politis (1980), [The Romantic years, 1830-1880], Athens: EMNE-Mnimon.

⁹⁰ For example the chapter entitled 'A liberal that came too early' in Marie Masson-Vincourt (2009), [Pavlos Kalligas and the Foundation of the Greek state 1814-1896], Athens: MIET pp. 711-718.

Civil posited more difficult problems, as it was highly respected within legal circles. Even when it was dismissed, it was viewed as a distortion of Napoleonic times and not to be confused with the great French legal and philosophical tradition. The arguments opposing French law coincided with images of Greece as an immature child within the European Family. In essence, for the jurists, Greece, while not barbaric or oriental, was not yet of an age to claim full membership of ‘European’ civilisation. Criticising the ahistorical claims of natural lawyers, liberal nationalists, such as Pavlos Kalligas and Markos Renieris, asked whether it was possible to legislate without taking into account the historical context. By so doing, they gradually saw the development of law as a slow process of accumulation of manners and customs, refined by juridical reasoning. This was the beginning of the turn of Greek legal thought towards Romanist jurisprudence, in the manner in which it was developed by the German Historical School and swept across continental Europe in the first decades of the nineteenth century.⁹¹

Although the historical method was elaborated much more thoroughly in the years to come (and it will be addressed in more detail in the following chapters), suffice it to say here that the debate echoed, by and large, the ‘battle over codification’ (the *Kodifikationsstreit*), that ensued after Anton Thibaut, a law professor at Heidelberg, proposed in 1814 the immediate codification of law along the model of the *Code Civil*. F.C. von Savigny’s response to this challenge exerted an enormous influence on the development of German legal studies and on the theory of codification. Arguing that law was bound by time and place, Savigny criticised those who called for codification in 1814-15 for making the same mistake as

⁹¹ In fact, the debate and its influence were global. For continental Europe, see Robinson, pp. 261-275; Reinhard Zimmermann (2001), *Roman Law, Contemporary Law, European Law: the Civilian tradition today*, Clarendon Law Lectures, Oxford: Oxford University Press, pp. 1-49. For its influence on English legal thought even as a counter way of thinking, see Michael Lobban (2012), ‘The Varieties of Legal History’, *Clio@Themis: Revue électronique d’histoire du droit*, pp. 1-29 (pp. 4-8). For the British colonial context see: Sandra den Otten, ‘A legislating Empire’, pp. 94-95. For the USA, see Michael F. Hoeflich (1989), ‘Savigny and his Anglo-American disciples’, *The American Journal of Comparative Law*, vol. 37, n. 1, pp. 17-37. For a general overview of the discussion on the Civil Code and the impact of the Historical School, see Raoul C. Van Caenegem (2002), *European Law in the Past and the Present: Unity and diversity over two Millennia*, Cambridge: Cambridge University Press, pp. 90-103, 134-143. See also following chapter.

eighteenth-century advocates of natural codes: they exaggerated the potential of legislation as a source of law.⁹²

Without rejecting codification, as such, and searching for a set of systematically organised basic legal principles which would respect local peculiarities, Savigny and his disciples turned to historical studies and in particular the learned Roman law, which they saw as the source of the western legal tradition (part of which was German law). In this understanding, Roman law was viewed as supranational law, which could no more be considered an exclusive national possession than could religion or literature.⁹³ And in fact, the most prestigious years of Roman law were those that precipitated the Justinian codification. During this 'classical period of Roman law', according to a formulation made by Edward Gibbon, the jurists enjoyed huge prestige and steered the development of law.

Conforming to these standards, the Greek jurists in the late 1830s were not only engaged in the development of Roman law scholarship but they also attempted to implement a legal method, a way of proceeding in legal scholarship. By doing so, they also claimed a different and more active role for their profession. The first to take issue with the prospect of adopting the French Code was Markos Renieris, a liberal judge and later professor at the Law School. In a series of articles, the first of which appeared in 1837, he argued that the translation process should be selective.⁹⁴ He opposed the implementation in Greece of 'French Law', which he perceived as a collection of artificial rules that were foreign to the Greek nation and its essential Roman law tradition. For Renieris, as Adamantios Korais had already shown, by 'her nature and her history', Hellas was part of the West, and that was a choice made by the nation during the revolutionary period by translating 'into the language of Demosthenis the liberal principles of the French Assembly'.⁹⁵

⁹² Friedrich C. von Savigny (1814), 'Vom Beruf unserer Zeit für Gesetzgebung und Rechtswissenschaft', in Hans Hattenhauer (ed.), *Thibaut und Savigny*, pp. 95-192.

⁹³ Peter Stein (1999), *Roman Law in European history*, Cambridge: Cambridge University Press, pp. 115-118.

⁹⁴ Markos Renieris (1837), ['On Roman Law'], *Efimeris Nomiki*, vol. 6, pp. 49-50; idem (1840), ['On the law of Humanity'], *Evropaikos Eranistis*, pp. 317-327; idem (1842a), ['What is Greece? Orient or Occident?'], *Eranistis*, pp. 187-213; idem (1842b), ['On the relationship between Reason and Faith'], *Eranistis*, pp. 693-704.

⁹⁵ Renieris (1842a), ['What is Greece'], p. 212.

Yet, for Renieris, the French legislation of the era of Napoleon was not compatible with European civilisation and liberal principles. A core element of European civilisation was Roman law and statecraft, which was also a part of Greek civilisation: '[...] the Roman law had been grafted into the Greek Civilization, became a part of it and of the popular customs, and was salvaged, along with the Church from the shipwreck' (i.e. The Fall of the Eastern Roman Empire).⁹⁶ As for those few adherents of Byzantine ideas, their task was deemed hopeless.⁹⁷

In 1839, the young liberal Pavlos Kalligas contributed to the debate.⁹⁸ Kalligas had been a member of the Committee for the Civil Code and this experience made him deal with the issue by publishing two pamphlets.⁹⁹ From his first sentence he makes a direct connection between national sovereignty and the right to legal formation: 'Whoever denies a nation the right to constitute itself, denies that nation its right to be sovereign. It is only when the nation is not dominated by foreign legislation that it can lay claims to self-ownership'.¹⁰⁰ But, at that stage, the nation lacked not only the institutions through which to transfer this kind of power but also the legislators who were equipped for such a task: 'In Greece every year they say to us: your Code is almost ready, and they have never asked us, if we are ready [...] Where are the treatises on law? Where are the teachers of law and their pupils?'¹⁰¹

For Kalligas, while cultured nations—those 'who have come of old age in civilized life'—have been preoccupied with legal transformations and the advancement of legal scholarship for centuries, for Greece this was the first century of its legal life.¹⁰² Imitating and copying the French Code, a practical achievement of a great nation, would undermine the Greek nation's potential for self-constitution. Kalligas emphasised that the only European countries which had succeeded in promulgating

⁹⁶ Renieris (1837), ['On Roman Law'], pp. 49-50 and Renieris (1840), ['On the law of Humanity'], p. 320. Generally, he did not change his opinion about the nature of Roman law in subsequent works.

⁹⁷ Renieris (1842a), ['What is Greece'], pp. 214-215.

⁹⁸ Pavlos Kalligas had made his first intervention in Greek public affairs in 1837 after the publication of a law which prohibited writing against the King and royal power. Kalligas saw the statute as a potential imposition of severe and dangerous censorship and defended strongly the freedom of the press. See Pavlos Kalligas (1837, [1899]), [On the law regarding Insults and the Press], vol. I, pp. 158ff. See also Alivizatos, [The Constitution], p. 80.

⁹⁹ Pavlos Kalligas (1839, [1899]), [On drafting the Civil Code in Greece], vol. I, pp. 443ff.

¹⁰⁰ *Ibid.*, p. 443.

¹⁰¹ *Ibid.*, pp. 448-449.

¹⁰² *Ibid.*, p. 448.

civil codes were those in which Roman law had been studied by scholars over centuries. Indeed, the 'civilised' nations of Europe could offer the guidelines on how to proceed in this process.¹⁰³ To support his argument, he described the nation as a young student: 'Roman law will be of use to us as a school, as preparatory class, through the French law we give away our capacity to obtain national legislation, or in other words we become legally castrated. [...] how is it possible to have French legislation without blind submission to education produced there? [...] But if we want to get rid of Roman law now, in order to form our own, while we are not conscious of ourselves, our endeavour will be like the anarchic spirit of the young students, who want to get rid of the teacher in order to proceed to any kind of naughty actions.'¹⁰⁴

For Kalligas, only by synthesizing Roman law and local conditions would the nation be able to proceed in the codification of civil law and produce the necessary legal forms which, above all else, had to be 'Greek' in essence.¹⁰⁵ Only then would the Civil Code reflect the spirit of the national body politic for which it was drafted. While Kalligas admired classical Roman law, he was full of scorn for Byzantine law and for the Byzantine Empire, which he identified as a 'decomposed body'. In his view, the preference occasionally shown for Byzantine law was an error, originating perhaps from the idea that modern Greece ought to replace the Byzantine Empire.¹⁰⁶

In total, these jurists argued that in order to gain access to the 'standard' of European civilisation, the Greek nation should eschew explicit reliance on universalistic and normative frameworks such as natural law and codes that reflect a different scale of civilisation. Most of their arguments were based on the assumption that institutional patterns were not of universal applicability but have to conform to the nature, character and history of a nation or state. Yet, that is not to say that they believed in particularistic legal systems based on local customary law, nor that the

¹⁰³ He identified these with France, Prussia, Austria and Bavaria. Sweden and England, although highly esteemed, were characterised by a legal system that resembled a 'labyrinth': *ibid.*, p. 446.

¹⁰⁴ *Ibid.*, pp. 451-452. For an analogous image, see the Introduction by Periklis Argyropoulos in Makarel, [Elements of Public Law], pp. 18-19.

¹⁰⁵ Kalligas (1839, [1899]), [On drafting the Civil Code in Greece], pp. 445-445, and p. 449.

¹⁰⁶ 'What is it that they envied in the history of Byzantium, in this sad amassing of crimes and profane acts, where murder sits on the throne and disease forms political art, what is that they envied, I say, in the humiliation of the heroic glory of resurrected Greece before that decomposed body. Let the dead bury themselves': *ibid.*, p. 447.

process of translation and legal transfers diminished. Although they appealed to popular ideas of national identity, they did not dismiss codification in favour of customs or pure national law. For the jurists, law was indeed a product of history and should reflect the spirit of the Greek national community. But its source and guiding principles lie in a common legal language that bounded the socio-geographical space identified as Europe.¹⁰⁷ That common language was Roman law.

What is more, in this view of law as a gradual process, liberal institutions were seen as a vehicle for the diffusion of civic virtues.¹⁰⁸ It is important to note that the scholars mentioned made a kind of 'call to arms' to their colleagues and in general to the educated elite. Their overall message was that intellectual elites and educative institutions would have to rise to the task, educate the 'body politic' and gradually incorporate Greece within the European family of nations, the *Kulturnationen*. Even if modern Greek intellectual history often tends to treat men of letters as heroic figures, the development of legal discourse was a much more collective enterprise than it has been appreciated until now.

Introducing the Historical School of Law: Europe by way of Rome

From 1838 onwards, the jurists' interventions and initiatives of translations took a much more cohesive and engaged form. One could argue that the foundations of a cultural and political programme were laid in this early period. At the heart of this programme—which was also enhanced by the foundation of the University of Athens and its Law School (1837), where many jurists lectured either as professors or as *Privatdozenten* (‘υφηγητές)—lay the historical method in the study of law and the revival of Roman law scholarship. As the next chapter will demonstrate, in the years to come this kind of legal reasoning would come to dominate Greek civil jurisprudence. The key moment in the introduction of Roman law scholarship in

¹⁰⁷ Randal Lessafer (2009), *European legal history: a cultural and political perspective*, Cambridge: Cambridge University Press, pp. 466-469; Carl Scmitt (1944), 'The Plight of European Jurisprudence', *Telos*, vol. 83, pp. 35-70 (p. 65); Zimmermann, *Roman Law, Contemporary Law*, pp. 6-11; Caenegem, *European Law in the Past and the Present*, pp. 90-103.

¹⁰⁸ See the Introduction by P. Argyropoulos in Makarel, [Elements of Public Law], p. 16, and Kalligas, [On the Drafting of the Civil Code], pp. 440-442.

Greek jurisprudence is considered the translation of Ferdinand Mackeldey's *Handbook of Roman Law* by Georgios Rallis and Markos Renieris in 1838. Up to that point, the most important legal publications by the jurists were again works on Roman law: Emmanouil Kokkinos's doctoral dissertation on the Roman Twelve Tables, published in 1836, and the translation—again by Georgios Rallis—of the work on Theophile Antikinsor, a Byzantine jurist of Roman law who had written an authoritative book on Justinian's Institutes.¹⁰⁹

In any case, it was Mackeldey's book that proved vital for two reasons. Firstly, it became the first handbook of Roman law that was used for many years by scholars and law students.¹¹⁰ Secondly, it served practitioners and judges since the two translators incorporated into the treatise excerpts from sources of Roman law written in Greek and essentially taken from Byzantine sources like the *Basilica* or *Armenopoulos*. Their aim was to prove that Byzantine legal sources were just part of the greater tradition of Roman law. In that way, they tried to overcome the tensions between Byzantine jurisprudence, which was still in force in several parts of Greece but was rather underdeveloped theoretically, and the latest development in European legal theory.¹¹¹ It was also a way of dealing with the arguments of rival advocates of legal codification, for whom the lack of a single and practical source of law was the main reason behind the complicated and fragmented everyday legal practice.

From the perspective of legal method, the most comprehensive attempt was made in 1840 with the translation by Emile Herzog and Petros Pappariopoulos of Edward Gibbon's Chapter on Roman law.¹¹² Pappariopoulos had already

¹⁰⁹ Emmanouil Kokkinos (1836), [Doctoral Essay on Roman Twelve Tables], Heidelberg; Theofilos Antikinsor (1836) [The Institutes including the most essential miscellaneous manuscripts and other notes, from the publication of Reitzio, with an additional detailed table of contents, 6th century AD, translated by G. A.], Athens: K. . In the Prologue, explains his decision to translate Theofilos as an attempt to fill the gap between Greece and the 'enlightened' nations of Europe regarding Roman law scholarship.

¹¹⁰ The next complete and multi-volume treatise of Roman law was published nine years later by Pavlos Kalligas.

¹¹¹ Tsapogas, ['The Renewal of law'], p. 54; Troianos and Karakosta, [Istoria Dikaiou], p. 355.

¹¹² Edward Gibbon (1840), [History of the Decline and Fall of the Roman state, translated by E. Herzog and P. Paparrigopoulos according to the German translation by G. Hugo], Athens. At the time, both translators were teaching courses related to Roman law at the University.

contributed in the Roman law scholarship in the preceding years.¹¹³ Gibbon's translation was the first to introduce coherently the concept of the essential historicity of law and thereby functioned as an example for the historical legal method. The two professors actually translated Gibbon through the German translation of his work by Gustav Hugo, German Professor of Law in Göttingen. Gibbon, Gustav Hugo argued, by delineating the development of Roman law in epochs, of which the middle, or classical, was the most important, had abandoned the prevalent antiquarian method of describing law. Instead, he favoured Montesquieu's method, in which legal institutions were seen in relation to the actual conditions of society. Hugo was well aware of the programmatic aspect of his translation; for the first time, he argued, Montesquieu's examination of the spirit of the law had been applied in a contextual manner to a comprehensive material, namely Roman law, thus advancing awareness of its historic dimension.¹¹⁴

In translating Gibbon through Hugo, the two professors had two objectives. In the first place, they attempted to translate a form of argument, i.e. a form of thinking about law in historical terms. This historical urge went beyond legal studies, and the jurists themselves were involved in several attempts in the early 1840s to encourage historical thinking and scholarship. This recommendation was not based on an interest in the past, as such, but on an interest in the future and the building of appropriate institutions.¹¹⁵ In the second place, they also tried to transmit a preference for the classical period of Roman law (second century A. D.). During this

¹¹³ Petros Paparrigopoulos (1839), [Essay on the influence of accident on transactions according to Roman and Byzantine Law]; idem (1840), [Inaugural lecture: 'On the study of the history of Roman Law'], Athens.

¹¹⁴ Stanley Katz (ed.) (2009), *The Oxford International Encyclopedia of Legal History*, vol. 5, Oxford: Oxford University Press, pp. 158-159.

¹¹⁵ Georgios Rallis, in his last lecture as a Rector of the University in 1841, argued that university research and teaching should focus on the three pillars: 'Mathematics, Greek philosophy and General European history': Georgios Rallis (1842), [Lecture delivered on the 9th November 1841 by G. Rallis, Rector of the University of Athens], Vasiliko Typografeio: Athens, pp. 6-9. At the same time, Renieris's *Philosophy of History* in 1841 marked the reception of novel ideas of history with a special emphasis on the ideas of Giambattista Vico: Markos Renieris (1841) [Philosophy of History. An Essay], Athens. In 1842, Pavlos Kalligas by translating Leopold von Ranke's *Die Venezianer in Morea 1685-1715* sought to relate the Venetian administrative reforms, to the present situation of Greece: see Pavlos Kalligas (1842, [1899]), [The Venetian Dominion in the Peloponnese (1685-1715)], vol. 2, pp. 58-139, (Pandora, v.XII, n. 287). He also repeatedly called for the writing of the history of Greece from the Ottoman period onwards, as a means towards self-knowledge: see Masson-Vincourt, [Pavlos Kalligas], pp. 266-271.

period, the main agency of legal development was not legislation but debate among jurists. They were the ones with the authority to offer opinions on legal disputes and, ultimately, the responsibility to make laws.¹¹⁶ By introducing the Historical School, the jurists turned to the study of history and Roman law scholarship. Their doctrinal aim was to develop thoroughly this scholarly tradition and to construct gradually and through Roman scholarship a consistent rational law which would reject formal abstractions and take into account the local/national peculiarities and aspirations. For a young nation like Greece this process presupposed the experience of rational and free institutions and the study of its past. The endpoint would be a proper codification for the emerging nation. In this process the role of the jurist was deemed vital and not confined to disciplinary restraints. Indeed, one could argue that the vision of the moral role of the jurists expressed through Gibbon was the doctrinal equivalent of a process that the civil code debate instigated.

Intellectual and political implications of legal discourse

The public interventions of the jurists and their subsequent scholarly preoccupations had two wider implications. In the first place, by 'speaking out' they claimed a wider public role as legal scholars. Following the formulation of Stefan Collini, I would argue that they were gradually transformed into intellectuals in the cultural sense.¹¹⁷ This role would be expanded more actively in subsequent years, but the foundations were laid in this critical period. Characteristically, in 1842, Pavlos Kalligas published another pamphlet anonymously, which is well known in Greek intellectual and political historiography.¹¹⁸ In this publication, Kalligas addressed political issues directly. He praised the role of enlightened Greeks of the Diaspora, such as Rigas and Korais, for introducing liberal and republican concepts and ideals from the West and especially from France. At the same time, he argued that these transfers would prove a dead letter if the intellect of the body politic, for which they

¹¹⁶ Stein, *Roman law*, p. 116.

¹¹⁷ Stefan Collini (2005), *Absent Minds: Intellectuals in Britain*, Oxford: Oxford University Press, pp. 45-68.

¹¹⁸ Pavlos Kalligas (1842, [1899]) [The end of the Parties, or the Moral Events of our Era], Athens, vol. I, pp. 483-505.

were made, was not cultivated enough for their reception.¹¹⁹ In strongly moralizing tones, he urged his fellow citizens and the nation to stop being involved politically through the political parties and move on to know the collective self of the multitude ('το πλήθος')¹²⁰. The nation, according to Kalligas, must set priorities, the first of which was to be industrious and develop its own economic and commercial capacities.¹²¹

In the second place, not only did the jurists go public but they also argued against royal authorities, challenging monarchical rule. This had a wider political effect. The diffusion of legal discourse and the claims put forward by the jurists informed, in large measure, the constitutional and anti-absolutist claims that were becoming prominent in the late 1830s. In other words, there came to be formed a close relationship between the claims of the jurists and more formal forms of political discourse. For example, at the same time with the arguments of the jurists, the claim that law-making and administrative measures should take into account local conditions was articulated in a legal act which the prefecture of Athens not only voted for but also published in one of the bilingual (Greek-German) newspapers circulating at the time. According to the act, the way out of the deadlock that had been caused by measures, 'inspired probably by ignorance of things Greek', was the convocation of a national assembly and the publication of a constitution as 'means of uniting the King and the Greek people'.¹²²

These political claims were always popular among intellectual and political circles, but in this instance they gained ground on a popular level as well. Constitutionalism thus especially (as will be discussed in a later chapter), became a widespread political slogan, used by a variety of political forces.¹²³ But in most cases -

¹¹⁹ Ibid., pp. 487-488.

¹²⁰ Ibid., p. 505.

¹²¹ Ibid., pp. 499-500, also Masson-Vincourt, [Pavlos Kalligas], pp. 260-261. Kalligas was also involved with the English party (since he deemed English constitutionalism as genuine) and was related politically to the liberal statesman Alexandros Mavrokordatos (see also following chapters).

¹²² [Act of Municipal Council of Athens], in *Elpis*, year I, 27/12/1837.

¹²³ For anti-absolutism, see L. Bower and G. Bolitho (1939), *Otto, King of Greece: A Biography*, London: Selwyn and Blount, p. 118; Alexandros Soutsos (1844), [The transformation of the 3rd of September], Athens, p. 18. For the issue of 'constitutionalism' as a political slogan, see Ivi Mavromoustakou (2003), ['The Greek state 1833-1871: Political Institutions and Administrative organisation'], in Panagiotopoulos (ed.), [History of Modern Hellenism], vol. III, pp. 27-50. Mavromoustakou examined

not least in Francois Guizot's 1841 memorandum to the Great Powers concerning the Greek problem - it was related both to taking into account local conditions that would make administration more efficient and to the existence of intermediary bodies that would temper the exercise of royal power.¹²⁴ The political implications of such a language which the jurists helped form and diffuse were manifested in the revolt, or better the pronunciamiento of 1843.

Two events may suffice to show the extent to which this discourse informed the revolutionaries' actions and the role of the jurists in the formation of this discourse. When the National Guard rebelled in September 1843, the revolutionaries' first action was to file a claim for legitimising their actions to the Council of State, the highest monarchical legal institution. The Council, which was composed of several jurists, published subsequently two 'national acts', as its members decided to call them. With these acts not only did it accept the claims of the revolutionaries, namely for the convocation of a National Assembly and the drafting of a Constitution, but in addressing the king it also claimed that it acted as representative of the Greek people – 'as a translator of its wishes and its needs before his majesty'.¹²⁵ The political unrest ended with the introduction of parliamentarism and the transformation of the regime into a constitutional monarchy. The second event that illustrates the role of the jurists occurred some months after the promulgation of the constitution and the establishment of the new government. Several professors of the University of Athens, including law professors such as Kalligas, were dismissed on political grounds.¹²⁶

Conclusion

An attempt has been made in this chapter to delineate the changing role of the jurists during the era of 'enlightened' absolutism. The western-educated legal

the political uses of the slogan of 'constitutionalism' in the context of Greece, but the question of why and how it existed in the first place is left unanswered.

¹²⁴ Francois Guizot (1841), [Memorandum to the Great Powers on the Greek political system], in Gerozisis (1991), [Constitutional Texts], pp. 203-206.

¹²⁵ FEK, n. 31, 3/9/1843 for the first Act. FEK, n. 32, 9/9/1843 for the second, where the quotation is from.

¹²⁶ ['On the University elections'], *Anamorphosis*, vol. 97, 20/06/1845.

scholars considered the transfer of European models of thought essential for the development of the Greek state and its attempt to be incorporated within the family of the 'European noble nations'. Although early in their careers they welcomed and complemented the reforms undertaken by the monarchical authorities, from the late 1830s onwards they came increasingly to criticize them. The motivation was a very practical but important issue, the drafting of a civil code, which the royal authorities wanted to model on the *Code Civil*. By introducing the Historical School of Law—law bound by time and place—these liberal nationalists were trying to reconcile the tension between a civilising project that put Europe at the top of a hierarchical view of the world, and the specific national aspirations of a state that was deemed a latecomer in the development of European civilisation. The pathway to the European standard, according to the jurists, was to apply gradually the historical method to legal studies and develop Roman law scholarship. As we saw, an important effect of their 'speaking out' and addressing public opinion was that they were transformed gradually into intellectuals. Their case is thus a good example of the role that the circulation of ideas in nineteenth-century Europe played in the formation of academic cultures.

More importantly, by arguing against the royal authorities, the jurists, by and large, produced an intellectual and political counterweight to monarchical rule. That is not to say that they questioned monarchical rule as such, but that they raised concerns about the way the authorities proceeded in law making and the type of state they sought to establish. Their claims coincided with, and largely informed, constitutional and anti-absolutist claims that were expressed before and during the revolt of 1843-44. Yet, it is important to note that this anti-despotism did not seek to make the political system more inclusive but was directed more against these practices that seemed to undermine the expression of the national will. In that sense the chapter demonstrated the extent to which nineteenth-century European languages of law were intertwined with emerging languages of nationalism and sovereignty. Their interplay, in this instance, posed a challenge to dynastic politics and ultimately contributed to the establishment of liberal institutions. By thus associating legal discourse and political change, what the Greek case shows is that even at that early moment state-building was as much an intellectual and ideological

process as it was an institutional one. However, as I have already alluded to, these years were mainly transitory. It was in the subsequent years that the jurists took an even more engaged role in intellectual and political affairs; a role that would have significant implications for Greek political theory and practice.

2. Law as science and as political ideology: Roman Law and the formation of the Greek state (ca 1840s - 1870s)

Introduction

The previous chapter argued that during the era of absolutism (1834-1844) the Greek jurists attempted to lay the foundations for a cultural and political programme that would facilitate the incorporation of the emerging Greek nation within the European family of nations. At the epicentre of this programme was the introduction and development of Romanist scholarship and the conviction that the moral responsibility for legal formation rested upon the jurists themselves. Taking their publications and their role in public life from the early 1840s to the early 1870s as the starting point, this chapter argues that the jurists kept their promise. Indeed, from the first years of the 1840s, their scholarly production gradually proliferated while their public role was enhanced significantly. Although this scholarly production affected all the branches of law, Roman legal scholarship was by far the richest. This chapter aims to discuss the development of Roman law scholarship in Greece between the early 1840s and the early 1870s. The significance of Romanist jurisprudence was not confined to the academic debates that it produced but had wider political implications, just like other branches of legal scholarship. Given its role in shaping the civil law, however, the political implications of Romanist scholarship were even more pronounced. Indeed, as we shall see, professors of Roman law succeeded in commanding the confidence of politicians and political groups, in controlling the legal commissions that were created for the drafting of a civil code, in influencing the law-making process and in participating in the political administration. Thus, far from being merely an academic issue, Roman law scholarship had broader political connotations and far-reaching implications for the building of institutions.

Compared to other fields of jurisprudence (like constitutional law or political economy), the history of civil law jurisprudence has been relatively neglected by modern Greek historiography. Although the history of the Romanist lawyers has been examined by Greek historians, this has been done mainly by a small community

of specialists in legal history. At the same time, there has been a reluctance to delve into the details of Roman law scholarship. Even though the importance of the Romanist jurists has been acknowledged, surprisingly little attention has been paid to their political thought. Historians of modern Greece have discussed the history of Roman law scholarship in two ways, both of which correspond to different narratives about the course of modern Greek history, to different disciplinary priorities and to successive periods in Greek historiography. Even though these approaches came to rather different conclusions, they shared some common features. Firstly, they highlighted the importance of the study of political and legal institutions. Secondly, instead of interpreting modern Greek history as a linear, smooth and triumphant history of the nation, they perceived the establishment of the Greek state as a radical rupture which had repercussions for and created tensions within Greek society. Thirdly, and more importantly, they were narratives of failure. And for both narratives, Romanist jurisprudence illustrated this failure.

In the first place, lawyers and legal historians writing from what could be called a 'legalistic' perspective acknowledged the dominance of Roman law scholars in nineteenth-century Greek legal life. Initially developed in the late 1930s and 1940s, this perspective focused on the internal doctrinal development of Roman law and on its huge role in the history of the several attempts to draft a civil code (a process which was finally completed in 1946). The 1950s marked a new departure for the 'legalistic' approach which was to prove highly influential. Nikolaos Pantazopoulos and his disciples interpreted the legal doctrines that were introduced after Greek independence as an intrusion of foreign legal models which were transferred from the west—mainly from Germany—and were in essence incompatible with the indigenous legal tradition.¹²⁷ The local tradition was located not so much in the scholarly tradition of Byzantium but in the local customs of the Greek communities,

¹²⁷ Nikolaos Pantazopoulos was elected in 1953 to the Chair of 'Roman and Greek law' at the University of Thessaloniki. Thus, up to the 1950s Greek law was seen as a part of the greater Roman legal corpus. In the coming years, Pantazopoulos and his disciples reformulated the history of Greek law. Although the literature on civil law is long, it is mainly based on the arguments made by Pantazopoulos, who published the first book on the subject in 1947: see Nikolaos Pantazopoulos (1947), ['From the 'intellectual' tradition to the Civil Code: a contribution to the history of the sources of modern Greek law'], in [Contributions to the study of Greek and Roman law, including other laws of Antiquity], Athens.

which were supposedly widely popular and democratic. According to Pantazopoulos, the foreign legal models—of which Roman law was the most comprehensive and important—interrupted the linear and organic development of the Greek legal tradition and distorted the harmony, social cohesion and democratic character of the customary law which characterised the Greek communities during Ottoman rule.¹²⁸

The ‘legalistic’ reformulation of Greek legal history of the late 1950s was produced mainly in the aftermath of an era during which Greece experienced authoritarianism (the Metaxas dictatorship [1936-1941] and the Nazi Occupation) and a civil war. The ‘legalists’ perceived the course of modern Greek history as inherently flawed and attributed the problems of Greek democracy and especially the loss of national unity to the rupture that had been caused by the policies of the Bavarians and westernized Greeks. In order to dispense with these foreign cultural influences, they idealised a pre-independence communitarian ‘democratic’ past.¹²⁹ Even though native customs were deemed ‘democratic’, this ‘legalistic’ line of argument had strong anti-intellectualist and populist overtones, while its framework of analysis was strongly national (the ‘Greek’ legal order was influenced by ‘French’ and ‘German’ jurisprudence). It thus, opposed sharply the Greek legal character to the European tradition, especially in its German version. This latter was not only antithetical to the Greek legal tradition but presented a threat to the Greek national identity.¹³⁰

Moreover, these arguments had another moral implication, in that they condemned Roman law for its materialistic, commercial and individualistic values.¹³¹ In other words, the blame for the distortion of the organic harmony of the pre-

¹²⁸ The French legal tradition was seen in a more positive light. In general however, the process was described as moving from a pluralistic democratic order to a centralized-monarchical order: see Nikolaos Pantazopoulos (1968), [‘Georg Ludwig von Maurer. The definitive turn of modern Greek legislation towards European models’], and *idem* (1986), [‘The incorporation of Greece in the European community: the contribution of the Regency and Otto (1833-43)’], both in *idem* (reedited) (1998), [Modern Greek state and European Identity: the crucial role of the Bavarians], Athens: Parousia, the first in pp. 93-240, the second in pp. 53-91.

¹²⁹ As he argued for the legal work of the Regency, ‘the destructive impact of this arbitrary process is felt today by all of us’: Pantazopoulos (1986, [1998]), [‘The incorporation’], p. 33. See also Panagiotis Zepos (1949), *Modern Greek Law: three lectures delivered at Cambridge and Oxford in 1946*, Athens, p. 47 and p. 72. For a brief critique, see Nikos Alivizatos (2011), [The Constitution], p. 82.

¹³⁰ See the Introduction by Petros Petrides in Pantazopoulos, [Modern Greek State], pp. 13-18.

¹³¹ ‘Roman law became a significant tool to the consolidation of individual rights in the narrow sense of the word, at the expense of humanitarian values and institutions of popular law’: Pantazopoulos, [‘The incorporation’], p. 53.

modern national community was placed on these values which expressed the forces of European capitalism. These criticisms against Roman law—both about its anti-national character and its moral, individualistic defects—were influenced mainly by ideas which had begun to emerge already in the nineteenth century but were revived by conservative legal and political thought at the beginning of the twentieth century.¹³² And indeed, they are still extremely influential among lawyers, legal historians and public officials.¹³³

A partial revision of this line of argument took place from the 1970s onwards when new studies, which were influenced by a new ‘modernist’ perspective, transformed modern Greek historiography. Historians and political scientists, who were highly critical of the theory of the continuity of the Greek nation and influenced by constructivist theories of nationalism, moved the focus to the ways in which the nation was formed, invented and developed. They were sceptical not only about national continuity but also about the supposedly democratic and pluralistic character of the pre-independence communities.¹³⁴ From this perspective, the Greek revolution and the establishment of the Greek state were perceived as radical ruptures which marked the entry of Greece into modernity. This process was seen in a positive light, as marking a step towards progress and westernization. Compared to an alleged European model, however, Greece was characterised by backwardness or,

¹³² In the most extreme case, this was the understanding of Roman law by the Nazis. See James Q. Whitman (1996), ‘The Moral Menace of Roman Law and the Making of Commerce: Some Dutch Evidence’, *Faculty Scholarship Series*. Paper 654, p. 3. Ironically, Pantazopoulos’ reasoning echoed another branch of the nineteenth-century historical school of jurisprudence which made its way into the twentieth century, the *Germanists*, who rejected the reliance on what they saw as ‘foreign’ Roman law and searched for the roots of German law in the German medieval communities.

¹³³ See the Prologue of Evangelos Venizelos (professor of law and several times minister in the previous 15 years in Greece), in P. Petrides, E. Prontzas (eds) (2000), [Law, History and Institutions: Essays in honour of Nikolaos Pantazopoulos], Thessaloniki: University Studio Press. Interestingly, these arguments have been adopted by scholars who studied the case of Greece through a post-colonial perspective: see Stathis Gourgouris (1996), *Dream Nation: Enlightenment, Colonization and the Institution of Modern Greece*, Stanford: Stanford University Press, pp 53-64. For a criticism see Tzapogas, [The renewal of law], pp. 52-63.

¹³⁴ For the communitarian trope in modern Greek historiography, see Socrates Petmezas (2007), ‘La “commune grecque”: une tentative d’histoire des fictions historiographiques’, in Socrates Petmezas and Gilles Grivaud, *Byzantina et Moderna: Mélanges en l’honneur d’ Helene Antoniadis-Bibicou*, Athens: Alexandria, pp. 205-230; Alivizatos, [The Constitution], p. 123 is also critical of Pantazopoulos.

more accurately, by belatedness and underdevelopment.¹³⁵ The radical break from this backward society—or, to use the modernist jargon, ‘pre-modern and pre-civil society’—gave birth to several cultural tensions that permeated modern Greek history.¹³⁶ The origin of this tension lay naturally in the nineteenth century and it was articulated through a cultural and political clash between traditional and conservative forces on the one hand, and modern and progressive forces on the other.¹³⁷ Naturally, the western-educated intellectuals and professors were seen as part of the modernizing forces.

Yet, from an intellectual point of view, Roman law presented a problem. Based on its veneration of the past, Roman law was approached as one of the political expressions of romanticism. Romantic nationalism—the ideological underpinning of Greek irredentism—was deemed to be the opposite of the progressive, modern and liberal forces.¹³⁸ Thus, in the very few cases where the political role of Roman law was addressed, it was viewed uncritically as a conservative force. A classic argument of this ‘modernist’ thesis was that the responsibility for the failure to draft a civil code—a ‘symbol’ by definition of progress—lay with the Romanist jurists, and this indicated the backwardness of Greece compared to other European states. In short, the development of Roman law, among other things, bore evidence of the failure of Greece to become fully modern, Western and European.

The ‘modernist’ line of argument was equally informed by an eagerness to explain the authoritarian course of modern Greek history.¹³⁹ Much more sympathetic

¹³⁵ The historiography is rather large, but the ‘underdevelopment’ thesis was theorized by Nicos Mouzelis (1978), *Modern Greece: Facets of underdevelopment*, New York: Holmes and Meier. For the contrast between native and imported institutions, see also idem (1986), *Politics in the Semi-Periphery: Early Parliamentarism and Late Industrialization in the Balkans and Latin America*. London: Macmillan.

¹³⁶ Constantinos Tsoukalas (1981), [Social development and state. The construction of public space in Greece], Athens: Themelio.

¹³⁷ For Nikiforos Diamantouros, the clash between westernized institutions and traditional segments of society was the main characteristic of Greek political culture as well: see Nikiforos Diamantouros (2000), [Cultural Dualism and Political Change in Post-Authoritarian Greece]. Athens: Alexandria. For a criticism see the Introduction in Anna Triandafyllidou, Ruby Gropas and Hara Kouki (eds) (2013), *The Greek Crisis and European Modernity*, London: Palgrave.

¹³⁸ It followed that it distorted the claims of democratic nationalism of the modern Greek Enlightenment. See Hatzis (2002), ‘The short-lived influence’, pp. 253-263.

¹³⁹ Paschalis Kitromilides (1981), ‘Historiographical interpretations of Modern Greek reality: An exploratory essay’, in Lily Makrakis and Nikiforos Diamantouros (eds) (1981), *New trends in Modern Greek Historiography*, New Haven, pp. 7-11. Also Paschalis Kitromilides (2004), ‘Introduction’, in

to the process of westernization and to the protagonists of this process, the 'modernists' treated ideological currents, like liberalism and romanticism (the two main opposing forces on an ideological level), as ideal types. Liberalism especially was perceived as an ideology free of internal contradictions and transformations and as the most significant trait of the process of entering modernity. From a classic 'modernist' perspective, the norm of this modernity was based on an idealised version of European or Western societies (a tendentious construction formed mainly according to French and British histories). These conceptual limitations were responsible for several contradictions that were related to the Romanist lawyers. Thus, on the one hand, adherence to Roman law was considered a sign of conservatism or romantic nationalism.¹⁴⁰ On the other hand, some of the Romanist scholars were seen as liberals and modernizers. The case of Pavlos Kalligas is probably the most characteristic. By all accounts an ardent liberal, Kalligas was considered to be the doyen of civil lawyers and the Romanist scholar par excellence. His treatise on Roman law set the stage for the study and teaching of the subject and remained the most authoritative text for many decades.

Both approaches have serious methodological and conceptual limitations. In the first place, they have idealised what are otherwise multifaceted phenomena such as the pre-independence local communities (the 'legalists') and nineteenth-century liberal thought (the 'modernists'). These idealisations reflect a larger reluctance to delve into the details, complexities and meaning of political languages in the manner in which they were expressed in jurisprudence. In the second place, the European-wide nature of the debate on Roman law has either been neglected or treated in a very monolithic fashion. These limitations of the nationalist and 'failed modernization' approaches are the points of departure of this chapter. It is premised on the idea that in order to explain its dominance Romanist jurisprudence has to be treated in its own right by an in-depth analysis of the intentions and motivations of the most important and politically powerful Romanist jurists.

By so doing, the chapter will address two interrelated sets of questions. The first

Paschalis Kitromilides and Triantafyllos Sklavenitis (eds) (2004), [Historiography of Modern and Contemporary Greece: 1833-2002], Athens: EIE, vol. I, pp. 40-55 (p. 46).

¹⁴⁰ Hatzis, 'The short-lived influence', p. 257.

deals with the major components of the Roman legal culture that was developed by the jurists. It will look, in other words, at the legal agenda of the Romanists, i.e. what they hoped to accomplish and what it meant for them to 'do' law. As will be shown, this agenda had certain advantages for the Greek jurists in their efforts to form a legal and academic culture. At the same time, however, they intervened in the public arena for reasons beyond waging a doctrinal battle. The second set of questions is thus related to the Romanists' political agenda and social vision. In other words, the Romanists strongly believed in their own and the Roman law's capability to bring about the much needed reforms in Greek society in a peaceful way.

By examining thus their legal thought and action, the objective of the chapter is first to complicate the image of the Romanist jurists within Greek historiography and second, to relate their legal reasoning to the emergence of new ways of thinking about the state and its legal system. It additionally aims to show that these were part cause and part consequence of wider transformations in political culture. In order to do so and grasp its full meaning and scope, Roman law scholarship has to be properly situated both within the wider European intellectual framework within which it was formed and by which it was widely influenced and within the political context of Greece.

Although Romanist jurisprudence was formed in direct contact with European ideological currents, this wider framework has rarely been taken into account in the assessment of both its scholarly and its political role. Ineed, the revival of Romanist scholarship was a widespread European, if not a global, phenomenon. Although the 'third renaissance' of Roman law originated in German universities at the beginning of the nineteenth century, it became eventually the lodestar of European jurisprudence.¹⁴¹ Greek scholars did not just transfer specific versions of Romanist scholarship but also made original contributions to this European-wide intellectual phenomenon.

Placing the Greek discussion of Roman law at the centre of this phenomenon represents a particularly interesting case study for two reasons. Firstly, it reveals the ways in which a specific European legal language was diffused and adapted into the

¹⁴¹ Zimmermann, *Roman law, Contemporary law*, pp. 6-7.

context of a new state that was characterised by different social and political conditions. It can thus highlight the interplay between the process of state-building and the transmission of legal ideas. Secondly, by examining what Roman law stood for in this particular setting and time, it will be possible to shed light on the wider issue of the role of Roman legal scholarship in European thought and politics during the nineteenth century. Considering the place that Greece had for many Europeans at the time in the geographies of civilisation (i.e. in-between barbarity and European culture) and the fact that research on Roman law has focused on Western Europe up to this point, broadening the scope of analysis to include Greece has the potential to recover a greater variety of the meanings and the uses of Roman law on a significantly larger geographical scale and thus highlight further its transnational dimension.

As we will see in more detail the very next section, by revising older theses which equated automatically Romanist jurisprudence with conservatism or 'bourgeois' individualism and by giving due attention to local differences, intellectual historians and lawyers have complicated our picture of what Romanist scholarship stood for politically. Notwithstanding local differences in its political implications, however most studies have shown that for most scholars at the time Romanist jurisprudence was both a very elaborate legal method with which to proceed in law-making and a legal doctrine that was founded on freedom of property and contract. As historians writing from a global perspective have argued, ways of thinking about property rights were bound up with land issues and a strong pursuit of material improvement in a mixture which was central to the making of the modern world. As Christopher Bailey has put it, '[...] liberal political theory, was based on the idea that rights, particularly rights concerning land, predated government and in a sense provided the basis of society'.¹⁴²

Greek scholars were more than attentive to the emergence and the 'contractual' implications of Romanist thought. In fact, the legal method proposed by the Romanists was to become dominant among civil lawyers, thus making the Greek Kingdom one of the few regions in nineteenth-century Europe (along with Germany)

¹⁴² Bayly, *The Making*, pp. 289-99; see also John C. Weaver (2003), *The Great Land Rush and the Making of the Modern World*, Quebec: McGill-Queen's University Press.

to form its civil law based on academic jurisprudence and on a gradual codification process.¹⁴³ But what is more important is that Greek Romanist jurisprudence became one of the constituent discourses of a liberal world-view founded on the formal equality of citizens and the elevation of individual freedoms—of contract, disposition of property, inheritance, etc.—to the status of fundamental norms. Greek Romanists saw this process as an integral part of the formation of the Greek state as a *Rechtsstaat*. In that sense, the Romanists were not conservatives as Greek historians implicitly or explicitly have depicted them, but, as we shall see, moderate liberals of a certain kind.

The elaboration of Roman law and of liberal values was not confined to scholarly debates but was disseminated in the wider public arena through newspapers and periodicals and, later, by learned societies. The actions of the jurists, both in the judicature and the civil service, complemented the growing intellectual interest in issues of private law. In order to make sense of this success, it is imperative to take into account the political context of Greece and the interaction of civil law jurisprudence with the central socio-political debate of the era: the issue of property and the 'national lands'. Although this had been a significant issue since the Revolutionary War, it was after the mid-1830s that problems such as the incomplete forms of land tenure, the distribution of the national lands and their conversion into private holdings became a central concern for both the authorities and the intellectual and political elites.

This was not just a legal issue but had strong ideological implications related as it was to the transition from the Ottoman to a modern European legal and social order. For the jurists, the incomplete understanding and function of private property obstructed the material prosperity of Greece and was another example of the gap from European civilisation. The formalization of individual property rights on land and the transformation of land into a commodity were perceived as the preconditions for 'progress' and the peaceful transition to a liberal order. If there was any distinctiveness in the Greek case, it lay in the way the Greek civil lawyers

¹⁴³ For the case of Germany, see James Q. Whitman (1990), *The Legacy of Roman in the German Romantic Era: Historical Vision and Legal Change*, Princeton: Princeton University Press; see also Stefan Vogenaurer (2005), 'An Empire of Light? Learning and Lawmaking in the History of German Law', *Cambridge Law Journal*, vol. 64, n. 2, July, pp. 481-500, (pp. 492-500).

employed Romanist jurisprudence to engineer social and economic change and, in the process, transformed the theory of the *Rechtsstaat* into a defensive weapon against the conception of the state that was espoused by the monarchical authorities. Indeed, compared to analogous reform campaigns in other European countries, not least in the German states, the Greek Romanists were rather successful.¹⁴⁴

What the Greek case highlights is that intellectual factors played an equal, if not a larger, role in this process than institutional or material factors. For its advocates, Roman law could offer not only the legal technicalities needed for the making of contracts but could also facilitate the development of a modern commercial mentality that was deeply intertwined with individualism. Their social vision was that of a society of property owners based not on social equality but on equality before the law. In their arguments, however, they did not employ only the language of efficiency—property rights as the means for the making of a *laissez-faire* economy and society based on individualism—but also used moral arguments related to civilisation and liberty. In other words, moral preoccupations interacted with material ones. In order to show the growing political significance of Romanist jurisprudence, the chapter will refer to several legal reforms that were implemented especially towards the end of the 1850s. These reforms were almost all connected to complementing contracts and exchanges among individual proprietors.

One additional point should be made. The Romanist political agenda neither remained the same nor was it undifferentiated throughout the period under question. Although this chapter presents Romanist jurisprudence as a much more collective endeavour/enterprise than has been the case thus far in Greek historiography, it does not suggest that there were no disputes and disagreements among the jurists. On the contrary, from the early 1850s and especially during and after the Crimean war, there was a significant polarization within the legal milieu. This ideological strife that encompassed intellectual life marked a significant departure from the previous consensus among the jurists regarding their political agenda. The rift among Greek liberals revolved around the means through which

¹⁴⁴ Whitman, *The Legacy of Roman law*, pp. 151-199.

Greece could reach material and cultural progress. On the one hand, the group around the journal, *Spectateur d' Orient*, under the editorial direction of Markos Renieris, was increasingly using an imperialist language and urged the state to take action against the Ottoman Empire.¹⁴⁵ Other jurists, like Pavlos Kalligas, without rejecting irredentist claims, insisted that territorial expansion should not be at the centre of the state's policies at that time. In some cases the arguments employed were also anti-imperialist. One could argue that the rift was among liberal imperialists and liberal nationalists and reflected equivalent European processes.¹⁴⁶ Nevertheless, the strife never went so far as to undermine one of the basic premises of the Historical School of Law to which they adhered and according to which law should be both a reflection of society and the foundation of the state. According to the teachings of Roman law, the 'impartial' guardians of this *Rechtsstaat* were none other than the professors themselves.

The following section of the chapter will open by examining briefly how Romanist jurisprudence developed in other parts of Europe and how historians and lawyers have explained this broad and complex phenomenon. It will then turn to the case of the Greek scholars and discuss the increasingly central role of the Romanists in public life following the political transformation of 1844. It will focus on the appearance of the legal journal, *Themis*, which was the first vehicle through which a legal scientific method was developed and diffused to the public. This effort was complemented by individual publications—a special mention will be given to the work of Pavlos Kalligas—and translations of West- or Central-European jurisprudence that consolidated Romanist scholarship. After discussing the legal reasons for which the Romanists turned to Roman law, the chapter will address the issue of its political/social agenda. It will end with a discussion of important legal reforms that were implemented towards the end of the 1850s and which demonstrate the influential role of Romanist jurisprudence in political affairs and in the consolidation of property rights.

¹⁴⁵ Petmezas (2009), 'From Privileged Outcasts', pp. 126ff.

¹⁴⁶ Matthew Fitzpatrick (ed.) (2012), *Liberal Imperialism in Europe*, New York: Palgrave.

Romanist jurisprudence in the first half of the 19th century

By all accounts, Greek legal science was widely influenced by the German legal method and especially by Romanist jurisprudence. Usually the arguments put forward by Greek legal historiography in order to explain the subsequent dominance of the Romanists refer to the existence of the Bavarian Monarchy and/or the fact that most jurists had been educated in Germany.¹⁴⁷ Yet, these arguments tend to underplay the broader status of Romanist jurisprudence among European intellectuals and the reasons why the jurists themselves chose to endorse it. Despite the consensus about the importance of German legal science for the development of Greek jurisprudence, there has been little understanding of what the former really was and the implications it had for nineteenth-century jurisprudence and political thought. As already mentioned in the previous chapter, nineteenth-century Romanist jurisprudence, was hostile to the legal codes which had been produced from the late eighteenth century onwards and especially to the *Code Civil*. After its publication, this latter had become the alpha and omega of practical discussions on basic institutions of civil life. More importantly, its influence extended beyond the borders of France and continued uninterrupted even after the fall of Napoleon. Although the *Civil Code* itself was heavily influenced by Roman law, the Romanist jurisprudence that was developed in the following decades offered to legal scholars across continental Europe an alternative method for a gradual and historically informed civil reform which could satisfy both national aspirations and claims of membership to European civilisation.

As we saw it was Friedrich Carl von Savigny who by and large formed historical jurisprudence. His legal theory had two major contentions. The first was the denial of the present as a time capable of producing worthwhile legislation. The second was his historicist theory of law. For Savigny and his disciples, law was essentially the result of silently operating internal powers working within the people. This was an intellectual understanding of law, in the sense that it was identified with the organic development of the intellectual principles of the *Volkgeist*. But Savigny did not

¹⁴⁷ An argument which goes from Nikolaos Pantazopoulos to more recent assessments: see Hatzis, 'The short-lived influence', p. 256.

perceive the *'Rechtswissenschaft'* as a theoretical, abstract enterprise. It was an empirical science, which dealt only with positive law. The origins of this latter lay in Roman law—that 'reason on paper' (*ratio scripta*) which was based on the highly abstract ideas of right and freedom of human will and which was a sign of the civilised nations. Its principles would be found after thorough historical inquiries.¹⁴⁸

The systematization of these fundamental principles was up to the jurists. Methodologically, this required the lengthy study of legal sources and the collection of material from across Germany in order to do justice to local variations. Moreover, Roman law corresponded in its fundamentals to the *ius gentium*, or 'law of peoples', the minimal substratum of legal rules that were shared, or at least should be shared, by all peoples. The Romanists, as Peter Stein has argued, 'sought both to purify Roman law from its adulteration by decadent non-Roman law elements and to bring out the universal principles inherent in the texts'.¹⁴⁹ Savigny envisaged thus not a legal history (*'Rechtsgeschichte'*) but a historical legal science (*'geschichtliche Rechtswissenschaft'*), the goal of which was to offer solutions to contemporary problems.¹⁵⁰

In the following years, the German Historical School of Law and the Pandect scholarship—as the nineteenth-century German approach to Roman law texts came to be called—became a reference point and frequently a model for legal thinking. Indeed, Romanist jurisprudence was admired all over the world as a legal doctrine because of the rigour of its scientific method. Roman law thus regained its old prestige as the law of neutrality and peace, while the Romanist professors regained their status as its independent and socially prestigious keepers.¹⁵¹ This scientific ideal of historical jurisprudence was received enthusiastically not only in Germany but elsewhere in Europe. The influence of German legal theory was not confined to those countries that still based their law on the *ius commune*; it became the leading model of thinking about law and law-making even in those countries where law had

¹⁴⁸ Stein, *Roman Law*, pp. 115-121.

¹⁴⁹ *Ibid.* p. 118.

¹⁵⁰ Mathias Reimann (1990), 'Nineteenth-century German Legal Science', *Boston College Law Review*, vol. 31, pp. 893-897, (p. 847).

¹⁵¹ *Ibid.*, p. 838. For the history of Roman law and its revivals see Whitman, *The Legacy of Roman law*, pp. 3-40 and the classic Franz Wieacker (1995), *A history of Private law in Europe*, Oxford: Oxford University Press, pp. 67-155.

been codified according to natural law theories.¹⁵² It would not be an exaggeration to argue that in the mid-nineteenth century legal science was a German affair.

Yet, the political connotations of Romanist jurisprudence were rather complicated, not least because it was associated with a variety of European ideological currents. Additionally, its meaning changed over time, especially during and after the crisis of the 1840s (see below).¹⁵³ Conventionally, historians and lawyers interpreted Romanist legal thought as strongly anti-Napoleonic, nationalistic, and ultimately a conservative political force associated with romanticism. Others, without downplaying the nationalist background of the Romanists, have seen their thought and action as a liberal effort to make European societies 'bourgeois'. This last interpretation has been based mainly on the centrality of property in Romanist legal thought and the ways in which European lawyers during the Restoration turned to Roman law when trying to define 'bourgeois' property, eliminate feudalism and transfuse a sort of 'possessive individualism'.¹⁵⁴ This last interpretation, which saw a 'functionalist' relationship between jurisprudence and the rise of entrepreneurial societies, has been based mainly on reforms in the German states after Napoleon and in France during the July Monarchy (when interest in Roman law intensified).¹⁵⁵

Nevertheless, by locating Romanist legal thought within the intellectual and political context of the time, intellectual historians and lawyers have shown that both of the above-mentioned explanations have limitations because they do not take into account the variety of the Romanists' motivations. They have contended that the Historical School was not a reactionary intellectual movement but something peculiar to Germany, a sort of 'ancient constitutionalism'—a reformist movement that sought to revive the pre-absolutist constitutional tradition which began in the eighteenth century but was stalled because of Napoleon.¹⁵⁶ Even though it was a

¹⁵² For the importance of the legal training in the *ius commune* even for those states that had established legal codes influenced by natural law, see Zimmermann (2001), *Roman law, Contemporary law*, p. 8.

¹⁵³ Whitman, *The Legacy of Roman law*, pp. 200-228.

¹⁵⁴ For the views of German historiography and some criticisms, see *ibid.*, pp. xi-xii, and p. 165.

¹⁵⁵ For a classic study, see Wieacker, *A history of Private law*.

¹⁵⁶ For its rise as an intellectual movement, see Zimmermann, *Roman law, Contemporary law*, pp. 6-12. For its relationship with historical scholarship, see Donald Kelley (2011) 'Historians and Lawyers', in Gareth-Stedman Jones and Gregory Clayes (eds) (2011), *The Cambridge History of Nineteenth-century Political Thought*, Cambridge: Cambridge University Press, pp. 147-170, (p. 158). For its

movement which looked backwards, the origins of this third ‘renaissance’ of Roman law lie in the scientific renewal that began with the Humboldtian educational reforms at the beginning of the nineteenth century and which greatly strengthened the institutional basis for scholarship.¹⁵⁷ In the field of law, the identification of the Romanists with the new scientific method was signalled by the invitation of G. B. Neibuhr (Romanist historian), K. F. Eichborn (jurist) and F. C. Savigny to participate in the new University of Berlin.¹⁵⁸

In terms of its political implications, although nationalism and anti-French feelings did play a part, Romanist jurisprudence and the *Rechtsstaat* theory (the law-based state) with which it was associated also constituted an impartial alternative to the contentious politics of the Restoration; a sort of third way between absolutism and republicanism. By using law as a tool for social change, the German Romanists sought to avoid a revolution through reforms in the *Agrarfrage* (agrarian question) and in property law that would end the tensions and the misery of the largely feudal countryside. This would be a sort of ‘unpolitical’ change, brought about by university professors and the quiet elaboration of doctrinal principles that would find their way into legislation and the administration of justice. Although this was a rather complicated doctrinal battle, its political and social implications were potentially rather disruptive. At its heart lay the question, ‘to whom belongs the soil?’¹⁵⁹ In trying to answer this question, the Romanists argued that property could have only one exclusive owner and that the feudal rights of the lords were actually servitudes—legal interests attached to the land and not related to personal status. In addition, they subjected the rights to land or any kind of obligation to the Roman rules of possession and prescription, thus undermining the conception of noble property as *dominium directum*. The law of prescription, in particular, by which a

perception as ancient constitutionalism, see Whitman, *The Legacy of Roman law*, p. xiv, p. 98. See also Michael John (1989), *Politics and the Law in Late Nineteenth-century Germany: the origins of the Civil Code*, Oxford: Clarendon Press.

¹⁵⁷ James Sheehan (1989), *German History, 1770-1866*, Oxford: Oxford University Press, p. 548.

¹⁵⁸ The Humboldtian educational reforms placed special emphasis on specialization, research, publication, creativity and the expansion of knowledge as opposed to teaching and transmitting what had already been established for some time. See Andreas Daum (2004), ‘Wissenschaft and Knowledge’, in Jonathan Sperber (ed.) (2004), *German History, 1800-1870*, Oxford: Oxford University Press, pp. 137-161.

¹⁵⁹ This is the way the renowned French disciple of Savigny, Edouard Laboulaye put it in 1839: see Edouard Laboulaye (1839), *Histoire du droit foncière en occident*, Paris: A. Durant, p. 62.

title to land was acquired or lost through possession over a certain period of time, could be used both as an acquisitive and as an extinctive right. This was at least the way it was used practically by the landlords but also increasingly by the peasants against the rights of the landlords.

In essence, what the Romanists tried to establish was a society of free property owners with exclusive rights to their own land. They were thus conservative reformists attentive to the tradition of *laissez-faire*. But, in the early nineteenth century, the Romanists' formulations were influenced by the historical works of Barthold Georg Niebuhr which depicted Rome not as a commercial society but as a model society in which a free, sturdy peasantry had established its rights and become the foundation of the state after successive reforms. As Niebuhr stated, 'All legislators, and especially Moses, have based the success of their institutions, justice and good citizenship on landed property, or at least on hereditary possession in favour of the greatest possible number of citizens'.¹⁶⁰ As James Whitman has argued, the Romanists envisioned a society that would be free in a Kantian, not a Lockean, way.¹⁶¹

Nevertheless, in practice the policy proposals of the Romanists failed and in 1848 more radical ways of abolishing feudalism were implemented. At the same time, as a new generation of jurists became more politicized new versions of legal reasoning emerged. One was the materialist interpretation of Roman law which hailed the Romans as archetypes of utility-minded commercial energy (and which was to have an impact later on).¹⁶² But more important at the time was the split within the Historical school, between the Germanists and the Romanists. The former, inspired by German nationalism considered Roman law to be alien to the customs of the German people. In effect, they turned to the exclusive study of German

¹⁶⁰ Barthold Georg Niebuhr (1811-12), *Römische Geschichte*, Berlin: Realschulbuchhandlung; quoted in Donald Kelley and Bonnie G. Smith (1984), 'What was Property? Legal Dimensions of the Social Question in France (1789-1948)', *Proceedings of the American Philosophical Society*, vol. 128, n. 3, pp. 200-230 (p. 220).

¹⁶¹ Whitman, *The Legacy of Roman law*, p. 198. The next generation of the renowned Romanist scholars, such as Rudolf von Jhering, Bernard Windsheid and Theodore Mommsen, saw Roman law in a different light, as a legal doctrine in line with modern materialism, individualism and commercialism. This generation was not moved by the Roman social vision but by the systematic precision and consistency of a legal language that fitted an age of commercial expansion.

¹⁶² *Ibid.*, pp. 200-228

customary law and became associated with left-wing nationalist politics. As the nationalist movement gained momentum and demands for legal unity and a national code spread across Germany, several jurists took issue with Savigny's theory and renewed the Romanist camp. Scholars, such as Carl J. A. Mittermaier, Karl Geib and others, in their attempt to facilitate moderate constitutional reforms, developed what came to be the standard liberal moderate position after 1848, i.e. that it was possible to accept Savigny's theories on the origins of law while rejecting his negative views about legislation.¹⁶³ No matter these changes in Romanist jurisprudence, its legacy loomed large both in establishing the study of Roman law in German legal life and in reasoning about the *Rechtsstaat*, the purpose of which was to preserve a lawful order of freedom and which stood above all party interests. In this sense, it was important in shaping the ways in which the relationship between the state and individual freedoms was considered in Germany and in developing a type of non-participatory, 'statist' liberalism, the origins of which did not reflect economic developments.¹⁶⁴

Although the French political and social context was different, given that feudalism had been abolished during the Revolution, historians have shown that the issue of the national lands (*biens d'Etat nationaux*) and the social chaos of the Restoration had rendered the property law defined in the *Code Civil* seriously inadequate regarding disputes over land. During the 1830s, works on the issue of property multiplied and jurists turned to Romanist law as a more concrete and flexible jurisprudence.¹⁶⁵ Scholars such as Eugene Lerminier, Edouard Laboulaye and others inaugurated an intellectual current inspired by Savigny's works which underscored contemporary disputes over property and possession. In essence, the issue for French scholars was the origins of property. Holding to the view that property received legitimacy only by cultivation and the intention to keep what is possessed, the jurists turned to the Romanist legal tools and especially prescription as devices with which to transform physical occupancy to the juridical state of

¹⁶³ John, *Politics and the Law*, p. 31, where the author also criticizes the identification of the followers of the Historical School with conservatism.

¹⁶⁴ *Ibid.*, pp. 1-14. See also Leonard Krieger (1957), *The German Idea of Freedom. History of a political tradition*, Boston: Beacon Press, Chapters 7-9.

¹⁶⁵ Kelley and Smith, 'What was Property?' pp. 200-230.

propriatorship. The French scholars, however, were eclectic in combining elements of the Historical School with the view that property is a natural extension of a man's personality. In light of the criticisms raised against property coming from a wide array of republicans, radicals and 'industrialists', French civil lawyers, compared to the Germans, were much closer to being property absolutists. In their writings, 'bourgeois' absolute property was presented as the foundation of individuality, the essence of *humanitas* and indeed as a national ideology.¹⁶⁶

The Greek jurists and the introduction of the legal scientific method in the 1840s

It was Savigny's legacy, the Pandectist science, which dominated Greek legal thought. It offered both a consistent legal method with which to proceed in the legal formation of the state and a novel perception of the state. For Greek legal historians, the key moment in the introduction of Romanist scholarship was the publication of 'System of Roman law' by Pavlos Kalligas in 1848.¹⁶⁷ Yet it is an overstatement to locate the entire genesis of a dominant legal model on an individual publication. Romanist theories were already circulating and being translated and quoted in legal circles in the late 1830s. Without underestimating the value and significance of Kalligas' scholarly work (which will be addressed in the following pages), by concentrating on this alone, we lose sight both of the extent to which Romanist jurisprudence in Greece was a very cooperative enterprise and of its connection with wider European intellectual developments.

One of the principal vehicles through which Romanist jurisprudence and the historical school of law were introduced in Greece was the publication in 1845 of the legal journal, *Themis*, an intellectual initiative which has been rather neglected by

¹⁶⁶ Laboulaye argued that for the Romans, crimes against property constituted sacrilege against 'le Dieu Terme': Laboulaye, *Histoire*, p. 69. The dimension of property as national ideology was encapsulated by Jules Michelet, who by responding to Pierre Proudhon's contention that property is theft, famously said that then 'we have twenty-five million thieves who will never let go their hold': see Jules Michelet (1846), *The People* (trans. G. H. Smith), New York: Appleton, pp. 89-90.

¹⁶⁷ For example, Hatzis, 'The short-lived', p. 257. For Kalligas, see the following pages.

modern Greek historians and lawyers.¹⁶⁸ To be sure, this scholarly endeavour was complemented by the jurists' contributions to other periodical initiatives such as the philological *Pandora* or the legal journal *Nomiki Melissa*, the publication of their individual works (treatises) and the uninterrupted pace of the translation of works on European jurisprudence. Yet, the publication of *Themis* was the first consistent attempt to communicate a language of law to the Greek intellectual community and to the wider public sphere. The purposes of this journalistic enterprise were heavily influenced by analogous scholarly European publications which complemented and followed the establishment of the Historical School of Law after 1814.¹⁶⁹ By undertaking and participating in the publication of *Themis* and other legal and political journals, the jurists had three aims. The first was to articulate their legal thought and situate it alongside European jurisprudence. The journal was seen, in other words, as a bridge between Greek and 'European' [in their terms] culture, history and law. The second concerned the legitimacy of their involvement in law-making and consisted in emphasising the role of legal writing as a source of law. The third aim was to advocate for a specific scientific legal method.¹⁷⁰

The journal's research agenda was presented in the prologue of the first volume.¹⁷¹ The Judiciary was perceived as the most important branch of public administration because of its role in 'methodically' introducing new legislation to the Greek kingdom. But, for the editors of the journal the state of legal studies and the

¹⁶⁸ The full title was *Themis or Review of the Greek civil, commercial and administrative legislation*. In the second volume, the subtitle became *Review of Greek legislation*. Each issue numbered approximately 400 pages and lasted from 1845 to 1861 (Eight volumes, complemented by 18 special editions). Its long life owed a lot to its publisher, Leonidas Sgoutas, who was also involved in many other legal publications that appeared later in the 1840s and 1850s.

¹⁶⁹ In 1814, Savigny and Eichborn started publishing the *Zeitschrift für geschichtliche Rechtswissenschaft*, the first major scholarly journal of historical jurisprudence, with a wide impact in legal circles around Europe. In 1819, *La Themis*, a French legal journal that was modelled on Savigny's journal was published. Its aim was to promote a renaissance of jurisprudence after the presumed dark age of the new French law since 1804 (sponsored by a distinguished international committee including Victor Cousin, Dupin and Isambert, etc.). In the same year, a Swiss journal was published, entitled *Annales de législation et de jurisprudence*. It had the same format and goals and attracted equally impressive backing (Sismondi, Pellegrino Rossi, Etienne Dumont). *La Themis* was the first of the great French legal history journals, and it served as a model for several successors, including the *Revue Foelix*, which was first published in 1834, the *Revue Wolowski* in 1835, and finally the *Revue de Législation et de Jurisprudence* in 1851: Donald Kelley (1984), *Historians and the Law in Post-revolutionary France*, Princeton: Princeton University Press, pp. 83ff.

¹⁷⁰ For the meaning of 'scientification', see Reimann, 'Nineteenth-century German' pp. 846-894 and Vogenaurer, 'An empire of light?', pp. 499-500.

¹⁷¹ *Themis* (1845), vol. I, 1845, Prologue, pp. i-iv.

lack of systematic legislation and of informed legal practitioners in Greece made it necessary to find additional ways to develop jurisprudence. What was more, legal ideas had to be communicated to the public, especially to those interested in political and juridical affairs. The journal would, thus, first publish scholarly essays (either translated or in their original language) on several legal issues, as well as texts of laws and decrees, both new and old. Although this claim included all branches of law (civil, commercial, penal, administrative law), private law was given primacy and the first volumes of the journal testified to the importance given to issues related to contracts, transactions, and generally to family, inheritance and property law.¹⁷² The discussions on legal subjects were not supposed to be abstract but to have a practical orientation that was concerned with the problem of legal application.

The journal would also include contributions addressing the history of law and ‘especially of Roman law, because it was the safest guide in solving legal problems and disputes’.¹⁷³ Last, but not least, the journal would offer critical reportage on local customs and on court decisions, especially of the Areios Pagos (the Supreme Court) and the Courts of Appeal.¹⁷⁴ For the jurists, history and court decisions offered jurisprudence its empirical evidence. In other words, *Themis* purported to function simultaneously as a law review, a court reporter, and a quasi-official legal journal for the kingdom. It is important to note that the volumes contained a large number of translations of foreign jurisprudence, prominent among which were those on Romanist jurisprudence.

Although the research agenda advocated by *Themis* was complemented by several publications on analogous legal issues during the 1840s and 1850s, it was Kalligas’ *System of Roman law as applied in Greece exempting the Ionian Islands*, published between 1848 and 1852 in five volumes, that presented the Romanist legal method more consistently and directly than had been the case before.¹⁷⁵

¹⁷² I was able to consult volumes I, II, IV, VI, VII.

¹⁷³ *Themis*, vol. I, 1845, p. iii.

¹⁷⁴ The journal published an annual supplement with all the decisions made by the Supreme Court and the Courts of Appeal.

¹⁷⁵ Pavlos Kalligas (1848-1866), [System of Roman law as it is applied in Greece, exempting the Ionian Islands], Athens: Sgoutas. The first volume was published in 1848, and the last on in 1866. The work became instantly the authoritative text in the field of civil law. It was republished many times and was always in print until the end of the century. Its last edition was published in 1937. For an explanation of the title, see the following pages.

Kalligas' treatise set the stage for the understanding of civil law within Greek legal scholarship and remained in print throughout the nineteenth century. Kalligas' work did not only disseminate a legal method but also a form of legal argument and a type of treatise. That was a treatise that began with an introductory survey of the authoritative sources of law and a history of legal tradition going back to antiquity. This was followed by an analysis of general law, including its definition, divisions and interpretation. Finally, it examined the most significant part of the law, namely private law, which was divided in Roman fashion into the law of persons, things and actions, or obligations. In the last part, the larger social or institutional groupings—including the family, corporations and other 'fictitious persons'—were addressed before turning to the question of political authority, i.e. the state. According to this type of legal reasoning, political authority was regarded simply as part of the legal system—the hierarchically highest but without becoming necessarily an object of analysis.¹⁷⁶

At the heart of Kalligas' work lay a desire firstly to define the object of civil jurisprudence and secondly to propose a scientific method with which to analyse it. Following the teachings of Pandectist-science, Kalligas conceived of law as a science with practical concerns, the object of which was 'what was and what is' and not 'what ought to be'.¹⁷⁷ And 'what was' in Greece, according to Kalligas, was Roman law. Even though this was a 'foreign law, [and the] product and heritage of a different people', it was known and had been applied extensively in Greece, as evidenced by Byzantine legal sources like Armenopoulos' 'Exavivlos'.¹⁷⁸ Kalligas had a 'love/hate' relationship with the latter which was, after all, the civil law in force after 1835.¹⁷⁹ Although it was a Byzantine legal source and the Byzantine era was an era of decay, it was still a source that connected Greece with Roman law, the matrix of law of the 'civilised nations'. That was crucial for Kalligas' own time for, as he stated, when 'our society is being formed, [Roman law] temporarily satisfies its need [for law] covering the [legal] gap'.

¹⁷⁶ See also Kelley, *Historians and the Law*, p. 148.

¹⁷⁷ Kalligas, [System of Roman law], p. 3.

¹⁷⁸ *Ibid.*, 'Introduction', p. 1, pp. 3-4. On p. 1, the text reads: '*Roman law is a product and heritage of a different civilisation (...) we do not live in it, it did not grow with us (...) for us it is a foreign body until we engage with it*'.

¹⁷⁹ Pitsakis, ['Kalligas and Armenopoulos], pp., 259-297.

For Kalligas, this application was temporary because, in order for the nation to be legally formed, 'the phenomenon of law and its matrix [Roman law] had to be understood completely [...] so that [national law] will combine the direction and the mode of foreign legislation with everything that consists in its own character'.¹⁸⁰ In other words, although the Greek nation was still a newcomer to the European family in terms of its laws, it nonetheless had to gradually adjust to the demands of modern civilisation by combining an understanding of Roman law with its own (national) distinctive characteristics. For Kalligas, as Giorgos Petropoulos has argued, 'Roman law was that cosmopolitan element in Greek legal culture that connected the historically defined Greek nation with Europe'.¹⁸¹

Kalligas felt that the method to accomplish this objective was to be found in German legal science and, in particular, in the Romanist jurisprudence developed by the famous German scholars of his time.¹⁸² Just like the German professors of Roman law elaborated Roman law because this had been applied to Germany, Kalligas did do because it had been applied to Greece. He followed Savigny's Historical School in the way he thought that the historical development of laws was a way to discover the inherent structure of the Romanist legal principles and to construct a logical and coherent legal system which would take into account the Greek national characteristics—as a way, that is, to connect law and the nation's life.¹⁸³ But, at the same time, Kalligas rejected Savigny's dismissal of codification because he was concerned with the danger inherent in the Savignian programme of subjecting legislation to learned treatises. In this sense, he was attentive to the criticisms raised by the Germanists against the Savignian programme in the 1840s which deemed the exclusive reliance on Roman law sources as detrimental to the nation's present situation and a justification for inaction. In fact, if Kalligas had an intellectual hero this would probably have been Robert J. Pothier (1699-1772), the 'legislator of the

¹⁸⁰ Kalligas, [System of Roman law], pp. 3-4.

¹⁸¹ Giorgos Petropoulos (1964), [Studies on Roman law: History and Lectures on Roman law], Athens, p. 4.

¹⁸² His references are Thibaut, Mackeldey, Muchlenbruch, Wening-Ingelheim, Goeschen, Puchta, Savigny: see Kalligas, [System of Roman law], p. i.

¹⁸³ *Ibid.*, p. iv, pp. 14-17.

French nation', who had done the most to pave the way for the promulgation of the *Code Civil* by working simultaneously on Roman law and French customary law.¹⁸⁴

In the following years, the publications of the Romanists proliferated. The same went for the scholarly journals while the translations of European jurisprudence continued uninterrupted. Based on the origins of these translations, modern Greek lawyers and historians have distinguished between the French and German influence on jurisprudence. Yet, the French translations concerned, by and large, issues of Roman law and drew heavily on the method of the Historical School of Law.¹⁸⁵ In any case, by the 1850s, the Greek Romanists dominated the field of civil law. This dominance was not due only to the fact that the jurists had been educated in German universities or to the prestige that German legal science enjoyed during the period; rather, the main reason was that Romanist jurisprudence gave them an answer to the question of how Greek society should proceed regarding law-making. This was all the more complicated in Greece because, as a new state, confusion abounded with respect to the meaning and authority of the legal sources, the historical development of doctrine and the essence of legal concepts. Being appreciated for its systematic consistency and precision and being closely related to positive law, the Romanist school offered them a vision of jurisprudence 'not only as a receptive activity [...] but also as a productive one'.¹⁸⁶

In other words, the jurists believed first and foremost in the capacity and the methodological advantages of Romanist jurisprudence to bring about the much needed reforms in Greek society in a peaceful way. These advantages were related to the method of legal science and to its immediate political claims. Before delving into the legal and political agenda of the Romanists, it is important to note that these intellectual initiatives were largely responsible for the formation of an academic culture that respected the norms of scholarship without restriction. The reader of

¹⁸⁴ Ibid., p. 13. For the historical school criticism, see pp. 17-20.

¹⁸⁵ For example: Adolphe Marie Du Caurroy de la Croix, (1858), [Institutes of Justinian, translated by Kalogeropoulos], Athens; Eugene Lagrance (1865), [A concise history of Roman law] Athens: editions de Nikita Passari; Robert J. Pothier (1845), [The Law of the Twelve Tables], Athens; Adolphe Thiers (1848), [On Property], Athens; Raymond Troplong (1858), [On the influence of Christianity on the civil law of the Romans], Athens; Jean P. Molitor, (1861), [On Possession and the legal actions upon it according to Roman law, translated from the French with notes and amendments, complemented by the parts of the Basilica and actions taken in the Greek state], Athens.

¹⁸⁶ Quoted in Vogenaurer, 'An empire of light?', p. 500.

the first volumes of *Themis* might be surprised by the erudition, the highly structured and elaborate style of the articles and the long and detailed footnotes. In addition, all the debates among the professors were conducted in a scholarly and polite form that respected the norms of academic comportment.¹⁸⁷

Roman law and the Greek state: the legal-political agenda

As we saw in the previous chapter, it has long been argued that the Greek Romanists were Romantic, i.e. conservative nationalists, if not reactionaries. One of the reasons was that they opposed the progressive creed, i.e. codification. It has also been argued that by introducing Roman Law the Greek civil lawyers introduced a foreign law and turned their backs on local (Greek) laws and customs. Neither argument does justice to the Romanists. In fact, their continuous participation in the committees which were set up after 1849 to produce a civil code should be enough to prove that the opposite was the case when it came to codification. In essence, the Romanists were liberal nationalists within a European world of nation states who saw Greece as a new and still immature state and society that had to be legally transformed. By transforming Greek jurisprudence into a vehicle for legal change, they addressed what concerned them both theoretically and practically after 1845: the establishment of the rule of law, as exemplified in the desire for legal security and unity. What was required in order to achieve this was the development of a national '*Rechtswissenschaft*', a corpus of first historical and then systematic legal studies—evidenced by the inaugural lectures and the numerous publications on the sources and on the history of Roman, Byzantine and French law which abounded during those years.¹⁸⁸ With these historical investigations on institutional practices,

¹⁸⁷ In 1870 Kalligas complained about the lack of respect of these norms by his adversary on a legal issue, Nikolaos Saripolos. See Pavlos Kalligas (1870, [1899]), [Answer to Mr. Saripolos] in *Pandora*, vol. XXI, p. 489.

¹⁸⁸ Indicative examples: i) Petros Pappariopoulos (1845), ['History of Roman law'] and Georgios Mavrogordatos, (1845), ['History of Law'], both in *Themis*, vol. I, ii) Konstantinos Pappariopoulos (1846), ['History of Law. Roman politics in Greece'], and Karl S. Zachariae (1846), ['On Byzantine Law'], *Themis*, vol. I, pp. 186-224. See also Nikolaos Saripolos (1848), [The Idea of Freedom: Inaugural lecture on Constitutional Law], Athens. Jurisprudence, thus, became one of the most important—even

juridical traditions and customs, the jurists sought to uncover, distil and develop the legal principles and institutional traditions of the Greek version of that great European tradition of Roman law and then transform them into law.¹⁸⁹

As already noted in the previous chapter, legal security and codification were integral parts of state formation and prominent aspects of the transition to what the jurists saw as a modern and ‘European’ social and political order. The foundations of civil law—contractual relationships, property rights, family and inheritance law—concerned basic institutions of everyday life, and civil law reforms were almost by definition related to social and economic modernisation and to the belief that they could have a beneficial effect on economic activity. These were concerns which the jurists shared with the monarchical authorities, and that is why they had complied initially with the establishment of *Exavivlos* as provisional civil law in force in 1835. The Romanist legal method offered an agenda of gradual reforms with which to preserve and further this stability. Several collections of laws were published which were supposed to complement the administration of justice.¹⁹⁰ In a way, the main problem was the production of new laws that would secure a safe economic environment.

Apart from his treatise, an example of how the historical method could facilitate the solution of modern problems was given by Kalligas in a well-known article, ‘On interest’. This was an issue about which *Exavivlos* had little to say, embedded as it was in the moral world of Late Byzantium. Kalligas located the causes of Greece’s problems in the lack of credit, the bad organisation of administration, the restriction to personal liberty and property, and the stagnation in agriculture and commerce. In particular, credit, one of the pillars of a sound economic system, was characterised both by underdevelopment and by extremely high interest rates. For Kalligas, these problems emanated from the high risk involved in lending, and this was due to the lack of legal security. The answer to the problem lay, in part, in Roman law. As he

though neglected in Greek historiography—vehicles for historical scholarship and the main agent of the convergence of history and law. For a similar process in France, see Kelley, *Historians and the Law*.

¹⁸⁹ Kalligas, [System of Roman law], p. viii.

¹⁹⁰ Nikolaos Ioannidis (1846), [Index of Greek laws, or summarized and analytical alphabetical collection of rulings by Areios Pagos, and the courts of Appeal of Athens and Nafplion], Athens, Georgios M. Vikis (ed) (1838), [Provisional Dictionary of Greek laws], Athens and the collection of canon laws by and Potlis.

argued, ‘illuminated by this experience, modern nations turned their attention to the development of insurances, such as the system of mortgages, the certification of ownership through prescription, or other ways with which they tried to establish credit systems.’¹⁹¹ By investigating the history of credit in Roman law as this had been developed in Greece, he argued that credit was an elaborate part of the Greek civil law tradition and while it was not included in *Exavivlos*, it was nevertheless evident in economic and legal practices.

The lack of legal security and of unity was not just a legal issue but was linked to the lack of national unity. As early as 1845, Kalligas was concerned about the lack of a common self-definition in Greek society: ‘How does society conceive of itself? Not according to an attachment to the nation but according to local regional bonds; the Peloponnesians, the people of central Greece, the Islanders; and even in that case according to bonds of local communities and villages’. Legal unity would thus forge a distinctly national unity which would be opposed to regional or communal identification and facilitate social peace and the ‘internal harmony of living in society’.¹⁹² The question was central for the jurists. For example, in Kalligas’ treatise on Roman law in Greece, the Ionian Islands were exempted from his treatment of the issue. The reason for this exemption was that the Ionian Islands had achieved the ideal of legal unity, having introduced and implemented for many years the French *Code Civil*. The problem then was for the rest of Greece to achieve the same legal unity, and Romanist jurisprudence offered the tools for this.¹⁹³

This vision of a legal culture that was nationally distinctive but also European was evident in the period after the late 1840s and especially in the several attempts that were made to draft a civil code, the first of which took place in 1849 with the setting up of a special Legislative Committee.¹⁹⁴ In many European countries these

¹⁹¹ Kalligas (1861, [1899]), [‘On Interest’], vol I, p. 56 (*Nomiki Melissa*, vol. XV).

¹⁹² This was part of a series of articles which he published after his travels in Greece and the Ottoman Empire: see Kalligas (1845, [1899]), [‘Tour in Syros, Smurna, Constantinople etc’], vol. II, p. 503, (*Anamorphosis*, n. 88ff).

¹⁹³ The Ionian islands were annexed to Greece in 1864. Paradoxically, by explicitly exempting the islands from his treatise, Kalligas treated them as part of Greece. Whether this was a sort of national political statement that argued for the unification of the islands with Greece cannot of course be said with certainty, but his coming from Cephalonia—one of the islands—makes such a claim a possibility.

¹⁹⁴ K.D. Triantafyllopoulos (1937), [History of the drafts of the Greek Civil Code], *AID*, vol. 4, pp. 433-449.

drafting committees consisted of judges, lawyers, professors of law and politicians.¹⁹⁵ In the case of Greece, the members of the Committee were all professors of the Faculty of Law (Georgios Rallis, who was also president; Pavlos Kalligas; Markos Renieris; Petros Pappariopoulos; Ioannis Soutsos; Vasileios Oikonomides; Kyriakos Diomidis) with the exception of one lawyer (Giorgos Vellios). This committee was followed by several others with more or less the same composition. The jurists rejected both codification of civil law based on foreign models and the exclusive reliance on customary law. As the previous chapter argued, the first option would compromise national individuality. The second—customary law—was more complicated. It would be wrong to assume that the Greek Romanists dismissed the validity of customs. In fact, they took an intermediary position on the question of the sources of law. Customary law was perceived as a central source of law which could express the national popular character, but knowledge of the Greek customs was rather poor. Additionally, customary law was in itself inadequate for law-making because it was intellectually and conceptually underdeveloped and had to be analysed along with the other equally important legal source, i.e. Roman law.

In 1847, Pavlos Kalligas, in a long article in *Themis*, addressed the way in which the nation should proceed in law-making. The issue was the role of customs and whether civil law should be based on customs or on novel legislation. As in his pamphlet of 1839, Kalligas rejected the option of an entirely novel legislation. Commenting on the data of customs which the Ministry of Justice had collected according to the royal decree of 1835, Kalligas deemed it rather insufficient, resembling, as he put it, a collection of ‘mythologies’. It could, however, be useful as a sping-board for further research. But, more generally, even a proper collection did not automatically *create* customs but rather constituted *evidence* of customs. It was the expertise of civil lawyers that would elaborate this evidence and transform it into law. Echoing arguments raised by Mittermaier during the same years in Germany, Kalligas argued that a successful codification required a satisfactory collection of preparatory material, an understanding of popular perception of law, a high level of

¹⁹⁵ In the case of France, even an emperor, Napoleon Bonaparte.

legal expertise and attempts to codify particular parts of laws.¹⁹⁶ Arguments such as these set the tone, and this was the reason why the numerous drafting committees did not produce a comprehensive civil code but only tried to deal gradually and partially with civil law issues. At least during this period, this was a programmatic choice and not a failed attempt to foster liberal reforms.

Roman law and the Greek state: the political/social agenda

The legal agenda promoted by the jurists and based on the ‘rule of law’ complemented, in many ways, the efforts of the central monarchical authorities to legislate and proceed in the formation of the state. Yet, the Romanists’ claims were not restricted to narrowly defined legal issues nor did they have a smooth relationship with the state authorities. In order to fully understand the Romanists’ prominence in nineteenth-century Greece, it is important to understand that their vision went beyond the field of law proper. It was a powerful political and social ideology. As noted earlier, although, in general, the Romanist political vision was based on the idea of contract and property, its political connotations in nineteenth-century Europe were rather complicated in the sense that it had both left-wing and right-wing offspring.¹⁹⁷ In the case of the Greek Romanists, their political and social agenda envisioned a liberal social order formed upon two main pillars—the law-based state (*Rechtsstaat*) and a society of property owners—which, to a large degree, was rather subversive *vis-à-vis* the monarchical state.

A key feature of the Romanist ‘rule of law’ was the establishment of a legal order founded on the formal equality of citizens, i.e. the breaking down of any kind of restrictions on individual action and the elevation of individual freedoms to the status of fundamental norms. Although these principles were widely accepted, it was increasingly contended that the inviolability of such freedoms at the hands of the state or other citizens offered an essential guarantee of personal liberty. This was closely associated with the demand for a ‘Κράτος Δικαίου’ (a *Rechtstaat*, i.e. a law-

¹⁹⁶ Kalligas (1847, [1899]), [‘On Customs’], vol. I, pp. 266ff (*Themis*, supplement of 1847).

¹⁹⁷ Kelley, ‘Historians and lawyers’, p. 160.

based state) in which the state was legally obliged to treat its citizens in certain ways and could be brought to account if it did not do so.

The concept transferred into Greek legal thought the *Rechtsstaat* theory—the legal and political theory of the state which appeared in nineteenth-century Germany and became widespread after the 1830s when it was popularized by R. von Mohl.¹⁹⁸ In terms of theory, the *Rechtsstaat* combined two fundamental principles, the state and the law, whereby the law built the very structure of the state instead of being just an external limitation to it. In terms of political practice, it pointed to a state which was subordinated to its own positive laws in the form of a written constitution and legal codes.¹⁹⁹

For all its novelty, its origins as a reform agenda lay in the perception of the state which complemented the ‘enlightened’ reforms of the end of the eighteenth century. As we saw in the discussion on the *Polizeistaat* in the previous chapter, without including necessarily formal constitutions, one of its major features was a commonly understood legal system based on the ‘law of reason’, within which the administration and the government were expected to operate and in which the royalty was supposed to serve the state. In that respect, the *Rechtsstaat* theory was a nineteenth-century version of this governmental theory, refined and articulated as a response to the revolutionary and Napoleonic political experience. As several historians have argued, the *Rechtsstaat* was in fact a politically and ideologically attractive alternative (and in a sense non-political) to the state based on absolutist or arbitrary rule and the one based on popular will (*Volksstaat*) and associated with Rousseau and Robespierre (even though the Napoleonic reforms represented a much more complex legacy).²⁰⁰ For Donald Kelley the juridical statecraft advocated by scholars such as K. S. Zachariae, who was widely translated in the pages of *Themis*,

¹⁹⁸ After the publication of Robert von Mohl (1832-34), *Die Polizeiwissenschaft nach den Grundsätzen des Rechtsstaats*, ols I-III, Tübingen. A.V. Dicey, author of the authoritative *Law of the Constitution* (1885), described it as the ‘absolute supremacy or predominance of regular law as opposed to arbitrary power’: quoted in Caenegem, *An historical Introduction to Western Constitutional*, p. 16.

¹⁹⁹ For a conceptualization of the *Rechtsstaat*, attentive to the ‘contested’ meanings ascribed to it in the last two centuries, see Patrick Praet (2010), ‘Prolegomena to the post-sovereign *Rechtsstaat*’, in Hent Kalmo and Quentin Skinner (eds), *Sovereignty in Fragments: the Past, Present and Future of a Contested Concept*, Cambridge: Cambridge University Press, pp. 169-185.

²⁰⁰ For the more complex Napoleonic legacy, see Lucy Riall and David Laven (eds) (2000), *The Napoleonic Legacy: Problems of Government in Restoration Europe*, London: Berg Publishers.

suggested a middle path between progress and reaction.²⁰¹

Yet, this interpretation does not tell the whole story because it underplays both the novelties of the *Rechtsstaat* thought and the fact that when the jurists referred to 'arbitrary rule' they meant something very specific. As the German jurist, Friedrich J. Stahl, among others, put it, the *Rechtsstaat* stood in opposition to the *Volksstaat*, but above all 'to the patriarchal, to the patrimonial, to the mere police state, in which the authorities are bent on realizing ethical ideas and utilitarian goals according to a moral and therefore arbitrary valuation of every given case [...]'.²⁰² The *Rechtsstaat*, thus, at least in theory, stood in between the Jacobin model and the *Polizeistaat*. To be sure, the *Rechtsstaat* and *Polizeistaat* theories (which are of concern here) had a lot in common. Both ascribed special importance to law as a system with a strong internal structural coherence, both disregarded natural rights as the foundation of politics and both held to a holistic view of society at the expense of its perception as the space of harmony for different interests.

But the differences were equally important. In the case of Greece, these differences brought the *Rechtsstaat* thinkers, if not into opposition, then at least into a confrontation with the Bavarian perception of government and the state. When Kalligas argued that 'the first interest of society is to form permanent and entrenched laws, which would not be transformed according to the will and pleasure of the rulers', he was targeting the methods of monarchical rule.²⁰³ The same went for his argument that there was a difference of kind and effect between, on the one hand, laws which were in themselves 'statements of sovereign will, emanating from the lawful exercise of sovereign power', and, on the other hand, administrative measures of the public authorities.²⁰⁴

Such views did not make the Romanists in any way anti-monarchists, because most would agree with Kalligas that the monarchy as sovereign power was the centre and origin of all political decision making (which was also, as Kalligas argued,

²⁰¹ Kelley, 'Historians and Lawyers', p. 161. Works by Zachariae in *Themis*, vol. I, 1846, pp. 186-224, vol. III, 1848, pp. 245ff..

²⁰² Friedrich J. Stahl (1846), *Philosophie des Rechts*, vol. I-II, Heidelberg, p. 106.

²⁰³ Kalligas, [System of Roman law], p. 83.

²⁰⁴ *Ibid.*, p. 72. For the difference between *Rechtsstaat* and *Polizeistaat*, see also Michel Foucault (2008), *The Birth of Biopolitics: Lectures at the College de France, 1978-79*, Palgrave, pp. 158ff.

what the constitution of 1844 had established).²⁰⁵ But the laws which were produced by this sovereign power—and which had to follow the formal procedure by being voted, certified and published—had a higher status and could not be formed at will, but had to express the ‘general will’. This was a significant departure from *Polizeistaat* thought. For the *Rechtsstaat* thinkers, law and, by extension, the exercise of sovereign power was not about attaining ethical ideals, like the happiness of the population and the well-being of the state, but about expressing and satisfying a loosely defined (if at all) public interest—this is how Kalligas’ ‘general will’ should be understood and not in Rousseau’s way. This will of the whole (mainly identified with the nation) existed on a higher plane which was different from, and always threatened by, private or group interests; these latter, however, as Kalligas stated, ‘should not be crushed’.²⁰⁶

The reason for this insistence on the ‘general will’ theory of the state was twofold. Firstly, it was connected with the political failure of the Bavarian authorities to fulfill the expectations of Greek liberals as far as the construction of the state and the legitimization of its authority before its subjects was concerned. During their first decade in power, the Bavarians had proceeded decisively in the process of state-building by creating a modern administrative and legal apparatus, reorganising every sector of the economy and suppressing any challenges to the state’s authority in the form of local resistance. This last objective was attempted by redrawing the administrative map of the country and by co-opting local elites. But, from the mid-1840s onwards, as Kostas Kostis has argued, for a number of reasons, not least financial, the Bavarians were forced to resort to Ottoman political practices by negotiating with these local elites and governing through their intermediacy in order to ensure the allegiance of local populations.²⁰⁷ Another aspect of this change was that legal development stagnated, making the state of the law a far cry from unity and order and provoking more vocal calls for a stable legal order, as we saw in the case of Kalligas. In that respect, for the Greek Romanists, the gradual application of the impartial and just laws, which they associated with the *Rechtsstaat*, would

²⁰⁵ Kalligas, [System of Roman law], p. 72.

²⁰⁶ *Ibid.*, p. 200.

²⁰⁷ Kostis [The spoiled children], pp. 248-254

facilitate the control of the state over its territories, legitimize its authority and thus complete the establishment of a strong central state which the Bavarians had compromised.²⁰⁸ As Georgios Angelopoulos, Professor of Administrative Law at the University put it in 1879: looking back, ‘national unity was in danger’, so that ‘there was the need of homogeneity in legislation, unity in administration, submission of the local associations to the central government’.²⁰⁹

But—and this is the second reason—there were also strong ideological differences between the Romanists and the monarchical authorities. The former’s legal and political thought was characterised not only by legal positivism but also by a strong, even if under-theorized, individualism. As stated previously, the ‘general will’ theory gave the state an indefinite power over law. Yet, it did not entail a theory of political power or any kind of moral or political philosophy to justify the role of the state. In Kalligas’ work, for example, as in others, there was a complete absence of any sort of exploration of the practical implications of political sovereignty. This was a purely formal concept that captured the preponderance of public interest over everything else. The state, accordingly, was basically an organisation of law. Its work was to enforce its legal rules and to uphold the legal rights it had granted to individuals as subjects of the state.

What this meant was that the subject of the law for the Romanists was the person or the citizen, whose rights had no other source than the legislative activity of the state. As Kalligas argued, recalling the world of Rome, ‘a citizen is free, when recognized as such by the polity (or the state)’.²¹⁰ In that sense, although there was no place for individual natural rights, the ‘will theory’ of the *Rechtsstaat* thinkers was underpinned by a certain level of individualism. The state they envisaged was a monarchy—complemented by the separation of powers, a constitution or sometimes a Parliament—through which a benign policy of self-restraint was

²⁰⁸ Kalligas (1847, [1899], [‘Customs’], vol. I, pp. 242ff; see also Periklis Argyropoulos (1846), [Public Administration in Greece], Athens. These were arguments that were shared more or less by liberals and conservatives alike; see also Petmezas, ‘From Privileged Outcasts’, p. 132. For the changing attitudes towards the local elites, see Kostis, [The spoiled children], pp. 198-212 and pp. 219-223.

²⁰⁹ Georgios I. Angelopoulos (1879), [On the local Administration in Greece, compared with that of France and England], Athens, pp. 18-19.

²¹⁰ See Kalligas, [System of Roman law], pp. 200ff for the rights of persons. In the same vein, he argued that even the persons who are not recognised by civil law have the right of security owing to their status as subjects of *ius gentium*.

supposed to help the ‘persons’ (natural or legal; they rarely used the word ‘citizens’ in their treatises) realise their wills by protecting their rights. Although liberty and security were among these rights, the idea of property lay at the heart of this political agenda.

It is difficult to overemphasize the centrality of property in the Romanists’ writing. The arguments that they employed in order to justify the idea of property (public and especially private) were both material and moral. Furthermore, it should be noted that property was a problem which, from the Greek revolution onwards, represented a major intersection of practical and theoretical concerns. At its background lay one of the most controversial issues of modern Greek history, namely the land issue. According to the decisions of the Conference of London and the pronouncements of the revolutionary governments, all former Turkish property in Greek-held areas had been transformed into Greek state domain. The status of this property that came to be known as national lands or national property was temporary since it was supposed to be distributed to the peasants.²¹¹

At the same time, Greek authorities and especially the Bavarian Monarchy had to deal with the transition from the Ottoman land regime to a modern order of land tenure based on absolute property rights. In Ottoman times, occupants were considered tenant share-croppers on Turkish lands (which belonged to the Sultan) or holders of a *tassaruf*—a right of servitude/occupation (‘εξουσίαση’)—which, formally at least, could not be equated with an absolute property right. Although the forms of land tenure were particularly complex, during the first years of Bavarian rule, the authorities recognised as private property any holding supported by a title deed. Nevertheless, as many contemporaries observed, land tenure was hopelessly

²¹¹ Generally speaking, national property included the lands and personalty—moveable property (*Ethnika ftharta ktimata*)—that belonged to the Ottoman state, the Muslim-Ottoman subjects who left the country after the Revolution and the confiscated land of the monasteries. Where a right of usufruct on the part of a tenant could be authenticated, ownership was split into two, and the state acquired half of the property. Although it is difficult to estimate the percentage of national lands in total, they consisted of more than half (around 60%) of the available arable land. See William McGrew (1985), *Land and Revolution in Modern Greece, 1800-1881: the transition in the tenure and exploitation of land from Ottoman rule to Independence*, Kent: Kent State University Press, pp. 80ff; Socrates Petmezas (2003), [The Greek Rural Economy, in the 19th century: the peripheral dimension], Irakleion: Panepistimiakes Ekdoseis Kritis, pp. 25-26; Evi Karouzou (2006), [‘Institutional framework and rural economy’], in Petmezas and Kostis (eds), [The Development], Athens: Alexandria, pp.181-182.

confused with several overlapping claims to land.²¹² Landholders could not furnish proof of ownership since titles were lost, destroyed or most commonly simply non-existent. In any case during the process and until the future settlement of the issue, the monarchical regime treated this major category of cultivators as tenants on state land and obliged them to pay a heavy usufruct tax.²¹³ As a consequence, arbitrary occupation of uncultivated fields and in general of national lands abounded.

The situation became more complicated with the royal decree of 1835 which gave customs the same legal status as laws.²¹⁴ Although the right to private property was recognised in many local customs, it was at the same time compromised by several local practices and conflicting claims of property rights. Two known examples are (i) the ‘right of preference’ in which the relatives and neighbours of a landholder had priority if the land was put up for sale, and (ii) the ‘right of implantation’ (*emphitefsis*), which was a sort of a right similar to usufruct.²¹⁵ Both cases show that even though the legal framework for the exercise of property rights had been partly established, an incomplete understanding of private property persisted in practical as well as in formal terms.

In 1843, state authorities made a compromise by recognising the right of cultivators with no title—those, in other words, who occupied state land—to remain undisturbed in their holdings. This gave holders or squatters a kind of legal security for their possession of the land, but not actual ownership rights.²¹⁶ As Socrates Petmezas has argued, by recognising several traditional rights on land, the central authorities tried to preserve the state monopoly on land and prevent its concentration at the hands of possible rival elites.²¹⁷ In any case, in the 1840s the problem had intensified and the legal disputes around property ownership were

²¹² As Friedrich Thiers observed, there was a ‘multitude of ill-founded and conflicting claims, usurpations and a paucity of valid documentation’: quoted in McGrew, *Land and Revolution*, p. 115.

²¹³ *Ibid.*, p. 215.

²¹⁴ See the previous chapter.

²¹⁵ Karouzou (2006), [‘Institutional Framework’], pp. 188-189. There were also many others, i.e the obligation of the brothers to constitute a ‘dos’ for their sisters, the exclusion of those that received a ‘dos’ from inheritance, the inheritance of the paternal home by the masculine heirs, the rights of common ownership by the whole family, the case of the rights of ‘adopted sons’ (*adoptio in fratrem*), etc.: see Panagiotis Zepos, *Modern Greek law*, p. 57.

²¹⁶ This law was named the ‘law of leniency’ and concerned the family holdings of cultivators. See Evi Karouzou (1989), [‘Issues of tenure of national lands (1833-1871)’], *Mnimon*, Athina, vol. 12, pp. 149-161 (p. 152).

²¹⁷ Petmezas, [The Greek Rural Economy], p. 28.

becoming more prolific and gaining wider publicity. It would be difficult to find a more succinct statement on the problem than the one made by George Finlay, who argued in 1844 that: ‘In Greece there is no clear and definite idea of the sacred right of property in land. The God Terminus is held in no respect. No Greek, from the highest to the lowest, understands the meaning of that absolute right of property which, as Blackstone says, “consists in the free use, enjoyment, and disposal by every Englishman of all his acquisitions, without control or diminution, save only by the laws of the land”’.²¹⁸

It was in this social and political context that the issue of property became a central theme within legal circles. Compared to customary law and the scholarly tradition of Byzantium, Roman law was considered a much richer, or, at least, technically more elaborate legal tradition and interpretation of the idea of property. This was evident in the first volumes of *Themis* and in several translations of legal treatises published in the late 1840s and early 1850s which addressed legal technicalities related to the making of contracts, to the safety of transactions and in general to the facilitation of the exercise of property rights.²¹⁹ The claim was that the technical application of Romanist principles of property, even when not expressed in elaborate language but simply implemented in courts, would complement the building of smoothly functioning commercial institutions and, by extension, help shape a social morality based on the notion of *pacta sunt servanda* (agreements must be kept). This claim, as James Whitman has argued, ‘was based on an undoubted, if slippery, truth in the history of European law: Roman law tended to assign “ownership” rights to some single “owner”, both in the case of real property and in the case of *personalty* (i.e. movable assets and things, including animals)

²¹⁸ George Finlay (1844), ‘The Actual Condition of the Greek state’, *Blackwood’s Edinburgh Magazine*, vol. 55, pp. 785-796, p. 793 and the rest of the article. See also idem (1861), ‘The Euthanasia of the Ottoman Empire’, *Blackwood’s Edinburgh Magazine*, vol. 89, pp. 571-594.

²¹⁹ The first volumes of *Themis* are full of articles related to property. Some titles suffice: P. Kalligas, [‘On Limitation or On Prescription’]; L. Sgoutas, [‘On Dowry’], [‘On Adoption’]; Georgios Mavrogordatos, [‘On Easement and Mortgages’]; F.C. Savigny, [‘On Fallacy and Ignorance’]; F. Puchta, [‘On Possession’]; V. Economidis, [‘On Succession’]; D. Liebe, [‘On Liability’]. In the second volume: M. Unterholzner, [‘On Sales’]; Arndts [‘On Endowment’]; F. Heimbach, [‘On Trust’], [‘On Loans’], [On Debt]; W. Luden, [‘On loans’].

which are not real property, money or investments. The spread of Roman law sought to assign “ownership” rights exclusively to one person’.²²⁰

Characteristically, as Pavlos Kalligas stated in his first article published in *Themis*, ‘property can never stay in doubt’.²²¹ Addressing, in essence, the issue of the disputed national lands, Kalligas argued in this article that the Romanist right of prescription was not unknown in Greece. It was a part of Byzantine law and should be applied in the case of the national lands. According to that right, an occupied or ‘possessed’ land or asset could be transformed into private property by a lapse of time or a penalty. The basic criterion would be that this possession and property remained undisputed. If someone had a conflicting claim on the asset, the case should be decided in court. But the burden of proving the claim rested on the one who disputed the right of occupation and prescription. Transferring this argument to the case of the national lands, the burden of authenticating property rights on occupied lands should rest with the state and not with the squatters. This use of Roman law had strong resemblances to the case of Germany where it was used for the benefit of the peasants. It was not, however, used to undermine the power of the feudal lords but the policies of the Greek monarchical state. This sort of monarchical criticism is also what probably underpinned Kalligas’ ‘History of the English revolution of 1640’, which he started publishing in the pages of *Karteria* in 1845. Influenced by Francois Guizot’s *Histoire de la Révolution de l’Angleterre de Charles 1er jusqu’a l’avènement de Jacques I*, the role of the revolution in making England a country where private property had been established lay at the heart of Kalligas’s work.²²²

In the same way, in 1852, Kalligas criticised state policies according to which distribution of lands depended on the proof of the permanent residence. This was given by the municipalities and was identified with the place of birth. Given the state of the rural economy and the movement of populations following the revolutionary

²²⁰ James Q. Whitman (1996), ‘The Moral Menace of Roman Law and the Making of Commerce: Some Dutch Evidence’, Yale Law School, *Faculty Scholarship Series*, Paper 654, p. 1846 (pp. 1841-1889), accessed’ from http://digitalcommons.law.yale.edu/fss_papers/65.

²²¹ ‘On prescription’: published in parts in the first two volumes of *Themis*. The same arguments on the value of property were made in his ‘System of Roman law’.

²²² See Kalligas, (1845, [1899]), ‘History of the English revolution of 1640’, vol. II, pp. 568-625 (*Karteria*, n. 102).

war, these provisions had proven to be dead letters. Kalligas recommended the right of voluntary declaration of residence in order to facilitate the distribution of land and agricultural production.²²³ Other articles and books were concerned with technical but essential issues concerning loans, mortgages, property transfers, inheritance law, etc. In addition, they analysed administrative processes that would formalise and complement the exercise of property rights.²²⁴

What all these show is that, as economic historians have alluded to, Roman law was used in order to facilitate the economic development of agriculture and formalize ownership rights. For the jurists this would enhance economic growth, the making of profit and transform land into a commodity.²²⁵ And this, of course, would in turn facilitate fiscal policies and taxation on the part of the state and, more generally, investments in land. It should also be stressed that the Romanists did not limit themselves to talking about the means with which liberal economic activities would be enhanced. They participated actively, to varying degrees, in several industrial and financial initiatives including the establishment of savings banks, insurance societies, learned periodicals, the building of railways and the introduction of gas lighting.²²⁶

What is more, the Romanists' proposals, as far as property rights were concerned, were not just about economic growth, but they continuously talked about a widespread land distribution. For the jurists, the notion of the need for security of property was as powerful as the objection to the concentration of ownership. That is why, for example, Kalligas criticised both a law of the Greek state of 1836 and the German system of prescription—according to which, prescriptive action in non-state lands had to be certified by public authorities. In both cases, 'the cost of the procedure oppresses small ownership, so that it becomes disposable only

²²³ One example was the 'Law on the Endowments of Greek families' of 1835. On the law and its failure see Karouzou, [Institutional framework'], 184. See also Kalligas (1852, [1899]), ['On Residence'], vol. IX, pp. 280-292 (*Themis*, vol. VI).

²²⁴ Georgios Mavrogordatos (1846), [Essay on Marriage, Divorce and Registrar], Athens; Periklis Argyropoulos (1846), [Public Administration in Greece], vol. I-II, Athens; Pavlos Kalligas (1861, [1899]) ['On Interest'], pp. 53-66, (*Nomiki Melissa*, vol. XIV), Georgios Rallis (1848-1851), [Interpretation of Greek Commercial Law], vol. 1 (1848), vol. 2 (1849), vol. 3 (1851), Athens.

²²⁵ Karouzou, ['Institutional framework'], pp. 178-179.

²²⁶ The catalogue would be exhaustive and demand detailed biographies which do not exist. Let me just note that most jurists participated in the Board of the National Bank of Greece, even as Governors in the cases of Markos Renieris and Pavlos Kalligas.

to big landowners who wish to complement their property even with high cost.’ By contrast, the French had managed to cut off this cost and thus facilitate small ownership.²²⁷ What such arguments show is that for the Romanists the commodification of the land as a means of boosting economic activities made sense only to the extent that it secured small ownership. Thus, the liberal order that they envisaged was based on the transformation of the majority of Greek citizens into landholders.

The Romanists did not justify all these arguments about property rights in material terms alone, as a means that is for the establishment of a commercial mentality. They also used moral arguments extensively. First of all, they identified the consolidation of property rights with a higher stage of civilisation. The idea of historical ‘progress’ was inherent in that line of reasoning. According to the legal version of the theory of ‘progress’ that flourished in the nineteenth century, the course of history was the transition from occupancy and possession to the higher stage of property and proprietary society. The works of Adolph Thiers and his juridical counterpart, Raymond Troplong, the key figures in France of that line of thought, were translated into Greek before the end the decade of 1840.²²⁸ This progressive logic which identified proprietorship with European civilisation permeated the works of the Greek Romanists, and this was also evidenced also by the continuous references to Francois Guizot’s works. Writing about the distinctiveness of modern societies, Kalligas argued that ‘slavery has been eliminated, family is based on more moral foundations [compared to the past], public credit needs different quarantees [...] the contracts [regarding ownership] cannot be cancelled at will but are founded on consensus’.²²⁹

What is more, the jurists were quick to argue against contractual political theories. Anticipating and dismissing criticisms that societies within the Romanist vision resembled ‘commercial companies’, Kalligas (rather obscurely) argued that ‘society is above individual opinion’ and that individuals ‘by assimilating social bonds,

²²⁷ Kalligas, [System of Roman law], vol. II, p. 742.

²²⁸ Adolphe Thiers, [On Property], Athens; Raymond Troplong, [On the influence of Christianity], Athens.

²²⁹ Kalligas, [System of Roman law], vol. I, p. 18. This is something that permeated the thought of most jurists (see also next chapter). For the role of Guizot in shaping Kalligas’s thought see Masson-Vincourt, [Pavlos Kalligas], pp. 143-145.

administer the social whole according to its spirit, which resides in all the individuals and through which individuals' feeling are fulfilled'.²³⁰ Likewise, the consolidation of private property was not just an end in itself but was related to individual liberty. The notion of property was based on the essential distinction between mine and yours and represented in the first place self-consciousness. By extension, it was identified (by Cousin, Thiers and others) with individuality and liberty. As Troplong stated, '[p]roperty is human liberty exercised over physical nature. As soon as there were men, there were proprietors'.²³¹ This view of property was exemplified more clearly again in Kalligas' treatise, where he argued that the scope of civil law and legal science more generally was the 'realization of liberty in every aspect of private life'.²³² Accordingly, in a debate with V. Economidis on the issue of 'civil death'—by which they meant the suspension of civil rights for those sentenced by the courts to imprisonment—his main argument against such a provision was that it did not respect individual liberty.²³³

The liberal political theories of the Romanists about the nature of land rights also had an exclusionary dimension. As Christopher Bayly has argued, 'The idea that property was the basis of civil government applied only to forms of property which seemed to nineteenth-century rulers to be subject to proof and also "useful" to the idea of improvement. Nomads, herdsmen, hunter-gatherers, or even peasants who moved around frequently or indulged in practices such as "slash and burn" cultivation were a nuisance to colonial states and other emerging political authorities which wanted regular taxation'.²³⁴ In the case of Greece, this was evident in the arguments raised against banditry. From the very first report on the issue—composed as early as 1835 after the expedition of Thomas Gordon and his army in the mainland (Sterea Ellada)—the problem of banditry was almost always related to land.²³⁵ The problem intensified in the 1850s. As in previous accounts, the lack of

²³⁰ Kalligas, [System of Roman law], p. 137.

²³¹ Quoted in Kelley, *Historians and Lawyers*, p. 131.

²³² Kalligas, [System of Roman law], Prologue, p. iii.

²³³ Kalligas (1847, [1899]), ['On civil death'], vol. I, p. 68 (*Themis*, vol. III). See also the inaugural lecture on Constitutional Law by Nikolaos Saripolos, [The Idea of Freedom], Athens.

²³⁴ Bayly, *The Making*, p. 299.

²³⁵ Gordon's report (in French) in GAK, [Ministry of the Interior], folder 176, 16 November 1835. Similar comments in George Finlay (1877), *History of Greece from its Conquest by the Romans to the*

attachment to the land, which characterised the lifestyle of the nomadic shepherds, was deemed a danger to legality and social order. The issue also became a priority for the Ministry of Justice in 1857 (with Georgios Rallis at its head) when the local courts were asked to file reports on the causes of banditry. The main issue was how to eliminate these parasitic economic activities which were complemented by a parallel legal order based on customary law and communal habits like the 'right of preference'.²³⁶

It was Kalligas once again that turned out to be the one to address the problem publically in both material and moral terms. He did this in the only novella he ever wrote, *Thanos Vlekas*, published in 1855-56.²³⁷ For Kalligas, the stagnation of Greece after independence was due to two interrelated problems which were also the central themes of the book: brigandage and the unresolved issue of the national lands. Their perpetuation was due to what the author saw as a conflict between two sets of values, which were expressed by the two protagonists (two brothers) of the novella. On the one hand, Tassos Vlekas, loyal to the heroic code of the *pallikaria* and prone to corruption, was indifferent to 'domestic matters, concerned [as he was] mainly with being promoted and acquiring honors and distinctions'.²³⁸

On the other hand, Thanos Vlekas adhered to a newer set of values and was industrious ('φιλόπρονος') and frugal ('μύρμηξ ταμειευτικός'), a modest hard-working and gentle farmer committed to thrift and usefulness.²³⁹ But, being less socially popular than his brother, he was unable to convince him and his entourage to change and make them see that their true interests lay in the interests of the whole. According to Kalligas, there were two reasons for this failure. The first reason was the lack of reasonableness (or common sense, 'ορθός νους') and sound principles among the Greeks, which, in the words of an American missionary in the novel,

Present Time, B.C. 146 to A.D. 1864, vol. VII, pp. 156-157. See also Ioannis Koliopoulos (1996), [Brigandage in Greece (19th century)], Athens: Paratiritis, pp. 31-33 and more generally pp. 217-267.

²³⁶ Koliopoulos, [Brigandage], pp. 221-224 and Petmezas, [The Greek Rural Economy], p. 28.

²³⁷ It was published in *Pandora* and then republished as a book. It has remained in print ever since: see Pavlos Kalligas (1855-56), *Thanos Vlekas*, Athens. Quotations are taken from the 1991 edition. For critical appreciations, see also Masson-Vincourt, [Pavlos Kalligas], pp. 383-532. For the legal aspects of the novel, see I. M. Konidaris (1994), ['Thanos Vlekas of Pavlos Kalligas. A legal-historical approach'], in [Essays in Honour of Andreas Gazis], Athens-Komotini, pp. 291-312.

²³⁸ Kalligas, *Thanos Vlekas*, p. 227.

²³⁹ *Ibid.*, p. 68.

formed the basis of the American policies on the land issue and, by extension, of American prosperity.²⁴⁰ The second reason was the incompetence, impracticality and venality of the Greek state. The Bavarians especially were particularly criticized since they had managed to create a 'land without people and people without land'.²⁴¹ This was a state where even the strictest laws did not apply to friends of the party [in power]—thus not being a *Rechtsstaat*—and which ultimately operated against the interests of the peasants.

Legal and political consequences of Romanist jurisprudence

The criticisms and claims of the Romanist were not made only on paper. They had significant legal and political implications owing to their prominence in the country's intellectual and political life. Especially after the late 1840s, apart from their public contributions and their role in the law faculty and the Judiciary, the jurists participated in the activities of political parties and became ministers, civil servants and members of the legal drafting committees (as we already saw). Indeed, their thought and action served a variety of purposes. Firstly, it guided the reconceptualization, reorganisation and reform of private-law rules in what they understood as an apolitical rationalisation project. Secondly, it provided the discursive framework for the decisions of a number of court cases. These ranged from cases on issues of freedom of expression and religious tolerance which reached the public eye to cases where small or large landowners confronted the authorities.²⁴² Thirdly, it provided an abstract, overarching ideological formulation

²⁴⁰ *Ibid.*, pp. 115-116. Here, Kalligas alluded to the Homestead Acts promulgated (ca 1820) in the USA, comparing their effectiveness with the counter-example of Greece.

²⁴¹ *Ibid.*, pp. 115-116.

²⁴² The most famous cases in the first category were those of Jonas King, an American pastor and that of Theofilos Kairis, a priest and a teacher in Andros deeply influenced by enlightenment thought and Deism. The former was defended by Kalligas and later by Markos Renieris. The latter was defended by Markos Renieris and Nikolaos Saripolos. In both cases the lawyers based their defence on the principles of human rights, religious tolerance and freedom of expression. Kalligas also published his defence immediately after the trial. See Masson-Vincourt, [Pavlos Kalligas], pp. 284-292. For Kairis see the decision of the Supreme Court [AP, 19/19.1.1853].

which saw the *Rechtsstaat* and widespread land distribution as essential elements in a liberal legal order.

The Legislative Committee, which was set up in 1849 and which, as we saw, was composed of several Romanists, apart from its task of drafting a civil code, produced several legislative acts that became laws of the state. In this way, a legal corpus was established based on the ideal of absolute private property. The most important acts from the perspective of this chapter will be mentioned. The first important legislative act that was based on the influence of the jurists was made in 1856.²⁴³ By establishing the Roman-Byzantine legal rule of usucapion, the inalienability of land was reversed. The rule presented the possibility that a squatter could legitimately own the land after 30 years of occupancy. Resembling the claims made by Kalligas some years previously, the act opened the way to ownership for anyone who could prove continuous and unchallenged occupancy. An indirect effect of this act was that hitherto it would be the state, not the squatter, which was supposed to prove its rights to the land. According to William McGrew, partly as a result of this act, squatting became a widespread popular occurrence.²⁴⁴ The most consistent attempt to deal with the problems of property rights was the publication of the Greek Civil Law in 1856. This was the most significant product of the Legislative Committee of 1849 and a legal act close to a civil code. Its most important contribution was to deal with the complicated legal order regarding property rights.

In the second article, the act stated that a custom cannot suspend a law of the state. The only way for this to happen was by another law. The aim of the act was to eliminate the equality of legal sources (customs had the same status as laws of the state) by establishing the primacy of laws. As a consequence, it removed one of the most important legal obstacles related to the consolidation of private property. It also included several rules that related to technical issues of the implementation of a liberal order based on property and individual liberty. For example, there were provisions dealing with the acquisition, exercise and loss of civil rights, the

²⁴³ [EK, 7 April 1856, 'On usucapio', article 60], see Karouzou, ['Institutional framework'], p. 181 and Petmezas, [The Greek Rural Economy], p. 46.

²⁴⁴ McGrew, *Land and Revolution*, pp. 216-217.

registration of births, marriages and deaths, and the issue of nationality.²⁴⁵ Another important law, published one day later, required the registration of conveyance of all property in one's lifetime. In essence, this act attempted to ease the problems that emanated from the lack of a land register.²⁴⁶ Several other less important laws followed with the same aim of establishing the necessary legal technicalities that would facilitate the exercise of liberty and the consolidation of property rights.²⁴⁷

Finally, local officials and courts frequently supported the squatters' efforts to conceal the nature of a holding or to represent it as a freehold.²⁴⁸ The courts played an especially crucial role in consolidating property rights for small farmers. Even before the law of 1855, a series of court decisions progressively undermined the state's broad presumption that all property not demonstrably private must be public. In the myriad disputes around property, the Greek courts shifted the burden of proof from the citizen to the government. The state was increasingly forced into a defensive position in the contest of land rights. As McGrew has argued, 'this legal evolution eventually brought the law into conformity with the long-prevailing reality that the state could not make good its claim to mastery over the domains of the sultan'.²⁴⁹ It also brought the law into conformity with the discursive and ideological framework that the Romanists had formed and which they advocated from 1845 onwards. But it would be the two major reforms, which took place in the early 1870s that in a way realized the Romanist vision. These were the laws on brigandage and the one on the large-scale land distribution of 1871 (see last chapter).

²⁴⁵ EK, n. 75, 15/11/1856 ['Greek Civil Law'], p. 399. See also Zepos, *Modern Greek law*, pp. 57-58.

²⁴⁶ EK, n. 70, 6/11/1856, ['Law on transferring property and other obligations'].

²⁴⁷ EK, n. 42, 23/8/1856 ['On infants, guardianship, and curatorship'], EK, n. 71, 7/11/1856, ['On Wreckage'], EK, n. 67, 10/8/1861 ['On Joint-stock companies'].

²⁴⁸ A favourite technique was to evade payment of the usufruct tax and subsequently to cite non-payment as proof that the property could not be part of the national estates. McGrew, *Land and Revolution*, p. 216.

²⁴⁹ *Ibid.*, p. 217.

Conclusion

The aim of the chapter was to delineate the enhanced role that Romanist jurisprudence played in Greece after the political transformation of 1844. The Greek jurists built on theories of private law and were deeply influenced by German legal science for reasons both legal and political. In the first place, Romanist jurisprudence offered a very consistent method for law-making that was deemed practical in light of the political condition of Greece. The systematic application of this method would implement the basic ideals of legal science. These were identified with legal unity as a vital precondition for nationalizing the country and the consolidation of the 'rule of law', as exemplified in the concept of 'Kratos Dikaiou'. According to the teachings of Roman law, the 'impartial' guardians of this 'state of law' (*Rechtstaat*) were none other than the professors themselves. Both of these ideals were deemed progressive and partly complemented the efforts of the central authorities to establish a modern state. In other words, liberals of the Romanist variant tried to reconcile order with progress under a strong central government through Roman jurisprudence.

At the same time, however, their political programme was addressing issues that undermined central policies and turned against the Bavarian *Polizeistaat*. In addition, it revolved around private property and was related to the most controversial issue of domestic policy, the land issue. The Romanists increasingly used Roman law doctrines in order to reform land law without provoking major social disruptions. They believed that land tenure and proprietorship would improve agricultural production and facilitate the application of state policies related to taxation and state revenues. Yet, the jurists did not use exclusively the language of efficiency but had wider moral concerns. By relating Roman law to reason (*ratio scripta*) and especially to European civilisation, they held that it could ensure a gradual and peaceful transition to a liberal social order that would conform to European values. In this moral universe, the idea of property was a precondition for the consolidation of liberty and personal autonomy. During the 1840s, they addressed these issues consistently in a scholarly fashion, trying to diffuse a language of law into the public sphere. From 1850 onwards, however, their efforts became more politically oriented. Through legislation and the administration of justice, they managed to

facilitate the formalisation of property rights, contributing in their own way to the major result of nineteenth-century social struggle, i.e. the large scale and equal to an extent distribution of land. Their vision was that of a classless nation under a legitimate sovereign authority in which law not only expressed the will of the people but also constrained that of their rulers.

In essence, the case of the Greek private lawyers shows the enhanced role of nineteenth-century Romanist jurisprudence in a different social and cultural context than the core European countries. In this context of a new state, which was in the process of building its centralised institutions with limited resources, the Romanists potentially had a large field of action. Furthermore, their legal action facilitated the formalisation of property right and had a lasting impact on Greece's social structure. Roman law in this case was used by liberals as a moderate means through which to consolidate legal unity, the rule of law, and the idea of private property. Ultimately, Roman law—this peculiar 'ancient constitutionalism', since it surpassed Byzantium and could not claim Greek ancestry—became a motivating force in Greek politics by posing a threat to state power. The most difficult question to answer is of course the extent to which the Romanist ideas became part of Greek political culture. But, before answering this question (addressed in the final chapter), another crucial question to ask is whether the Romanist social and political vision (centred on the *Rechtsstaat* as it was) conversed with or was opposed to other liberal political visions. Although Greek historiography has never seen Greek legal thought as imbued with different versions of liberalism, the thesis will now turn to the emergence of other partly different liberal idioms which were formed and diffused at the same period as the Romanist ideas.

3. 'Industrial' Political Economy and its limits in Restoration Europe: Ioannis Soutsos and Political Economy as a science of the government in Greece (ca 1830–ca 1860)

Introduction

The previous chapter argued that the Romanist jurists envisaged a society with small property owners, and that they focused their interventions on consolidating private property, which they saw as a prerequisite to liberty. Although as public moralists they were suspicious of the latent individualism of civil law and did not think of society in national terms, their vision of the overall goal of the national polity remained rather abstract or focused on normative ideals of a virtuous private life. Based on the *Rechtsstaat*, their discussions on the state and the sources of political legitimacy were limited and rather underdeveloped. Nevertheless, discussions on the state and public institutions and their role in Greek society gradually became a concern for the jurists. It was mainly the political economists and the constitutional law scholars that addressed the issue most consistently.

By so doing, they initiated a process of transformation in ideas about government. This matched the reforms in the structure of politics that were introduced from 1844 onwards. The most important outcome was a novel perception of the 'state' and public institutions as political agents and sources of initiative in their own right rather than as mere arrangements that complemented the exercise of monarchical power. This chapter will explore the role of political economists in this process before turning to the constitutional lawyers. The former initiated and participated in a number of fruitful debates on taxation, commerce, public debt and agriculture. The appropriate policies thus that the Greek state should follow for its development gradually reached centre stage in nineteenth-century Greek politics, contributing substantially to the articulation of new perceptions of the role of the state and the government.

The chapter will focus on Ioannis Soutsos, the first holder of the Chair of 'Political Economy' at the University of Athens. In a university system where long-term continuous tenure was rare, Soutsos remained in his appointment for most of

the nineteenth century. He only took breaks from the position in order to hold important positions at the Council of State and the Ministry of the Interior. What is more, he was a consistent scholar. He rarely deviated from his scholarly preoccupations with political economy or, as he came to call it, 'Ploutology'—the science of wealth.²⁵⁰ The only seeming exception to his mainly economic writings was his first public contribution—a constitutional draft published during the proceedings of the First National Assembly in 1843 that was meant to serve as a platform for discussion on the form of the constitution. As will be shown, this exception should not be treated as an early political transgression but as a constituent part of his disciplinary vision of economics and its association with political concerns.

Greek economists of the early- and mid-twentieth century were generally very critical of the accomplishments of nineteenth-century Greek economic thought. This negative evaluation of nineteenth-century economic thought went hand in hand with a negative assessment of the development of the Greek economy.²⁵¹ Although economists like Ioannis Soutsos were credited with producing, diffusing and popularizing an economic vocabulary, Greek political economy was dismissed as being underdeveloped, analytically defective and another proof of the backwardness of Greek liberalism.²⁵² These were generally studies which ignored the theoretical foundations and the moral underpinnings of nineteenth-century political economy and the broader European intellectual context in which it developed.

More recently, historians of Greek economic thought have revised these simplistic interpretations. This revisionism has been part of a wider project within Greek economic historiography that challenged—rather consistently compared to

²⁵⁰ Ioannis Soutsos (1868-69), [Ploutology], Athens.

²⁵¹ Characteristically, George Charitakis regarded Soutsos' liberal economic ideas as inappropriate and associated them with the slow development of the Greek economy in the nineteenth century. See George Charitakis (1937), 'Economic Geography: Introduction', in *Encyclopaedia Pyrsos*, vol. 10, pp. 71–73. See also Michalis Psalidopoulos and Yorgos Stasinopoulos (2009), 'A Liberal Economist and Economic Policy Reform in Nineteenth-Century Greece: The Case of Ioannis Soutsos', *History of Political Economy*, vol. 41, n. 3, p. 495.

²⁵² For example, Xenophon Zolotas (1944), [*Theoretical Economics*], Athens: Papazisis, p. 216. One of the most important Greek economists in the inter-war period, Andreas Andreadis – professor of Economics at the Law School – counted him as a follower of Sismondi without any further elaboration. See Andreas Andreadis (1927), 'Griechenland', in Hans Mayer et al. (eds) (1927), *Die Wirtschaftstheorie der Gegenwart*, vol. 1, Vienna: Springer, pp. 236–246, (p. 237).

other fields of historiography—conventional wisdom and the perception of the Greek state and the economy as monolithic and of nineteenth-century Greece as backward and underdeveloped in comparison to western European countries. New studies on nineteenth-century Greek economic history have shown that the Greek economy developed substantially, even if slowly, during the nineteenth-century: production increased, and the economic role of the state changed substantially.²⁵³

In the same way, the diffusion, production and role of economic ideas in nineteenth-century Greece were reassessed by taking into account a wider number of sources, especially the specific policy recommendations of nineteenth-century economists. As regards methodology, the innovation consisted of, firstly, locating debates on free trade, industrialization and private property in the local political and economic context. Secondly, the revisionists related Greek debates to post-Smithian economic thought and European-wide debates. They were influenced in this by a renewed interest in the rhetoric of economics and particularly by the ways in which, from the 1970s, intellectual historians studied economic thought as this was developed from Adam Smith onwards. By giving more attention to language and by resituating economic ideas in their intellectual contexts, this historiographical paradigm treated past economic ideas in their own right and thus avoided anachronism.²⁵⁴

According to this revisionist strand, Greek economists were influenced by the eighteenth- and nineteenth-century British and especially French economists with

²⁵³ See Kostas Kostis (2006), [‘Public Economics’], in Kostis and Petmezas (eds), [The Development], pp. 293-335. See also the [‘Introduction’] in the same volume by Kostis and Petmezas, pp. 21-37. See also Petmezas, [The Greek Rural Economy]. This change of perspective was highlighted by the tone and semantics of a comparative volume on ‘less developed Europe’, see Michalis Psalidopoulos and Maria E. Mata (eds) (2002), *Economic Thought and Policy in Less Developed Europe*. London: Routledge.

²⁵⁴ For example, Amartya Sen (1987), *Ethics and Economics*, Oxford: Blackwell; Martha Nussbaum and Amartya Sen (1993), *The Quality of life*, Oxford: Oxford University Press. In addition, intellectual historians such as Donald Winch, Istvan Hont and Michael Ignatieff paved the way for a reappraisal of Smithian and post-Smithian economic thought. See Donald Winch (1978), *Adam Smith’s politics: an essay in historiographic revision*, Cambridge: Cambridge University Press; Istvan Hont and Michael Ignatieff (eds) (1983), *Wealth and Virtue: The shaping of political economy in the Scottish Enlightenment*, Cambridge: Cambridge University Press. See also the reassessment of British political economy in Donald Winch (1996), *Riches and Poverty: an intellectual history of political economy in Britain, 1750-1834*, Cambridge: Cambridge University Press, and idem (1999), *Wealth and life: essays on the intellectual history of political economy in Britain, 1848-1914*, Cambridge: Cambridge University Press.

J.B. Say prominent among them. They were very well informed about the economic developments in Europe and beyond, while their economic thought and political ideas were consistently liberal.²⁵⁵ The implication of this reading was that nineteenth-century Greek economists were not only conversant with western European trends in political economy, but that they also elaborated their own views in light of the local state of economic affairs. In short, the revisionists have contented that Say and other French and British economists were relevant to Greece because of their textual accessibility and their identification with political and economic liberalism.²⁵⁶ They thus challenged an old historiographic indictment that deemed Greek liberalism after the foundation of the state as intrinsically defective and defeated by the rise of romanticism. This chapter will follow this revisionist line of argument by concentrating on the crucial periods between the establishment of the Greek state (1832), the institutionalization of political economy at the Law school (1837) and the early 1860s. It will concentrate on two interrelated issues: the scope of economics as a discipline and its moral and political concerns.

By so doing, it will also challenge some of the interpretations put forward by the revisionist scholars, not least because of the rigid distinction they have drawn between a loosely defined liberal economic thinking and a popular conservative or romantic economic thinking. The former was identified with classical political economy and reason and the latter with a combination of Christian-Byzantine 'communitarian' values (anti-individualism, communal attachment), romantic values such as prudence and austerity, and some—again loosely defined—liberal values.²⁵⁷ In that way, they have simplified classical political economy into a rigid liberal

²⁵⁵ Psalidopoulos and Stasinopoulos, 'A Liberal Economist', pp. 491-517; Michalis Psalidopoulos (2005), 'The Greek Society for Freedoms of Trade (1865–67): Rise, Activities, Decline', *Journal of the History of Economic Thought*, vol. 27, n. 4, pp. 383 – 398. See also Michalis Psalidopoulos (2006), [Economic Thought and Policy], in Kostas Kostis and Socrates Petmezas (eds), [The Development], pp. 337-377; Michalis Psalidopoulos (1996), 'Aristides Economos and the "Oikonomiki Epitheorissis": the rise and fall of an economic journal in 19th century Greece', *History of Economic Ideas*, vol. IV, n. 3, pp. 149–167; Yiorgos Stasinopoulos (2002), 'Economic thought and monetary policy in nineteenth-century Greece', in Psalidopoulos and Mata (eds), *Economic Thought and Policy*, pp. 172-186; and Pandeimon Hionidis (2006), 'Greek Responses to Cobden', in Anthony Howe and Simon Morgan (eds), *Rethinking 19th century Liberalism: Richard Cobden Bicentenary Essays*, Aldershot: Ashgate, pp. 161-173.

²⁵⁶ Psalidopoulos and Stasinopoulos, 'A Liberal Economist', p. 496. See also Psalidopoulos, 'Aristeides Economos', pp. 149–167.

²⁵⁷ Psalidopoulos called this economic tradition 'διαχειριστική' (operational), but he refrained from recognizing it as a 'school' of thought: Psalidopoulos, ['Economic Thought'], p. 342.

intellectual tradition, downplaying the way in which it was transformed after the Restoration whereby it focused on moral issues along with economic principles.

The chapter will thus put a stronger emphasis on the European intellectual and political context of which Greek economic thought formed a part, and from which it drew its major influences. This was a much more complicated context than Greek historians have asserted, and this is where this chapter departs from previous accounts. To be sure, Greek political economy, as everywhere in Europe, was built upon the foundations provided by the work of Adam Smith. But, as will be shown in the next section, intellectual historians have maintained that the diffusion of Smith's teachings resulted in divergent readings, with the difference between Britain and continental Europe being especially marked. This divergence was related both to the propositions of political economy and to the associated issue of its nature as a science.²⁵⁸

As the chapter will show, Greek economic thinking was attentive to these different readings and the intellectual traditions that were formed in the process and which drew to a large extent from older economic idioms – as evidenced especially by the case of Italian and German scholars. Initially, academic and popular works published in Greek disseminated an economic language which rejected mercantilism and state intervention and advocated the inculcation of virtuous manners such as 'industriousness' and 'frugality'. Interestingly, Greek economists combined this focus on private economic virtues with the notion of 'public economy' that informed the economic and administrative policies of the Bavarians, influenced as these were by the science of *Polizeiwissenschaft*. From the early 1840s, however, concerns were raised about the dangers emanating from an exclusive focus on economic virtues at the expense of the benefits of institutional change and political participation. This was a conflict between a vision of economics strictly limited in its subject matter and that of a science that was more attentive to public morals and politics.

Soutsos was at the centre of these intellectual and political transformations. According to modern Greek historiography, he was a devoted liberal economist who

²⁵⁸ Keith Tribe (2003), 'Continental Political Economy: From the Physiocrats to the Marginal Revolution', in Theodore M. Porter and Dorothy Ross (eds), *The Cambridge History of Science: The Modern social sciences*, Vol. 7, Cambridge: Cambridge University Press, pp. 154-170.

learned economics through French liberals and especially J.B. Say.²⁵⁹ Indeed, Soutsos shared with Say both the central role the latter accorded to free trade, individual liberty and private property for economic growth and the republican emphasis on equality and a mode of public life formed according to 'industriousness' and 'frugality'.²⁶⁰ In other words, it was not only Say, the economist, that Soutsos cherished but also Say, the political moralist, who recognized political economy as part of moral and political sciences that had the task of inculcating republican manners. But, as the chapter argues, in many respects Soutsos also departed from his master's teachings and turned to the republican thought of Simonde de Sismondi and his professor at Geneva, Pellegrino Rossi. Turning against the view that freedom is accomplished only through the exercise of individual liberty and that the state is a hindrance to society, he argued that governmental action and a sound institutional set-up are also crucial in producing freedom and moral and material welfare.

In order to understand Soutsos's arguments, political context is also extremely important. From the mid-1840s, the attempts to modernize the Greek economy and society had stagnated. This was more than just an economic issue since it risked the place of Greece in the geography of the 'civilized nations'. Furthermore, Soutsos was also attentive to political events in Western Europe, as exemplified by his references to the growing resentment that had led to the revolutions of 1848 and the attack on the principle of private property. These intellectual and political conditions demanded a different economic and political idiom. This concern of course was not restricted to Greece. It echoed a long European-wide debate about the role of

²⁵⁹ For Say's influence on Soutsos, see Psalidopoulos and Stasinopoulos, 'A Liberal Economist', pp. 493-495. For Say's general influence in the Greek speaking world, see Triantafyllos Sklavenitis (1994), [Spyridon Valetas and the translation of J.B. Say's Political Economy], in [The Revolution of 1821. Studies in the memory of Despoinas-Katifori], Athens: Etaireia Meletis tou Neou Ellinismou, pp. 107-156;.

²⁶⁰ For Say and republicanism, see Richard Whatmore (1998), 'The Political Economy of Jean-Baptiste Say's Republicanism', *History of Political Thought*, vol. XIX, n. 3, pp. 439-456, and Richard Whatmore (2000), *Republicanism and the French Revolution: An Intellectual History of Jean-Baptiste Say's Political Economy*, Oxford: Oxford University Press, pp. 17-36, and, for the way his thought developed after the restoration, see pp. 189ff.

political economy and the obsession with economic virtues at the expense of civic virtues, institutional change and political participation.²⁶¹

Criticising thus Ricardian political economy, Soutsos advocated an economic science attentive to ‘governmental action’ and to the ways the latter should take into account local conditions. In this way, political economy gradually acquired a wider political and moral dimension associated with the science of government.²⁶² By so doing, Soutsos turned against both the ‘public economy’ school of thought—as this was understood at least by the monarchical authorities—and those thinkers who viewed the state as just a legal mechanism and protector of right with no role to play in promoting culture and moral and social welfare. The primarily political nature of his economic thinking was not only important from a theoretical point of view but informed political thinking and found its way into constitutional reforms.

What the Greek case thus shows is the ways in which economic thought in the nineteenth century fused liberal and republican languages and combined an idiom of economic analysis with the idiom of political rights and modernization. From this perspective, Ioannis Soutsos imposed a new twist on an old idiom, illustrating the institutional and organisational inventiveness of political economy.²⁶³ There was nothing exceptional in this since, as scholars have shown, discourse on civic virtues in the nineteenth century was constantly reinvented according to varying contexts and problems, especially in cases of intellectuals coming from parts of Europe where state building, the establishment of liberal institutions and economic development were intellectual concerns and political objectives that came together.²⁶⁴ Whereas, in countries such as Britain, liberal political economy was to a large extent a means of containing the state, in many continental countries, it was linked to the formation

²⁶¹ Stefan Collini, Donald Winch and John Burrow (eds) (1983), *That Noble Science of Politics: A Study in Nineteenth-Century Intellectual History*, Cambridge: Cambridge University Press; see also Winch, *Riches and Poverty* and Isabella, *Risorgimento*.

²⁶² Soutsos, [Ploutology], p. vol. II, p. 173. See also the comments made by Adreas Andreadis, ‘Griechenland’, p. 237.

²⁶³ Kalyvas and Katznelson (2008), pp. 1-17; Helena Rosenblatt (2004), ‘Re-evaluating Benjamin Constant’s Liberalism: Industrialism, Saint-Simonianism and the Restoration Years’, *History of European Ideas*, vol. 30, pp. 23-37. For an overview of the history of this inventiveness in the nineteenth century, see Emma Rothschild (2011), ‘Political Economy’, in Gareth Stedman Jones and Gregory Claeys (eds), *The Cambridge History of Nineteenth-century Political Thought*, pp. 748-779.

²⁶⁴ For the case of Italy, see Isabella, *Risorgimento*, pp. 182-185; Romani (2006), ‘The Cobdenian moment in the Italian Risorgimento’, in Howe and Morgan (eds), *Rethinking Nineteenth-century Liberalism*, pp. 117-140 (pp. 118-121).

of the state. If there was any particularity to the Greek case, it was that this role of liberal economics as a form of legitimization of the state was even more pronounced. This was partly due to the fact that liberalism had emerged as the historical starting point of national independence and statehood. In the fluid post-revolutionary political context, it continued to be associated with the process of national regeneration and with European progress, finding its way into claims for political reforms and eventually into institutions.

Moreover this persistence of republican concerns and claims for state interference in Greek liberal economic thinking were rather unusual among European liberal political economists after 1848. In the wake of the revolutions of that year, the threat posed by socialist ideas and the free trade movement, state intervention or the idea of economics as a science of government became very unfashionable among liberal economists, not least in other parts of Southern Europe—although the case of Italy was rather complicated.²⁶⁵ The rest of the chapter will firstly discuss the diffusion of an economic idiom during and after independence that was informed by Restoration political economy and concentrated on the importance of economic virtues such as industriousness and prudence. Secondly, it will assess the role of Ioannis Soutsos in revising this idiom and its exclusive focus on economic virtues by relating *industrie* to political rights. Thirdly, and lastly, it will assess the ways in which Soutsos's views became increasingly more critical of what he called the 'industrial' or Ricardian political economy. His academic and journalistic contributions of the 1850s stressed the need for large-scale reforms, and called for a wider moral and political role for public institutions and the state. The case of Greek economic thought and in particular Soutsos is a reminder that the forms of organised knowledge relevant to the considerations of political questions were not always to be found in studies of an explicitly political character.

²⁶⁵ Roberto Romani (2012), 'Reluctant Revolutionaries: Moderate liberalism in the Kingdom of Sardinia, 1849-1859', *The Historical Journal*, vol. 55, issue 1, pp. 45-73.

Political economy after Adam Smith

As already mentioned, political economy after Adam Smith was a rather complicated phenomenon. In light of the industrial and economic success in Britain, especially after the Napoleonic wars, economists like Nassau Senior, David Ricardo and Ramsay McCulloch seemed to agree that economic growth, social progress and even the eradication of poverty could be achieved by the establishment of a basic legal framework and an emphasis on economic virtues such as self-restraint and industriousness. Even if these arguments had strong moral connotations and were influenced by religious discourses, their diffusion ran at the expense of an older language of political virtue.²⁶⁶ In addition, political economy came to be conceived as a highly specialized social science with its own scientific status, the objective of which was to facilitate economic progress. In this way, although it was still regarded as a science of government early in the nineteenth century, it was gradually dissociated, to a large extent, from constitutional thought and from other moral and political sciences.²⁶⁷

On the Continent, however, the development of political economy was a more multifaceted phenomenon. To be sure, many of the above-mentioned British formulations (by Senior et al.) about the value of the English economic model of development and the belief that society was economically founded were shared by numerous continental writers, even if they employed other ideological languages. At the beginning of the Restoration, several writers (*Ideologues* and *Saint-Simonians* among them), such as Charles Dunoyer, Charles Comte, Charles Dupin, Melchiorre Gioja and Michel Chevalier (to name but a few), employed an 'industrial' language, and claimed that the most effective way to establish order and freedom in European societies - often modelled on England - was to inculcate moral and economic values

²⁶⁶ Stefan Collini (1991), *Public Moralists: Political Thought and Intellectual Life in Britain, 1850-1930*, Oxford: Oxford University Press, especially the chapter, 'The Idea of Character: Private Habits and Public Virtues', pp. 106ff. For the religious background, see Boyd Hilton (1988), *The Age of Atonement: The Influence of Evangelicalism on Social and Economic Thought*, Oxford: Oxford University Press.

²⁶⁷ See Winch, *Riches and Poverty*, idem, *Wealth and Life* and Collini, Winch and Burrow (eds), *That Noble Science of Politics*.

like productivity and industriousness.²⁶⁸ This language, which deemed commerce and *industrie* as the most effective forces of change and dismissed the role of republican virtues, was disseminated not just in France but also in Belgium, Italy and the Mediterranean in general (Greece included, as we shall see).

Compared to British economics, however, and notwithstanding the emphasis on economic virtues, this ideological current had a more pronounced interest in policy issues, a more marked pedagogical character and a larger concern with social stability. The main reason for this was that the application of economic laws was perceived as the proper route to national power and European progress. In other words, it acted as a theory of nation building and modernization. In the same vein, attentive to the rise of the 'social question' which had turned political in 1848, the French economists who in the 1840s gathered around the *Journal des Economistes* and the *Société d'Economie Politique* placed much more emphasis on the importance of scientific investigations, 'virtuous industry', free trade and state neutrality in private economic affairs.²⁶⁹

But the divergence of Continental discussions went further. Many Continental intellectuals raised concerns about the negative effects of an English-style commercialization and what they saw as the extreme poverty and the erosion of the social fabric caused by industrial growth. These criticisms made them equally sceptical about the separation of economics from politics and from other moral and political sciences. The threat that an exclusive focus on the private virtues posed to the stability of societies made continental economists and liberals mix the new economic discourse with older economic and political idioms in order to reconcile private virtues with public life. This was highlighted by the continuing reference to a language of republicanism, or at least by the way republicanism was adapted to the political framework of the Restoration in an effort to guarantee the morality of public life and to reconcile commerce and virtue. Two names stand out in this

²⁶⁸ Cheryl B. Welch (1984), *Liberty and Utility: the French Ideologues and the Transformation of Liberalism*, New York: Columbia University Press; Brian W. Head (1985), *Ideology and Social Science: Destutt de Tracy and French Liberalism*, Dordrecht: Kluwer.

²⁶⁹ Roberto Romani (2002), 'Political Economy and Other Idioms: French views on English Development, 1815-48', *European Journal of the History of Economic Thought*, vol. 9, pp. 384-401; Romani, 'The Cobdenian moment', pp. 113-117. The Société d'Economie Politique was a sort of think-tank with a considerable public profile which followed the establishment of the *Journal*. See below.

tradition: Simonde de Sismondi and J.B. Say. The former provided the most consistent and influential republican political economy in the post-Napoleonic period; he turned against Ricardian political economy and criticised especially its obsession with production and its lack of interest in civic participation.²⁷⁰

The case of J.B. Say was even more complicated and probably more important. Not only did Say make original doctrinal contributions to economics (Say's law, the 'utility' theory of value and a larger attention to consumption), but he also played a key role in the dissemination of Smithian economics on the Continent. It was also Say who offered the analytical tools to the *Ideologues* and others for disparaging idlers and especially for making *industrie* the organising principle of society. Nevertheless, by contextualizing his thought, intellectual historians have shown that Say was an unorthodox political economist who, from the early nineteenth century, attempted to reconcile commercial values with republican principles. Without ruling out taxation or other reforms as means of promoting equality and fighting poverty, he emphasized the importance of upbringing and education. After 1814 especially, when he reached wide popularity, Say remained faithful to his republican principles and the idea of liberty by adapting his republican claims to the conditions of monarchy.

Historians have thus maintained that by insisting on inculcating a secular moral discourse based on the republican virtues of industriousness, frugality and enlightened self-interest, Say opposed the liberal creed, as this was popularized by Benjamin Constant, Francois Guizot and others.²⁷¹ Contrary to these latter, he criticized the British example and the corrupting effects of mercantilism, proposing instead the 'promotion of free trade, the abolition of aristocratic forms of monopoly in commerce and in politics, and the fostering of a republican morality of frugality and industriousness, as taught by political economists as public moralists'.²⁷² As his

²⁷⁰ Simonde de Sismondi (1819), *Nouveaux principes d'économie politique; ou De la richesse dans ses rapports avec la population*, Paris: Delaunay. See also Roberto Romani (2005), 'The Republican Foundations of Sismondi's *Nouveaux principes d'économie politique*', *History of European Ideas*, vol. 21, pp. 17-33; Biagini, 'Neo Roman Liberalism', pp. 55-72.

²⁷¹ Gareth Stedman Jones (2004), *An End to Poverty? A historical debate*, London: Profile Books, pp. 119-125.

²⁷² Richard Whatmore (2012), 'War, trade and empire: the dilemmas of French liberal political economy, 1780-1816', in Raf Geenens and Helena Rosenblatt (eds), *French Liberalism from*

contemporaries perceived it, the civic arguments he formulated during these years through his public involvement and his teaching at the Collège de France concerned the means with which to attain cultural enlightenment, not the best form of government.²⁷³ By so doing, he removed discussions of *industrie* from a specific republican framework and rejected the view that economic affairs should be related to politics as an obsolete legacy of the ancients.

As historians of political thought have recently argued, this sort of republicanism was highly influential to post-revolutionary liberalism, and, even though Say's work was read in different ways by different scholars, it left an important legacy.²⁷⁴ Firstly, it perceived economic virtues in moral terms, and, secondly, it had an institutional dimension in the sense that a republican *patrie* would generate a virtuous citizenry through education and, to some extent, economic equality through agrarian laws, confiscations and progressive taxation. In the same vein, Pellegrino Rossi, Say's successor in Paris, argued that economic policies should take into account moral principles when dealing with social questions, even when they seemed to go against free competition. But he also gave an even more prominent role to a sound institutional set-up for promoting these moral principles and economic growth.²⁷⁵ Although Rossi was closer politically to the *Doctrinaires*, his economic thinking was similar to Sismondi's republicanism, in the sense that he thought that the state and public institutions should have an enhanced economic and moral role to play in fostering modern commercial nations.

Yet, commercial republicanism was not the only economic idiom to be employed in the wake of the British economists' and French industrialists' obsession with

Montesquieu to the Present Day, Cambridge: Cambridge University Press, pp. 169-191 (p. 190). See also Whatmore, *Republicanism and the French Revolution*, p. xiii and pp. 189-216.

²⁷³ Whatmore, *Republicanism and the French Revolution*, pp. 191-194.

²⁷⁴ Stedman Jones, *An end to poverty?*, pp. 110-132; Whatmore, 'War, trade and empire', pp. 169-191; and Romani (2002a), *National Character and Public Spirit in Britain and France 1750-1914*, Cambridge: Cambridge University Press, p. 94. See also the introductory essays by Philip Steiner and Jean-Pierre Potier in J.B. Say, (1803, [2006]), *Traité d'économie politique ou simple exposition de la manière dont se forment, se distribuent et se consomment les richesses*, I-II vols, Variorum edition created by Claude Mouchot, Economica: Paris; Marco Guidi, Terenzio Maccabelli and Erica Morato (2004), 'Neo-Smithian Political Economy in Italy (1777-1848)', *Economies et sociétés*, Serie Oeconomia, 'Histoire de la pensée économique', vol. 2, pp. 217-265; Romani, Roberto (1994), *L'economia politica del Risorgimento*, Turin: Bollati Boringhieri

²⁷⁵ Pellegrino Rossi ([1836-7], 1840-51), *Cours d'Economie Politique*, 3 vols, vol. I. pp. 30-31, 35-37, 284-90.

productivity and economic efficiency. Many continental economists resorted time and again to the widely shared eighteenth-century European economic idiom of ‘public economy’. Exemplified by several French, German and Italian scholars in the eighteenth century, not least by Jean-Jacques Rousseau in his entry on ‘Economie (Morale et Politique)’ in the *Encyclopédie*, ‘public economy’ was considered to be an administrative science associated with the ‘police state’ (*Polizeistaat*) and cameralist doctrine.²⁷⁶ *Cameralism* and its literature blurred the distinction between economic thinking, state policies and statistics and determined the ways in which the state would interfere in economic affairs through far-reaching and prudent administrative action. It was closely linked to the idea that the government’s objectives and moral imperatives were to improve the ruler’s domain, construct and control social order and guarantee *public happiness* – the greatest happiness possible shared by the greatest number possible.²⁷⁷

Although ‘public economy’ was attacked by the Physiocrats, not least for its artificiality and prevention of natural economic activities, its legacy remained strong in many continental countries. This was also a result of the way political economy entered university education, i.e. as one of the compulsory lecture subjects for law students, many of whom would later enter public administration (German states, Italy, Greece).²⁷⁸ In the German states, even though in the early nineteenth century economic doctrine underwent a slow transformation towards self-guiding human action and a new doctrine of human needs, it continued—in the form of *Nationalökonomie*—to stress a close correspondence between economic life and the broader life of the nation. Statistics could lead to a total knowledge of the

²⁷⁶ See ‘Discourse on Political Economy’ in Jean-Jacques Rousseau (1997), *The Social Contract and Other Later Political Writings*, edited by V. Gourevitch Cambridge: Cambridge University Press, pp. 3–38; Tribe, ‘Continental Political Economy’, pp. 155–161.

²⁷⁷ For ‘cameralism’ see Keith Tribe (1988), *Governing Economy: The Reformation of German Economic Discourse 1750–1840*, Cambridge: Cambridge University Press, and Terence W. Hutchison (1988), *Before Adam Smith: Emergence of Political Economy, 1662–1776*, Oxford: Oxford University Press. For the concept of public happiness see Isabella, *Risorgimento*, p. 154; Silvana Patriarca (2003), *Numbers and Nationhood: Writing Statistics in Nineteenth-century Italy*, Cambridge: Cambridge University Press, p. 54.

²⁷⁸ Political economy was established as an autonomous subject in educational institutions of continental Europe in the early nineteenth century. But its practitioners were rarely academics until the 1870s onwards. Until then legal training was both a common element in their educational background and a common professional interest. For economics as a university discipline in Britain see Patrick D. O’Brien (2004), *The Classical Economists Revisited*, Princeton: Princeton University Press, pp. 9–12.

population's needs, and the economic action of the state could form a strategy on how to satisfy them without necessarily taking into account the subjective characteristics of the population.²⁷⁹

In the case of Italy, this perception was strongly defended by Gian Domenico Romagnosi, his pupils and especially by Giuseppe Pecchio. Critical of Ricardian economics, these Italian scholars argued in favour of reconciling civic virtues, public life and *industrie*, and they supported the role of the state and a close relationship between economics and politics in its 'public economy' definition. This Italian economic thinking made political economy an essential component of a national intellectual tradition, and thus of national pride, and established a link between economic aspirations and the Risorgimento as a political and intellectual enterprise. This was a characteristic of the emblematic work of Giuseppe Pecchio — *Storia dell'economia pubblica in Italia* (1829) — in which he linked political economy and liberal reforms, defining the former as 'another name for liberty' and the 'scienza dell'amor patrio'. As Maurizio Isabella has argued, the uniqueness of this book lay in its ability to defend economic progress in the English vein while preventing its negative social effects by incorporating some aspects of the eighteenth-century 'public economy' approach.²⁸⁰ In the wake of these debates which were not just about economic issues narrowly defined, Greek economic thinking combined different economic idioms and it did so in an original fashion.

Political economy, civilisation and manners in South-eastern Europe

Books on economic thought were available to the Greek-speaking public of South-eastern Europe long before the creation of the state and the academic institutionalization of political economy in the University of Athens in 1837.²⁸¹ The

²⁷⁹ Tribe, *Strategies of Economic Order*.

²⁸⁰ Isabella, *Risorgimento*, pp. 159-169.

²⁸¹ It is important to note that in the nineteenth century the distinction of disciplinary lines was rather difficult since many academic subjects cut across disciplines. That being said, economic texts in this chapter include publications that explored issues of production and circulation of goods, distribution of incomes, public economics and the theory and history of economics.

first type of these were not books on political economy but commercial handbooks that were financed by wealthy merchants and dealt with arithmetic, weights, measures and tables for the conversion of foreign exchange. The most interesting of these was N. Pappadopoulos's *The Gainful Ermis: Encyclopedia of Commerce* (5 volumes published in 1815 in Venice), where the first depiction in Greek of Adam Smith's pin factory and the division of labour is to be found.²⁸² Increasingly, the classical economists and their works were widely mentioned and read within modern Greek Enlightenment circles in France, Austria and the Danubian Principalities. Adamantios Korais and his circle in Paris, eager to transfuse—a process that Korais called '*metakenosis*'—Western ideas of rationalism and of liberty into Ottoman Greece, turned to the British economists (A. Smith, D. Ricardo and T.R. Malthus) and later on to the economic writings of the *Ideologues* and especially J.B. Say.²⁸³ At the same time, learned Greeks in Vienna turned to economic publications.²⁸⁴

This interest became much more intense during the revolutionary decade when books on political economy proper were published. Inaugurating a trend that was to have a long presence in Greek economic thought, intellectuals turned to translations of French economic texts and in particular J.B. Say. The first incomplete attempt among learned Greeks to diffuse Say's works was the translation of the fourth edition of his *Traité d' Economie Politique*.²⁸⁵ Immediately after Greek independence in 1828, Say's *Catéchisme de l' Economie Politique* was translated, followed some years later by Jacques Droz's *Economie politique: ou principes de la science des*

²⁸² Triantafyllos Skavenitis (1990), [Commercial Manuals during Venetian and Ottoman rule and the Commercial Encyclopedia of Nikolaos Papadopoulos], Athens: Etaireia Meletis Neou Ellinismou. See also Michalis Psalidopoulos and Nikolaos Theocharakis (2011), 'The diffusion of Economic Ideas in Southeastern Europe in the 19th century', in Heinz D. Kurz, Tamotsu Nishizawa and Keith Tribe (eds), *The Dissemination of Economic Ideas*, Cheltenham, UK: EE, pp. 161-191, (p. 166).

²⁸³ Christos P. Baloglou (2008), 'The Diffusion and Reception of the ideas of Economic Liberalism in Greece during the period 1828-1837', *Spoudai*, vol. 51, n. 3-4, pp. 16-35 (p. 18).

²⁸⁴ D. Darvaris (1796), [True Path to Happiness], Vienna; J. G. Busch (1817), [Complete systematic textbook of the entire science of trade], Jassy; P. Spanopoulos (1803), [Commercial arithmetic], Trieste: Katzatis Printing Press; J. Novawk (1808), *Istoria tou Emporiou, metafrasi ypo Kokkinaki* [History of Commerce], Vienna. There were also references in the journal, *Ermis o Logios*, published in Vienna between 1811 and 1821. See also Baloglou, 'The Diffusion', p. 20; Psalidopoulos (2006), ['Economic Thought'], p. 345 and pp. 350-351.

²⁸⁵ See Sklavenitis (1994), ['Spyridon Valetas'], pp. 107-156.

richesses in 1833.²⁸⁶ These two last translations were not just the two key economic texts of French economic thought to be published in newly independent Greece, but they also had a direct political relevance because their translators—the liberals, Giorgos Chrissiidis and Anastasios Polyzoidis respectively—were highly involved in post-revolutionary politics and the administration of the state.²⁸⁷ The two authors deemed these works important for economic thinking and practice in the new state. In his opening lines, Chrissiidis argued that ‘a science which has such a direct application to man’s needs and which is so relevant to political society (...) has remained uncultivated by our forefathers’.²⁸⁸ In the years to come, the diffusion of economic thought through translations continued at a slow, but uninterrupted, pace.²⁸⁹

In assessing this period, which is somewhat neglected, Greek scholars have made two observations. Firstly, the motivation of most translated books was to popularize political economy for the needs of a wider public. This was also evident in the choice of translations, many of which such as Say’s *Catéchisme* and later Suzanne’s *Principes*, had a didactic, anti-dogmatic and dialogical character.²⁹⁰ Secondly, and more importantly, they have shown that, although Adam Smith was hailed as the pioneer of political economy, Greek scholars turned to the French liberal school and especially to J.B. Say.

This preference was not limited to Greece. Say’s popularity, both as a political economist and as an opponent of Bonaparte during and especially after his fall, was not confined to France but was a European-wide phenomenon. As has long been argued, Say—owing to his writing in a language and a style that were considered more accessible to educated Europeans—played a critical role in disseminating the

²⁸⁶ Jean B. Say (1828), [*Catéchisme of Political Economy*, translated by G. Chrysiidis], Aigina, and Jcques Droz (1833), [*Political Economy* translated by A. Polyzoidis], Nafplion. See also Christos P. Baloglou, ‘The Diffusion’, pp. 16-35.

²⁸⁷ Giorgos Chrissiidis was ‘Supervisor of Government Printing’ and a close associate of Capodistrias. For the multifaceted intellectual role of Anastasios Polyzoidis, see previous chapter.

²⁸⁸ In the ‘Prologue’ of J.B. Say, [*Catechism*], Aigina, p. 1.

²⁸⁹ For a catalogue of the translation up to the inter-war period, see Michalis Psalidopoulos (1999), [*Translations of Books of Economic science in Greek (1808-1948)*], in idem, [*Political Economy and Greek Intellectuals: Studies on the history of economic thought in Greece*], Athina: Typothito, pp. 11-38.

²⁹⁰ P.H. Suzanne (1849), [*General Principles of Public and Industrial Economy*], Athens. See also Psalidopoulos (1999), [*Translations*], p. 29.

teachings of classical political economy based upon the foundations provided by Adam Smith's *Wealth of Nations* throughout the Continent.²⁹¹ Recent studies have enriched our knowledge of this process by widening the geographical scope of Say's influence in the continent. In a comparative study of South-eastern Europe, Michalis Psalidopoulos and Nicolas Theocharakis have shown that Say's influence as an author and a public person was immense. It rested on the one hand on his being identified with 'French Enlightenment ideals and national revival' and on the other on the originality of several of his doctrinal economic contributions such as his theory of value, his law on economic crises and the basic principles about production, exchange and distribution discussed in his *Traité*.²⁹²

But, as mentioned earlier, intellectual historians have shown that Say's significance lay in the pursuit of a rather distinct political project which was influenced by republicanism and increasingly based upon the formation of a secular moral discourse build on the virtues of 'industriousness' (*industrie*) and 'frugality' (*frugalité*).²⁹³ The moral and pedagogical character of Say's works has gone rather unacknowledged by Greek historians, even though this was something that was perfectly understood by Greek liberals of the period under question. Almost all writers of the translated works praised prudence and abstention from consumption in order to save capital for future productive activities. Free trade and the involvement of all in commercial activities would elevate the population both morally and economically, while there was no mention about the role of the state in the economy.

²⁹¹ In total, fifty-three translations of his works appeared between 1807 and 1836. See Philippe Steiner (1996), 'L'économie politique comme science de la modernité', in Jean-Baptiste Say, *Cours d'économie politique et autres essais*, Paris: Flammarion, pp. 16–17, and Tribe, 'Continental Political Economy', p. 162. Say also showed a strong interest in the Greek War of Independence, as articulated in an article in *Revue Encyclopedique*: see J. B. Say (1824), 'Notions sur la Grèce, pour l'intelligence des événements qui se préparent dans cette portion de l'Europe', *Revue Encyclopédique* vol. XXIV, pp. 257-274.

²⁹² Psalidopoulos and Theocharakis, 'The diffusion of Economic Ideas', pp. 161-191. See also Psalidopoulos and Stasinopoulos, 'A Liberal Economist', pp. 496-500 and more generally Psalidopoulos and Mata (eds), *Economic Thought and Policy*. J.B. Say himself acknowledged his wide geographical influence in a letter to D. Ricardo: '(...) it is a pity: half of the audience is composed of foreigners: English, Polish, Russian, Greek, Spanish, Portuguese and American.': Say to Ricardo, 1 May 1822, in David Ricardo (1953), *The Works and Correspondence of David Ricardo* (edit. by P. Sraffa, with the collaboration of M. Dobb), vol. IX. Cambridge: Cambridge University Press, pp. 191-192.

²⁹³ Stedman Jones, *An End to Poverty?*, pp. 119-125.

In the case of Greece, this focus on manners was all the more important given the liberals' perception of Greece's moral and cultural backwardness, which they attributed to the long period of corruption under the rule of the Byzantines and the Ottomans. What was needed for the attainment of a higher civilisational scale in the post-revolutionary context—when Ottoman rule had been abolished, independence was gained and basic political institutions had been formed—was moral education and industriousness. Characteristically, in his introduction to his translation of *Catéchisme*, Chrissiidis viewed Say as an opponent of mercantilism and envisaged the overcoming of corruption in Greece through the diffusion of the 'true principles' of Adam Smith.²⁹⁴ Polyzoidis, in a very conscious attempt at the *metakenosis* of 'European' values into Greece, understood political economy as a vehicle for social progress and happiness. Echoing also the formulations of Say, Polyzoidis held that it was 'free labour' that would elevate Greece above its tyrannical past, which he identified not only with the Ottoman Empire but also ancient Greece.²⁹⁵ Polyzoidis's role in promoting a view of society which was economically determined and founded on industrious men and the exchange of the products of free labour was evident also in his earlier translation of Destutt de Tracy's *Commentaire sur l'Esprit de Lois de Montesquieu*.²⁹⁶ The emphasis that the two translators put on the dissociation of political economy from a republican political framework is evidenced by the fact that they addressed rulers and not citizens, dedicating their works to the respective sovereigns of Greece at the time of publication, Capodistrias and King Otto.

This focus on manners was not confined to learned scholarship but gradually became a wider phenomenon. During the 1820s and 1830s, a series of translations of B. Franklin's *Poor Richard's Almanack* appeared and became popular readings among

²⁹⁴ 'Introduction' in Say, [Catéchisme].

²⁹⁵ Introduction in Droz, [Principles]. Say's influence is also evident in this argument. In the post-1814 editions of his *Traité*, Say added a chapter entitled, 'Of the independence born out of the Progress of Industry among the Moderns', in which the ancients were criticised both in economic and political terms and sharply contrasted with the progress made by the moderns. See Stedman Jones, *An End to Poverty?*, pp. 134-135.

²⁹⁶ Destutt de Tracy, (1823), [Commentary on Montesquieu's Spirit of the Law]. Recent scholarship has stressed the role of the *Ideologues* in the shift from republican virtue to an emphasis on *travail* and on *industrie* as organizing principles of society. They were also highly influential in the most clearly noticeable replacement of republican virtue with economic enterprise in Saint-Simonianism. See, for a brief discussion: Romani, *National Character*, pp. 109-117. See also Thomas E. Kaiser (1980), 'Politics and Political Economy in the Thought of the Ideologues', *History of the Political Economy*, vol.12, pp. 141-160; Welch, *Liberty and Utility* and Head (ed.), *Ideology and Social Science*.

the Greek public.²⁹⁷ Although Greek historians have acknowledged this fact, they have related it to the conservative and romantic version of Greek economic thinking.²⁹⁸ But, as the Greek titles of Franklin's works suggest [*The Science of Good Richard*], these translations were the ones made by J.B. Say. As already mentioned, seeking to inculcate the virtues of 'industriousness' and 'frugality' in the public, Say turned to the translation of Benjamin Franklin's *Poor Richard's Almanack* of 1733-58 under the title, *La Science du bonhomme Richard*.²⁹⁹ As Say argued, he was especially interested in Franklin's life, as he was a sort of a man who had done only good deeds in his life and who provided a model for simple republican manners.³⁰⁰ In the same vein, one of the Greek translations presented both Franklin and Adamantios Korais as models for private lives—conducted according to the moral virtues of frugality and industriousness and dedicated to the public good—to be followed by young Greeks.

These concerns with virtuous life reflected a wider movement of ideas and went hand in hand with a civilisational discourse that recognized European cultural and political supremacy in the world and gave prominence to the spread of European values in the Mediterranean. As several scholars have noticed, from the 1820s onwards, 'industrialist' and Saint-Simonian discourses circulated in the Mediterranean and were instrumental in producing a geography of civilisation which endorsed a dichotomy between European-Christian civilisation and Oriental culture. Being highly hierarchical, this civilisational language was based on the assumption of the superiority of Western European values and saw the Mediterranean as the space where the antithesis between West and East would be overcome.³⁰¹ French Saint-

²⁹⁷ Benjamin Franklin (1823), [*The Science of Good Richard*], Paris; idem (1831), [*Ways to Wealth*], Trieste; (1839), [*Lives of V. Franklinou and A. Korai: For the Greek youth*], Ermoupoli; G. Polymeris (1849), [*The life of B. Franklin and the Science of Good Richard*], Ermoupoli.

²⁹⁸ Psalidopoulos, ['Economic Thought'], p. 342.

²⁹⁹ Stedman Jones, *An End to Poverty?*, pp. 119-125.

³⁰⁰ See the discussion in Whatmore (2000), *Republicanism and the French Revolution*, p. 117.

³⁰¹ Maurizio Isabella (2012), 'Liberalism and Empires in the Mediterranean: The View-Point of the Risorgimento', in Silvana Patriarca and Lucy Riall (eds), *The Risorgimento Revisited: Nationalism and Culture in Nineteenth-Century Italy*, UK: Palgrave Macmillan, pp. 232-254 (pp. 232-241); Romani, *National Character*, pp. 109-117. See also Antoine Picon (1999), 'L'Orient saint-simonien un imaginaire géopolitique, anthropologique et technique', in M.-N. Bourguet, D. Nordman, V. Panayotopoulos and M. Synarellis (eds), *Enquêtes en Méditerranée. Les expéditions françaises d'Égypte, de Moree et d'Algérie*, Athens: EIE, pp. 227-238. See also Magaly Morsy (ed.) (1989), *Les saint-simoniens et l'Orient. Vers la modernité*, Aix en Provence: Edisud.

Simonians, such as Michel Chevalier, suggested that this would be achieved by the western expansion eastwards and by the diffusion of ‘industrialist’ principles. Such ideas informed the political thought and the national projects of several Italian intellectuals of the Risorgimento, even though they rejected, more or less, the French role in these Mediterranean projects.

The role of Saint-Simonianism has rarely been assessed in the case of Greece.³⁰² Although Saint-Simonian ideas were circulating among Greeks of the Korais circle, they were not systematically disseminated to Greece until after the establishment of the Greek state. The main means of this process was the journal, *Ilios*, and the main figure Frangiskos Pylarinos – a disciple of Korais, student of Auguste Comte and member of the *Société Hellénique*, which had been established in Paris by Greeks close to Saint-Simonianism.³⁰³ In a series of articles which he wrote for the journal, under the title ‘Political Courses’ (‘Πολιτικά Μαθήματα’), Pylarinos argued that a modern society is founded on *industrie* and self-knowledge and, more importantly, that prosperity and the formation of representative institutions would emanate from the inculcation of these principles and changes in attitudes to work.³⁰⁴ Announcing the inauguration of a new journal, *Progress*, Pylarinos, just like Chrissiidis and Polyzoidis, stated that the ruler, King Otto, provided the best guarantee for achieving this ‘industrial’ society.³⁰⁵

What all these indicate is that an important body of ideas informed by Say’s thought was diffused in Greece by scholarly and other more popular works. It rejected mercantilism and state intervention and favoured virtuous industrial manners which were to be inculcated through moral education. It was formed, as Gareth Stedman Jones has argued, ‘upon a notion of *industrie* that was removed from a specifically republican framework and directed attention to the centrality and global emancipatory promise of a modern economy based upon freedom and

³⁰² Kostas Lappas (1985), [‘Saint-simonianism in Greece’], in [Athens – Capital city], Athens: Ministry of Culture, pp. 44-55. See also Christina Agriantoni, (2007) [‘Saintsimonianism in Greece’], epilogue in the Greek edition of Antoine Picon (2007), [The Sainsimonianists], PIOP: Athens.

³⁰³ Pylarinos (1833), [‘Political Courses’], *Ilios*, n. 17, 18 August, pp. 69-70; n. 20, 29 August, p. 98; n. 32, 24 October, pp. 128-129.

³⁰⁴ Pylarinos, [‘Political Courses’], n. 25, 26 September 1833, p. 90, p. 101.

³⁰⁵ Pylarinos [‘Political Courses’], n. 32, pp. 125-126.

independence of labour'.³⁰⁶ Even King Otto has been quoted as saying in 1835 that 'free enterprise, respect for private property and unrestricted trade will open up inexhaustible sources of national wealth'.³⁰⁷

Public economy, 'industrial' virtues and the 'police state'

Even if King Otto never uttered these words, the statement is nevertheless indicative of a process that went under way after the establishment of the Greek state and the coming of the Bavarian authorities. 'Industrialism' and its emphasis on economic virtues was not confined to the realm of ideas but also informed the state-building process. In this way, it was conflated with Bavarian ideas on the economy and the state, and it helped set up several economic and political institutions of the monarchical state. As already mentioned, Bavarian thinking about the state and the formation of their policies was underpinned by 'Polizeiwissenschaft' (the theory or technology of the 'police state') and 'cameralism' (the science of the economics of government), which saw in the welfare of the state the source of all other welfare.

In trying to ensure the state's growth and 'splendour', *Police* had two main objectives: to improve the position of the state in the competition among European states and to guarantee the internal order through the welfare of the population (or through public happiness). This last objective (conceptualized in *Polizei* literature as the development of the *Wohlfahrt* state, i.e. of wealth-tranquility-happiness) made the population-wealth couple of central concern to the exercise of *Police*. The doctrine of 'public economy' (which, as already noted, was widely accepted among nineteenth-century European economists) was closely associated with the 'police state' and the specific objective of public happiness. It entailed a perception of economics as a broader branch of administration which embraced all the possible economic policies a government could adopt in order to ensure the country's prosperity.³⁰⁸

³⁰⁶ Stedman Jones (2004), *An End to Poverty?*, p. 131.

³⁰⁷ Quoted in Christina Agriantoni (1986), [The Origins of Industrialisation in Nineteenth-Century Greece], Athens: Commercial Bank of Greece, p. 23.

³⁰⁸ Tribe, 'Continental Political Economy', p. 158.

As mentioned in an earlier chapter the notion of *Police* embraced a number of policy concerns and had strong moral overtones. In terms of its economic theory, it entailed three modes of governmental regulation: i) to control and increase the size of the population in relation to the territory of the state and its natural resources, ii) to secure and control the marketing of basic necessities of life and the circulation of both men and goods, and iii) to ensure the cultivation of land and the preservation of different types of professional activity (and which entailed a moral and practical dismissal of idleness).³⁰⁹ Statistics was the main practical instrument with which to acquire an exact knowledge of the territory and of the conditions of the life of the population.

These concerns, which sought to bring about public happiness and centred on state regulation of economic activity, management of the population and promotion of active or industrious activities resonated with the ‘industrial’ ideas which were already circulating during the period. The first illustration of the conflation of the two sets of ideas took place in 1834 when the Minister of the Interior, Ioannis Kolletis, established as part of the ministry a Bureau of Public Economy (‘Γραφείο Δημόσιας Οικονομίας’ or ‘Staatswirthschaftliches Bureau’) that was staffed with Saint-Simonians and backed by a member of the Regency, Georg von Maurer. The Bureau, which according to one of its members, Gustav d’Eichthal (disciple of August Comte and a dedicated Saint-Simonian), was of his own making, had an extremely ambitious programme that was very close to the idea of the *Chambre d’Industrie* propagated by Saint-Simon in his *Du Systeme Industriel*.

Kolletis, who signed the law, highlighted its significance by comparing it to the *Board of Trade* and the *Bureau de Commerce*. Its primary task was to form extensive statistical observations on Greek rural properties and agricultural production. The aim of these statistics was not restricted to facilitating taxing and the military organisation of the state but had a wider economic role related to the growth of production and the enhancement of *industrie* (‘Βιομηχανία’).³¹⁰ Rather controversially, the members of the Bureau rejected the distribution of the national

³⁰⁹ Foucault, *Security, Territory, Population* pp. 323-326. See also previous chapter.

³¹⁰ EK, 22 May 1834. See also M. Chouliarakis, (1972), [Statistical Observations], Athens, especially the chapter, ‘Istoriki Ekseliksisi ths kratikis Statistikis en Elladi’ [Historical evolution of public statistics in Greece], p. 18. See also Petmezas, [The Greek Rural Economy], pp. 11-19.

lands and advocated keeping the lands as state holdings that were to be cultivated by European settlers. Although the Bureau did not meet the aims of its ambitious programme, the focus on *industrie* did not subside. In 1837, a ‘Committee for the Encouragement of National Industry’ (‘Επιτροπή Εμψυχώσεως της Εθνικής Βιομηχανίας’) was set up with a very detailed plan to boost ‘industrial’ economic activities. Its scope, apart from economic initiatives, included several educational instructions and the distribution of reading material. It was deeply informed by Say’s thinking as it merged agriculture, manufacture and commerce within a composite notion of *industrie*.³¹¹

In addition, a Chair of Public Economy (‘Δημόσιας Οικονομίας’) was established at the Law School of the University of Athens as early as 1837. As already mentioned, the University was an important part of the modernizing policies of the central authorities and the needs of the ‘police state’. But the thought behind its establishment was also influenced by, or at least resonated with, ‘industrialism’. As Georg Maurer argued, the University was invested with the moral mission of transferring European civilisation to Greece and to the Orient.³¹² The establishment of a Chair of Public Economy was aimed at teaching basic economic principles to future civil servants, at facilitating statistical observations and at inculcating productivity and industriousness as the main sources of morality and public order. It was thus one among other policy measures with which policymakers linked economic science to the state and directed it to the production of statistics and the inculcation of an ‘industrial’ morality. In this way, economic thinking was ‘salvaged’ from its political connotations and from any claims for legal and political reforms that would complement the development of private economy and economic growth.

It has to be noted that these economic ideas that focused on manners, however, were not simply technical improvements in economic analysis but played a role in the formation of a new political vision within society.³¹³ As Gareth Stedman Jones

³¹¹ See EK, 9/21837, n. 5 [‘Decree on the formation of a twelve membered committee under the name ‘Committee for the Encouragement of Greek Industry’].

³¹² Constantinos Dimaras (1987), [In Athens on the 1st of May 1837], Athens, pp. 21-22.

³¹³ A series of articles in the journal, *Epochi*: n. 13 (8 November 1834), pp. 49-50, n. 21 (6 December 1834), pp. 81-82, n. 24 (16 December 1834).σ. 94-95, n. 25 (20 December 1834), pp. 98-99. The composition of the code in 1834 was the work of Maurer and was written in German. The first translation into Greek was made by Polyzoidis and Constantinos Schinas, first Rector of the University.

has argued, ‘by making *Industrie* the sole legitimate activity in modern society, the *industrieux* – the “savants”, “entrepreneurs”, and “ouvriers” associated with the process of production—became its sole legitimate members’ [...] They were counterpoised against the *oisifs*, widening in this way the moral and economic breach between those who worked and those who did not.³¹⁴ In Greece, this was exemplified institutionally by the criminal legal code which was published and put into force in 1835 and which, as has been observed, was based on the concept of the ‘ethics of work’ or, in other words, on ‘industrial’ morality. Idleness (‘φυγοπονία’) was made a criminal offence and put into the same category as mendicity (‘επαιτεία’) and pauperism (‘αγυρτία’).³¹⁵

Ioannis Soutsos and the limits of ‘industrial’ political economy

It was in this intellectual and political context that Ioannis Soutsos was selected as Associate (‘εκτακτος’) Professor at the University. The significance of his intellectual trajectory during the 1840s and 1850s lies in his considerable revision of the scope of political economy and the strong claims he made for the political relevance of economics. In his first public contributions he showed that, for him, the role of his discipline was not limited to the economic sphere and to complementing the state needs but extended to intervening in the sphere of politics. This change of vision, which departed to a significant extent from the conception of ‘public economy’, as this advocated by the authorities, became at least partially symbolically manifest in 1842 when Soutsos was elected full professor to the renamed Chair of Political Economy. In later stages of his career, even this term seemed to him inadequate because of its too restricted definition of the scope of economic science.³¹⁶ Soutsos was deeply informed by the ‘industrialist arguments’ that focused on the transformation of manners. After his election to the Chair of Public Economy,

In order for the translation to be more ‘polished’ and accurate, a Committee was set up that concluded its work in 1835; see EK, 17 September 1835, supplement: Criminal Law.

³¹⁴ Stedman Jones, *An End to Poverty?*, p. 135.

³¹⁵ ‘ηθική της εργασίας’. See Michalis Mavris (1997), [The administration of criminal justice in Greece in the 19th century], *Ta Istorika*, vol. 26, Athens: Melissa, pp. 53-76.

³¹⁶ This is why he finally turned to the word *Ploutology*.

he also served as a member of the 'Committee for the Encouragement of Greek Industry'. But, as will be shown in more detail below, for Soutsos, social transformation and welfare would come from a combination of industrial virtues and civic participation. This could only be achieved through constitutional reforms which would facilitate the exercise of political freedom. This entailed a definition of political economy as part of the political and social sciences of good government that did not limit itself to statistical descriptions of reality and to being a helping hand in the administration of the state.

Soutsos took on this different definition from the one defended by the royal authorities without theorizing it as such, in his first public contributions in the 1840s. In the aftermath of the revolt of 1843 and the convocation of a national assembly, Soutsos published a constitutional draft with the intention of encouraging public discussion on constitutional issues, which could then be integrated into the final draft.³¹⁷ It was chiefly inspired by the 1830 French charter and the Belgian constitution, and it was designed to reconcile monarchical rule with the existence of republican institutions. Although he referred to a number of issues, his primary focus was on the political reforms necessary for the economic progress of the nation. For Soutsos, the new constitution should first provide the necessary guarantees of political liberty. These he exemplified as the establishment of the rule of law (general rules that would apply to political and fiscal management), equality before the law and the respect and legal recognition of individual rights.³¹⁸ But what is more, the constitution should create the conditions which would 'invigorate public opinion' and make people 'exercise their rights unrestrained and disorderly'. In order to do so, according to Soutsos, discussions of issues of public interest should not be confined to the two chambers which he saw as representative of the nation.³¹⁹ The political system should see the 'establishment [of such discussions] in markets and squares', which Soutsos saw as ways to enhance active political participation.³²⁰ This latter, in other words, was more than just voting. In addition, each of the two chambers should not have only a complementary role to that of royal power but

³¹⁷ Ioannis Soutsos (1843), [Draft for a Political Constitution for Greece], Athens: Mantsarakis.

³¹⁸ *Ibid*, p. 7.

³¹⁹ *Ibid*, pp. 35-45.

³²⁰ *Ibid*, pp. 12-13.

should keep in check the executive and legislative power as this was exercised by the other chamber and by the king. Directly challenging the policies of the royal authorities, Soutsos put a special emphasis on the inadequate assignment of property rights to the cultivators of the countryside as the most important impediment to economic development.³²¹ As in most of Soutsos's writings, the virtues of industriousness, frugality and prudence had a central role to play in the effectiveness of his constitutional proposals.

The extent to which his ideas played a role in the discussions on the constitution during the proceedings is open to debate. Still, the fact is that this was the only text of its kind circulating at the time. In any case, several of his proposals did find their way into the final draft that was voted on by the Assembly (bicameralism, control of the budget by the Parliament, publicity of the legal procedures). However, in one respect his republican constitutional claims were implemented in full. This was the electoral law. It stated that voting rights were accorded to all those 'with property in the land [of the state] or practising therein any profession or independent labour' (or *industrie* in other words).³²² By using a language based on *industrie*, the law opened political participation to all 'industrious' men – the only ones excluded being those on 'dependency'. In essence, as many historians have argued, the practical application of this articulation of voting rights established universal male suffrage.

What these historians have acknowledged however, is that in the political context of Greece, where the revolutionary legacy and constitutional claims remained strong, it was the combination of the idiom of 'industrial' political economy with idioms of political participation that transformed 'industrial' virtues into attributes of voting rights.³²³ This combination of idioms remained strong in Soutsos's public contributions. In one of his lectures at the University in 1847, he reminded his audience that the satisfaction of the people's 'passion for the good life' and their 'need for a comfortable and restful living' depended on the inculcation of 'industrial' virtues by a prudent and patriotic government. But, at the same time,

³²¹ *Ibid*, p. 10 and p. 57.

³²² The law read that eligible to vote were all those Greek male citizens who were 'born in the Greek kingdom and have property in the territory or exercise herein any kind profession or independent labour'. See EK, 14 March 1844.

³²³ This is one of the least studied issues of political reforms in Greek historiography. See Alivizatos, [The Constitution], pp. 92-95.

wondering about the reasons of the splendour and the civilisation of ancient Greece, he emphasised that this was the result of the citizens' 'preoccupation with public affairs'. It was because of 'the podium, the market, the battleground as sites of (civic) courage, political exercise, and intellectual competition that freedom was established among the Greeks'. It was not material supremacy 'but virtue and intellectual competence that had caused the Greek victory over Asian despotism'.³²⁴

Soutsos, the state and economics as the social and political science of 'civil society'

Soutsos's *Treatise on the Production and Distribution of Wealth* (*Treatise* hereafter), his first systematic text on economic science, was published in 1851. This was also the first text of its kind to be published by a Greek academic. It initiated a publishing career that culminated in what is considered to be his magnum opus, the two-volume *Ploutology*, published in 1868-69. Although this is the work most usually associated with Soutsos, the first volume was in fact a revised and extended version of the *Treatise*. In the intervening years between 1851 and 1868, Soutsos published a small number of articles and two books. Most of these concerned economic reforms and policy recommendations. Although they were more practically oriented than his *Treatise*, they were all largely informed by his first theoretical work. In essence, the *Treatise* is a key text for understanding Soutsos's thought but also for assessing what political economy stood for in those years. In general, the tone of political economy in Greece, at least in its scholarly version, was set by Soutsos, who remained widely respected and honoured until late in his life.

Three interrelated questions ran through Soutsos' work. The first was about its scope as a science – was it an enquiry into the causes of economic growth or was that too limited a concern? The second concerned the causes of prosperity and social welfare—was it due to the application of economic laws and the inculcation of virtues, or did the government have a role in bringing about prosperity? The third

³²⁴ Ioannis Soutsos (1847), [Lectures delivered on the occasion of the succession in the Rectorate of the University of Athens, by A. Venizelos and Ioannis Soutsos], pp. 24-26.

concerned the definition and scope of political economy as a science and its relevance for modern commercial societies. In attempting to answer these questions, Soutsos was indeed influenced by Say, as Greek historians have shown. Both the first book of his *Treatise* and, later, the first volume of *Ploutology* were structured along the basic principles of production, exchange and distribution, which Say had formulated initially in his *Treatise* of 1803. Soutsos also followed Say in the analysis on value stressing utility and in his emphasis on 'industrial' manners to be inculcated by an appropriate institutional environment as a key factor in the creation of wealth.³²⁵

By so doing, he broke with the view that economics was limited to statistical observations necessary to meet the needs of the monarchical state and its 'cameralist' policies. Soutsos argued that the way statistics had been developed ever since the major work of Gottfried Achenwall, the German professor of *Statistik*, in the mid-eighteenth century, obscured the subjective experience of the world and lost the possibility of describing reality in qualitative terms.³²⁶ In other words, it described the people as a whole - with regards to numbers and physical and mental characteristics - in increasingly mathematical language. But, 'in general, the moral concepts and the human sentiments, passions or beliefs, given that they cannot be subsumed to arithmetic measurement and thus to quantities eligible for comparisons and mathematical precisions, escape the jurisdiction of statistics'.³²⁷

That is not to say that he rejected the importance of statistics. On the contrary, he deemed it to be an important descriptive science, the 'sister' science of 'Ploutology' ('science of wealth', i.e. his characterisation of political economy).³²⁸ Influenced by Say, he argued that in order to be effective, statistics needs to be

³²⁵ Demetrios D. Ithakissios (1992), 'J.I. Soutsos: Greece's First Academic Economist', *Quaderni di storia dell'economia politica*, vol. 2, pp. 136-148 and Psalidopoulos and Stasinopoulos, 'A Liberal Economist', pp. 496-497.

³²⁶ Gottfried Achenwall, professor of law and politics in Göttingen, put the term, *Statistik*, into general circulation after 1750. He derived the name from the Italian, *statista*, 'statesman', and the *ragione di stato*, 'reason of state', referring to the knowledge of a state's strengths and weaknesses which a statesman was required to possess.

³²⁷ Soutsos, [Ploutology], vol. II, p. 689.

³²⁸ *Ibid.*, p. 694.

subordinated to political economy.³²⁹ But Soutsos went further. Quoting the Italian scholar, Gian Domenico Romagnosi, who was also very critical of ‘industrialist’ thought, Soutsos associated the effectiveness of statistics with the form of the polity: ‘(...) without an ideal and well constituted Polity, it is impossible for statistics to achieve its objectives since it lacks criteria and guiding principles’.³³⁰

This reference to Romagnosi is just a small example of the variety of continental sources which influenced Soutsos’s thought. In fact, Soutsos blended several intellectual traditions; prominent among these were the economic thought of Rossi and Sismondi and the French political economists of Soutsos’s generation of the *Journal des Economistes*. The reference is also evidence of his emphasis on the importance of government for economic affairs and, by extension, for political economy. This idea ran through Soutsos’s thought and constituted a significant departure both from Say’s thought and from those of Saint-Simonians and other ‘industrialists’ in the country who were collaborating with the monarchical authorities and focused exclusively on economic virtues at the expense of large-scale political reforms.³³¹

One of the chief inspirations behind this insistence on the enhanced role that the state should have in the economy and in the welfare of society was the persistent European commercial crises. Although Soutsos was rather optimistic about the possibilities of modern commercial societies, he saw overproduction as the cause of these crises, which, along with mercantilist policies and uneven global competition, resulted in deflation and rising unemployment.³³² Soutsos underlined the deteriorating living conditions and pauperism that characterised many Western European countries, especially those in the process of industrialization such as Great Britain and Belgium.³³³ These problems had acquired urgency in light of the revolutions of 1848. As he wrote in 1848 and again in 1851 and 1853, the need to understand and counteract those ‘socialists’ and other radicals who attacked the

³²⁹ Say first expounded his views in the first edition of his *Traité d’économie politique* in 1803 and repeated them in all later editions.

³³⁰ Soutsos, [Ploutology], p. 695.

³³¹ In that respect, he was very close to the criticisms against the Saint-Simonians made by Benjamin Constant, although there is no mention of the latter.

³³² Soutsos, [A Treatise on the production], pp. xxi-xxii.

³³³ For the case of Britain *ibid.*, pp. 471-479.

sacred ‘European’ principles of freedom, property and family in 1848 made the study and the development of political economy vital.³³⁴

He was thus attentive to the intellectual criticisms which were developed initially by Sismondi and radicals like Owen against Ricardian political economy and which had ultimately caused what Adolphe Blanqui called the ‘social turn of continental political economy’. In France, this was exemplified in the work of a new generation of French economists, who, during the July monarchy, gathered around the *Journal des Economistes*.³³⁵ The *Economistes* criticised the ‘English’ economic school for sacrificing all social consideration for the creation of wealth and paying only lip service to the well-being of the workers. By asserting that science was the model for any kind of genuine knowledge, they deemed political economy as the science which, by applying the methods of the natural sciences to society and the economy, could address the problems created by mechanization and industrialization.

The remedies proposed by the *Economistes* for the ‘social question’, which had turned political in 1848, rested on education, ‘industrial virtues’ and judiciously formulated legislation. Political economy would offer the scientific investigations to complement this legislation without any call for full-scale government intervention. Soutsos did agree with the *Economistes* that political economy was the social science par excellence—he referred to the method as ‘social physiology’—and stressed that there existed a deep connection between industrial development on the one hand and cultural and political progress on the other. Yet, Soutsos departed from the *Economistes* and from Say by criticising both the deductive approach of economic doctrine and the lack of interest in the political dimension of political economy.

³³⁴ Ioannis Soutsos, [Lecture of the Rector of the University of Athens], Athens; Soutsos, [A Treatise on the production], p. 10; Ioannis Soutsos (1853a), Inaugural Lecture on Political Economy, *Pandora*, p. 349. For the *Société* see Philip Steiner (2012), ‘Competition and knowledge: French political economy as a science of government’, in Raf Geenens and Helena Rosenblatt (eds), *French Liberalism*, pp. 192-207 (pp. 192-193 and pp. 198-199). Soutsos’ relation with the *Journal* was manifested in 1861 when he contributed an article presenting the economic developments in Greece after its independence: see Ioannis Soutsos (1861), ‘Faits économiques qui se sont produits en Grèce de 1833 en 1860’, *Journal des économistes*, vol. 29, n. 3, pp. 373–386.

³³⁵ Adolphe Blanqui (1842), *Histoire de l’Economie Politique*, Brussels: Société typographique belge, chapter 41. Blanqui included Villeneuve-Bergemont and Droz, the followers of Sismondi, Charles Dunoyer and Charles Comte in this ‘social school’. See also Stedman Jones, *An End to Poverty?*, pp. 163-170.

This was exemplified by his use of Sismondi and Pellegrino Rossi. Following the criticism raised by Sismondi against Ricardian economics in the *Nouveaux principes d'économie politique*, Soutsos argued that the 'Industrial' ('Βιομηχανική') political economy had focused too much on the perfection of the means of production at the expense of the producers.³³⁶ For Soutsos, political economy split into two schools: i) the 'Industrial' or 'Pecuniary' ('Χρηματιστική') or the 'Science of wealth' ('Πλουτολογική') that analysed the mode of production or, in other words, the mechanisms of private economy (division of labour, wages, savings, accumulation, modes of exchange, monetary issues and credit); and ii) the 'Science of revenues' or the 'Administration of wealth' ('Προσοδονομία' or 'Πλουτονομική') for which the mode of production was secondary.³³⁷ This second approach focused on the issue of the distribution of wealth by posing three questions: what is to be distributed, who has the right to the distribution, and by what means is wealth to be distributed?³³⁸ In order to understand a modern economy, the two approaches should be combined. But the second was more important. This was because it held a place commensurate with the 'theory of blood' in physiology.

Soutsos' approach was a reaction against the entronement in political economy of exclusively economic criteria. This distinction was not only a difference in method; it also signified a different political and social vision. The 'industrial' approach focused on self-interest at the expense of social interests. It also took the mode of production in Britain as an example, at the expense of different local circumstances and historical developments. But, as Soutsos argued, 'the application of the principles (of political economy) is not always possible . . . [and] in practice, the application of these absolute theories is suspended or altered by the elements of

³³⁶ Soutsos, [A Treatise on the production], pp. xxiii-xxiv, p. 5. Although his *Nouveaux principes d'économie politique*, was not translated into Greek, Sismondi's intellectual presence in Greece was very strong through the translation of his *Etudes sur les constitutions des peuples libres* in 1846. The influence of his economic texts was also widespread, at least in the works of Soutsos. See Simonde de Sismondi (1846), [Studies on the constitutions of free people translated from Chr. Christopoulos], Part, Athens.

³³⁷ 'Ploutonomiki' i.e. 'the administration of wealth', was the term he used in his text of 1851: see Soutsos, [A Treatise on the Production], pp. xxiii. The term 'Poutologiki', i.e. 'science of wealth' was used for the first time in his text of 1853 to designate the subject of his lectures for the upcoming year: see Soutsos, [Inaugural Lecture on 'Social Economy'], pp. 346-349. Sismondi also used the word 'Chrematistique' to designate the political economy of Ricardo, McCulloch and Say. On Sismondi's case, see Romani, 'The Republican Foundations', pp. 17-33.

³³⁸ For a clearer formulation, see Ioannis Soutsos, [Inaugural Lecture on 'Social Economy'], p. 348.

nationality, time, distance, etc.’. For example, the British economists argued that large ownership combined with mechanization and the expansion of manufacture boosted production. But, while this was the case in Britain, it was not necessarily true for other places including France and Greece. In general, Britain was not the model to follow. If there was a model, it was North America, where more equal social conditions and welfare went hand in hand with large prospects of economic growth.³³⁹

In any case, the role of economic science was to explore the ways in which an equal distribution of wealth could be attained without jeopardizing private property and individual liberty. In this way, Soutsos also deemed political economy to be a political science which took a strong interest in the role of the state as a moral agent in enhancing equality, liberty and moral improvement. Deviating thus from his French influences, he considered that ‘political economy, especially today, is indeed a political science [that is] justly regarded as the most drastic remedy for the misgovernment and the misrule of public affairs’.³⁴⁰ Like Rossi had argued, economic relations could not function in the absence of a sound institutional set-up, and only a government committed to guaranteeing the smooth functioning of economic transactions could establish and supervise the economy.³⁴¹ Government intervention was thus deemed necessary in order to establish an economic environment compatible with liberty.

In other words, for Soutsos, the inculcation of manners should be combined with institutional change, the aims of which were the ‘reconciliation of social interests with economic or financial interests, the preponderance of social interests upon individual aims and benefits of specific social groups, the realization of the doctrine of liberty and equality and the expansion of the principle of solidarity and cooperation’.³⁴² The call, in short, was not only for interference on the part of the government but for large-scale reforms applied by the state as a political and moral agent. Reforms should not be limited to education but should address all social and economic issues such as the difficulties posed by under-employment, casual and

³³⁹ Soutsos, [A Treatise on the production], pp. 466-480.

³⁴⁰ *Ibid.*, p. 3 and p. 349.

³⁴¹ Rossi, *Cours d’économie politique*, (1840), pp. 190–206.

³⁴² Soutsos, [A Treatise on the production], p. xxii.

seasonal labour, underinvestment, improper taxing, the lack of credit to the farmers and especially the lack of ownership rights. Accordingly, political economy had a moral and political role which was not limited to the dry material empiricism of statistical observations.

The main reason why Soutsos deviated from the *Economistes* and turned to Sismondi was that he wrote his *Treatise* with an eye to the dire economic and political developments in Greece. The modernization of the Greek political system, which most liberals expected after the introduction of constitutionalism in 1844, had become a dead letter. The distribution of the national lands to the peasants and the prudent administration of public finances—both basic prerequisites for economic growth according to most liberals—had failed almost completely. What is more, free trade was being undermined by royal authorities, who introduced a bill for the increase of duties on grain, a decision that caused a heated debate.³⁴³ The decisions had implications that went beyond the economic performance of the country since they jeopardized the place of Greece in the Mediterranean and endangered the country's claims to a 'European identity'.

This was becoming all the more important - as Soutsos acknowledged in his inaugural lectures during the 1850s - because of the rise of the Eastern Question and the increasing interest of Western European powers in the Orient. In this context, orthodox political economy seemed to be an obstacle to affecting the kinds of economic changes which were necessary in Greece, especially in landholding. The role of economic science should thus extend from an analysis of the means of production and labour to exploring the 'best Governmental form that would enhance common interests and protect the rule of law, private property, and individual rights from external and internal threats'.³⁴⁴ His *Treatise* was supposed to be accompanied by a volume addressing the subject of 'Governmental economics' which would deal with political institutions.³⁴⁵ Although this volume was finally published in his *Ploutology* of 1868-69, from 1851 onwards, Soutsos became very vocal in his calls for reforms and for state intervention. In 1853, his lectures at the University

³⁴³ Hionidis, 'Greek Responses to Cobden', pp. 163ff.

³⁴⁴ Soutsos, [A Treatise on the production], p. 6.

³⁴⁵ *Ibid.*, p. 469.

concentrated on the administration of public finances and on institutional changes in education that would foster the citizens' 'industrial manners'.³⁴⁶ At the same time, from 1849 onwards, Soutsos was a member of the Legislative Committee that, as we saw in the previous chapter, played a significant role in passing legal reforms that consolidated private property and the rule of law.

Greek historians have argued that Soutsos was a liberal economist who advocated reforms that would free the economy from government supervision and crowding-out effects. But what they have failed to highlight is that Soutsos turned against a specific version of the state, the *Polizeistaat*, and its mutation, the *Rechtsstaat*, and that in his economic thought lay not a rejection of the state as such but a different conception of the state. This sort of thinking was very close to what Michel Foucault has called the 'liberal' modification of the technology of the state that was introduced by economists in the late eighteenth century.

According to Foucault this was a way of thinking about government which started from a different perspective than the previous one. It was, as he argued, 'a governmental reason which did not start from the existence of the state, trying to find the means for enhancing its strength and the happiness of its population as a collection of its subjects. Instead, it started from a problematic of 'society', of 'civil society', as something that could not be thought of as simply the product and result of the state'.³⁴⁷ Soutsos echoed this different perspective when he argued that '(...) the role of social economics is not to teach how man isolated from the world, like Adam in paradise, produced utility, or how one class of people prospers and develops its productive forces, but the ways in which (...) *political (civil) society* by acting out its productive energy, develops the plurality of its social interests advancing liberty, equality, cooperation and fraternity'.³⁴⁸

At the same time, Soutsos criticised those thinkers, among them John Stuart Mill, Edouard Laboulaye and French economists of the beginning of the century,

³⁴⁶ Soutsos, ['Inaugural lecture on "Social Economy"'], and Ioannis Soutsos (1853b), [On Public Education, related to the productive forces of nations], *Pandora*, 1 November 1853, vol. IV, n. 87, pp. 375-383.

³⁴⁷ Foucault (2008), *The Birth of Biopolitics*, p. 317 and pp. 347-351.

³⁴⁸ My emphasis: Soutsos, [A Treatise on the production], p. 5.

who, in his opinion, had seen civil society as an opposite force to the state. As Soutsos argued,

‘Many political economists, emphasized the accomplishments of individual liberty, leaving the polity inconspicuous. In that way, government and administration were presented as forces hostile to society. (...) but their opinion was excessive. Many today point to the opposite direction. By so doing they are not totally wrong. Indeed, as I wish to try to prove by assessing *Political Ploutology, the jurisdiction of the Polity is not limited to its police function, to the prevention and prosecution of culpable actions, to the protection of everyone’s rights and to the establishment of public security, but, by removing obstacles against freedom of action, it extends to anything that can contribute to the moral and material betterment.*’³⁴⁹

The state, in other words, was correlative to civil society, not antithetical to it, and should have a role in its prosperity.

In light of the Crimean War and the failure of the Greek state to play a political role in the Eastern Mediterranean, Soutsos’s tone acquired a more direct political relevance. From the pages of the *Spectateur d’Orient*, he criticised government policies on the land issue and proposed novel ones.³⁵⁰ He also published several articles on the economic state of the Ottoman Empire using extensive statistical observations. This was again a call for government action in light of the rise of the Eastern question and the intervention of the Western powers in the Eastern Mediterranean. Soutsos believed that Greece had a significant role to play in this changing geopolitical environment. Even more characteristically, in 1858, on the occasion of the celebration at the University of the King’s birthday, Soutsos again highlighted the importance of reforms and civic virtue in fostering industriousness and social welfare. Talking about the Athenian Republic, he did not concentrate on the philosophical thought or the cultural achievements of the Athenians, but instead, he focused on the way that the rule of law, equality and liberty were

³⁴⁹ Soutsos, [Ploutology], pp. 172-173.

³⁵⁰ Ioannis Soutsos (1855), 'Notice sur les Finances de la Grèce de 1833 à 1843', *Spectateur d'orient*, 10 Fevrier 1855, livre 37, Athens, pp. 371-383; idem (1855), 'Etudes Economiques sur l'Orient', *Spectateur d'Orient*, 38, 25 Mars, pp. 54-71 (first part); second part, *Spectateur d'Orient*, livre 39 et 40, 10 Avril, pp. 91-112; idem (1855c), 'Sur la question et sur la population de la Turquie', *Spectateur d'Orient*, 42 and 43, 25 Mai, pp. 165-187 (first part); second part in *Spectateur d'Orient*, 44, Juillet 1855 and 45, 25 Juin, pp. 257-273.

consolidated after the great reforms of Solon.³⁵¹ For Soutsos, Solon's wide-scale administrative and legal reforms did not only foster industriousness and productivity but also had a wider political aim, namely the consolidation of democracy and the diffusion of the liberal spirit throughout the bulk of the Athenian population.³⁵² The relevance of these observations for the politics of his time was difficult to miss.

Soutsos continued to see the state as the driver of economic reforms. This he did, not just through his public contributions but also through his administrative efforts in the Bureau of Public Economy. In the late 1850s, the economic situation of Greece and especially its public finances had deteriorated. Governments after 1855 had failed to balance the budget. Growing expenditures were met with government loans from the banking sector. The state was not only unable to meet its obligations towards its international creditors, but it had failed to present a clear picture of its public finances and to fulfil the pressing demands made by Western European powers, which were also, by and large, the international creditors. This situation made necessary the reconstitution of the Bureau of Public Economy.³⁵³ In 1860, Soutsos became head of the Bureau and stayed until 1862. This was in effect the Bureau's most productive period since its instigation, as evidenced by the production and publication of two major statistical surveys: the first statistics of agricultural production and a population census.³⁵⁴ What distinguished these statistical surveys was the 'scientific' method used for the collection and elaboration of the material.³⁵⁵ Additionally, later on, in the early 1880s, Soutsos had the opportunity, as a member of the committee for the taxation of agriculture, to implement his ideas on taxation, which resulted in the passing of long-awaited reforms.

³⁵¹ Ioannis Soutsos (1858), [On the Athenian Republic: Lecture at the University of Athens on 20 May 1858, anniversary of King's birthday], Athens.

³⁵² '(...) Solon by attempting to turn the citizens towards crafts had also a political intention which was related to preparing the way for the peaceful triumph of the democratic regime': *ibid*, p. 8, and on p. 13: 'what is remarkable is that the liberal (φιλελεύθερο) spirit of this legislation prevailed in all aspects of the life of the Athenians and unchanged was preserved from the times of Solon to the times when crafts and political art reached their heyday (...)'.
³⁵³ Leonidas Kallivretakis (1990), [The Dynamism of Agricultural Modernisation in nineteenth-century Greece], Athens.

³⁵⁴ Chouliarakis, [Statistical Observations], Athens, p. 18. For Soutsos' role, see pp. 23-25. The two surveys were: G. Mpafounis (ed.) (1862, [1991]), [Statistics of Greece. Population in 1861], Athens and S. Spiliotakis (1864), [Agricultural Statistics], Athens.

³⁵⁵ Petmezas, [The Greek Rural Economy], pp. 16-19.

His tenure at the Bureau resulted in two books which were published during 1863-64 amidst great political upheaval. The King had been expelled, a new one had been selected and a national assembly had been convened and had debated democratic changes. For Soutsos, the time was right for the necessary policy reforms as expounded by him in his work, *Essay on Economic Reforms*.³⁵⁶ Addressing the political transformation of 1862, Soutsos argued that it had been prepared by the spread of education, the disrespect of the rule of law by the royal authorities and the violation of individual rights. The aim of the revolution should be double: it should be conservative in politics in the sense of reconstituting the principles that had been violated, but it should also be radical in economics. That was an understatement which probably included a note of caution. His proposals included, among others, radically reforming the tax system (universal proportional taxation), distributing the national lands, investing heavily in infrastructure and rationally reorganizing public finances with the intention of meeting the international debt obligations of the state. All these reform proposals that presupposed an enhanced role for the state were addressed at the national assembly and used two idioms: an economic idiom that centred on private property and unhindered economic activity and a political idiom that was based on a language of justice, fairness and the common good.³⁵⁷

Conclusion

This chapter sought to demonstrate that the history of Greek economic thought was a much more complicated phenomenon than modern Greek historiography has acknowledged. It did so by locating Greek economic thinking in two contexts. In the first place, it situated it at the heart of European-wide debates on the scope of political economy and the extent to which economic virtues and commercial societies could be reconciled with civic virtues and moral improvement. By so doing, it has demonstrated that the characterisation of Greek economic thought as

³⁵⁶ Ioannis Soutsos (1863), [An Essay on Economic Reforms], Athens: Passaris & Kanariotis. His second was more theoretical: Ioannis Soutsos (1864), [Manual of Public Finance: The Theory of Budget], Athens: Passaris & Kanariotis.

³⁵⁷ Soutsos, [An Essay on Economic Reforms], pp. i-xiii.

inadequate or backward seems rather misleading. On the contrary, the latter was conversant with a wide array of liberal theories which centred on economic virtues, free trade, individual rights and private property. Nevertheless, it was equally attentive to the important role that civic virtues and republican notions of freedom had to play in the economic and political sphere. In the early decades after independence, economic thinking was primarily influenced by the diffusion of a body of ideas that was based on the notion of *industrie* and emphasized manners and economic virtues. This vision was endorsed by royal authorities and informed several administrative policies and attempts at reforms.

Gradually, however, owing to economic and political stagnation, concerns were raised about this economic reasoning and the view of economics as a specialized, technical and therefore strictly delimited discipline. Ioannis Soutsos, the first and only holder for several decades of the Chair of Political Economy at the University of Athens, left an important legacy which went against this view of political economy. Influenced by continental political economists, Soutsos criticised the increasing specialization of political economy and its dissociation from politics and other social and moral sciences. His contributions also signified a partial—and, after 1850, increasingly radical—departure from the emphasis on private manners and economic virtues.

To be sure, for Soutsos, economic qualities like industriousness and frugality were crucial attributes for economic and cultural progress, but it was their combination with civic virtues, common values and public institutions that he considered most effective in fostering both wealth and social well-being. Underlying this formulation was the fact that production and economic growth is not an end in itself but a tool for social prosperity. State intervention was legitimate and necessary, not just in order to ease economic deficiencies but also in the cases where economic forces threatened social and political values, such as liberty, equality and justice, which were above economic development. So in essence Soutsos combined two idioms. On the one hand, he used the tools of the Smithian school to describe the way that wealth was created and to analyse the benefits of mechanization, free trade and the causes of overproduction. On the other hand, he used Sismondi's version of republican political economy as a criticism of economic virtues and as an

attempt to reconcile wealth and morality and the formation of an equal society. The result was a liberal formulation which was quite sensitive to local circumstances.

The reason for this, as the chapter has suggested, was that political economy was profoundly involved in attempts to articulate the underlying dilemmas, political and moral, which Greece faced during this period. At the heart of these dilemmas was what was considered to be the slow pace of modernization. For Western-educated scholars, this signified a wider cultural anxiety because it questioned the membership of Greece in the family of 'civilised European nations'. In other words, the primarily political nature of economic thinking and its consideration of local circumstances could be explained by the fact that economic reforms in Greece were always seen as an essential element of a larger political and cultural programme.

There was nothing peculiar in all these since they were recurring themes and were debated among continental political economists. In general the solutions proposed by Soutsos were similar to those put forward by economists, who perceived themselves as coming from peripheral European regions and who were engaged in catching up and reforming society – such as Italian and, to an extent, German scholars. If there was any peculiarity in the Greek case, it lay in the role of liberal political economy as a language of opposition to the 'police state' that informed the thought of the Bavarians. What is more, contrary to a wide perception of liberalism as a language of individual rights and of civil society—both opposing the state—, in the Greek context, liberalism did not reject the state as such but worked as a critical reflection of governmental practice. Ultimately, it came to form an alternative language of statehood that saw the state as complementary to civil society, and advocated governmental intervention in implementing legal, political and economic reforms. What is more, these debates about the economy which combined an economic idiom with an idiom of civic participation, large-scale reforms and state intervention left a lasting political and social impact. The establishment of quasi-universal male suffrage in 1844, the large-scale land distribution of 1871 and the reform of the tax system in 1881 were all reforms which were somehow related to political economy debates.

4. Public Law as the science of individual liberty and national sovereignty: Nikolaos Saripolos and the language of statehood in Greece, 1844-1875.

Introduction

As we saw in the last chapter, political economy was central in articulating a consistent agenda of political reforms. From the 1850s and especially during the 1860s, these claims for reforms underpinned a novel and different conception of the role of the government and the state. The language of political economy, however, was rather technical, based as it was on economics. It was the emergence of constitutional liberalism that from the mid-1840s onwards conceptually enhanced ideas about the political organisation of the new state, restating the problem of the basis of government and obligation within the political community. This chapter concentrates on the formulation of the key ideas of Greek constitutional liberalism from the late 1830s to the 1870s—the 'golden age' of nineteenth-century Greek constitutionalism. Not only did constitutional reflections flourish during this period, but, more importantly, these reflections coincided with radical political transformations, by which Greece was gradually transformed from an absolute monarchy to a monarchical regime under constitutional and eventually parliamentary rule.

By focusing on the scholarly publications and the debates that ensued in the course of the period, the aim of this chapter is to explore firstly the nature of Greek constitutional legal thought—its sources of inspiration and its conceptual innovations—and secondly its impact on the perception of what the constitution and the nation-state are and what they should do. The period had long-term and largely unexplored consequences for Greek political thought, namely the legalization of political discourse and the politicization of legal and especially constitutional discourse. The next chapter will go a step further by relating these conceptual innovations in the field of law to the political and institutional transformations that were initiated from the 1840s onwards.

Greek historiography has studied constitutional thought as a non-central part of the history of constitutionalism (understood both as a political claim and as actual practice). The literature is extensive since it is a meeting point for different disciplines such as law, legal/constitutional history, political history and the history of ideas. Most studies by lawyers and legal and political historians have focused mainly on the constitutional texts themselves—promulgated during and after the Greek Revolution—and on the major influences exerted upon them by other European constitutions of the time. At the risk of oversimplifying the issue, two approaches can be discerned. Firstly, constitutional texts and, by extension, constitutionalism were treated from a ‘national’ perspective as reflections of the shared values and aspirations of a pre-existing Greek nation. In this reading, Greek constitutional thought was seen as the natural outcome of the ‘renaissance’ of ‘regeneration’ of the Greek nation.³⁵⁸ Secondly, in more recent and refined studies, constitutionalism has been treated as the institutional process by which a modern nation-state was formed. In this version, Greek constitutional lawyers and historians saw Greek constitutional thought as derivative of Western-European liberal political thought.³⁵⁹

Both of these readings and especially the second version often refer to 1789 and unfold in a narrative that suggests the gradual emergence of claims of national identity within an overall liberal frame. So, the revolutionary constitutions were characterised as the liberal and democratic ‘foundational’ texts with which the Greek nation as a self-determining national community declared its ‘political existence and independence’ to the world.³⁶⁰ In the same way, the retraction of the years immediately after the Revolution was treated as a small diversion from the linear

³⁵⁸ There are numerous older works by lawyers; as an indicative example, see Dimitris Petrakakos (1935), [Parliamentary History of Greece 1453-1843], Athens. This kind of historical interpretation remains dominant in official discourses. See Konstantinos Svoloopoulos (2012), [‘Parliamentarism and the “Great Idea”’], in Evanthis Hatzivasiliou (ed.), [Political Orientations of Modern Hellenism], Idryma tis Voulis ton Ellinon: Athens, pp. 65-74.

³⁵⁹ See Nikolaos Kaltchas (1940), *Introduction to the Constitutional History of Modern Greece*, Columbia Universtiy Press: New York and especially Aristovoulos Mannesis (1959), *Deux Etats nés en 1830. Ressemblances et dissemblances constitutionnelles entre la Belgique et la Grèce*, Brussels. The most recent study belongs to the most prominent among historically minded constitutional lawyers: Alivizatos, [The Constitution].

³⁶⁰ *Ibid.*, pp. 60-65. See also Nikos Alivizatos (2003), ‘What, if any, is the contribution of modern Greece to today’s European identity?’, *The MGSA Bulletin*, vol. XXXV (16-18 October 2003), pp. 19-24.

path. The constitutional developments which followed in 1844 and especially in 1864 supposedly 'corrected' this diversion.

These approaches are problematic for two reasons. Firstly, they lack analytical force, as they are histories written backwards. By asking how we got to the present, they have treated constitutional developments as gradual steps in a path towards parliamentarism, the construction of a national state and the final triumph of democracy. Accordingly, the political ideas that complemented this process are inserted into broad, predetermined teleological categories such as 'enlightened patriotism', 'modernity' or 'the rise of democracy'. Quite characteristically, Nikos Alivizatos, the most prominent of Greek constitutional historians, argued in one of his early works that the 'general characteristic of modern Greek constitutional history is the claim of democratization'.³⁶¹ The second limitation is that they pay very little attention to the language and ideological frameworks used by the protagonists. Even when they do, they take it to be inspired by a monolithic nineteenth-century Western-European liberalism against which they always compare and contrast Greek political ideas and culture. Even those social historians who have been highly critical of the 'Whiggish' line of argument—by emphasising the ways in which constitutionalism was used as a tool by the local social elites of the Ottoman *ancien regime* in their struggle to take part in the exercise of political power—have fallen into the same trap. They have taken the adoption of liberal institutions and especially parliamentarism to be insignificant since, as Kostas Kostis put it in his significant revisionist account, there was 'a political consciousness far removed from the conception of the citizen of Western Europe and a practice that has nothing to do with the modern state'.³⁶²

³⁶¹ Nikos Alivizatos (1981), [Introduction to Constitutional History], Athens: Sakkoulas, p. 18. In his latest work, he characterised the years from 1974 up to the present—years of political stability—as the period that after the interlude of 1914-1974 continued and normalized the process of establishing a modern liberal political and social order: Alivizatos, [The Constitution], p. 26 and pp. 107-146.

³⁶² Although J. A. Petropoulos and Gunnar Hering have referred to the role of local politics, it was Kostas Kostis who recently interpreted more consistently—and, as he argued, realistically—the constitutional developments of 1844, 1864 and 1875 as the final triumph of the old political elites against the centralized tendencies of the royal authorities. See Kostis, [The spoiled children], p. 23 and pp. 344-356. Nikos Alivizatos, in his late work, precipitated some of the arguments made by Kostis but argued at the same time that constitutions and political institutions should be studied as factors in themselves and not according to an 'instrumental conception' that considers them 'as techniques

To be sure, both the conventional and the more recent revisionist accounts have enhanced our knowledge of nineteenth-century developments in Greece by giving due attention to the local political context. But as mentioned in the introduction of the thesis, they have failed to take into account the role that ideas about government—the core of constitutional thinking—played in the emergence of new conceptions of the state, of what it should do and how the political community is to be organized. This is an important omission. It is impossible to explain the significant political transformations that went under way in Greece during the nineteenth century if an analysis of local politics is not combined with an assessment of changes in the governing ideas.

This chapter takes a rather different point of departure. It treats the period under discussion as having a dynamic of its own and treats Greek constitutional thought as a body of ideas that restated the problems of organising, exercising and legitimizing political power. Changes within that body of ideas were interconnected with changes in the structure of politics. In order to make sense of these changes, they need to be situated not just within the Greek political and intellectual context but also within the intellectual context of post-restoration constitutional liberalism. The latter context in turn cannot but be interrelated with the international political context, into which it was formed. This international dimension of Greek constitutional thought—and indeed of Greek legal thought in general—has rarely been addressed, and this omission is all the more important given the particular and precarious political position of the Greek state in nineteenth-century European/international law and politics.

These limitations in contextualizing constitutional thought permeated many European historiographies. In the last two decades, however, intellectual historians have complicated the picture of nineteenth-century constitutional liberalism and enhanced our knowledge of what constitutional ideas did to political communities. What remains undisputed is that it was during and after the American and the French Revolutions that the foundations of subsequent European constitutional thought were set. It was especially in the heated discussions of the French

through which the ones in power impose their dominance': see Alivizatos, [The Constitution], pp. 27-28 and pp. 93-95.

Revolution that a dramatic transfer of power took place when the view that the King was the sole embodiment of sovereign will was rejected and followed by the claim that the only source of legitimate power was the nation or the people. From that point onwards, the terms of the discussion changed radically and concerned the institutional form through which that power would be expressed. Debates thus concentrated on three questions: the way in which sovereignty would be represented, whether and how it would be divided and the way in which individual rights would be best preserved.³⁶³

Although different answers were given to these questions during the course of the Revolution, there was a shared belief that the fundamental principles which would spring from the exercise of the constituent power of the nation should be articulated in a clear and coherent form – i.e. a constitution.³⁶⁴ In trying to interpret the revolutionary events, historians such as Francois Furet linked the instability and violence of the Revolution to the fact that revolutionaries located all ultimate authority in the sovereignty of the people or the nation.³⁶⁵ In other words, the Terror was seen as nothing but a consequence of that understanding of sovereignty. The reason, as they saw it, was that once the ultimate source of authority was located in the wholly abstract and untouchable entities of the ‘people’ or the ‘nation’, a seemingly never-ending struggle to be recognised as the legitimate representative of that entity was unleashed. What is more, as is the case with divine-right authority, this sort of sovereignty was understood as being absolute, thus making it possible to contest all exercises of authority as usurpations.

These two concepts—absolute sovereignty and usurpation—and the threat they posed to social peace and order remained dominant issues for generations after the Revolution. In fact, the threat became more central after the revolutions, when the rhetoric of revolution and constitutionalism spread around the globe. Although these were widespread concerns, it was indeed French liberals of the Restoration who produced the most complex meditations on constitutional subjects in their efforts to

³⁶³ Jeremy Jennings (2011), ‘Constitutional liberalism in France: From Benjamin Constant to Alexis de Tocqueville’, in Gareth Stedman Jones and Gregory Claeys (eds), *The Cambridge History of nineteenth-century Political Thought*, pp. 349-373 (pp. 349-354).

³⁶⁴ R.C. Caenegem, *An Historical Introduction to Western Constitutional Law*, pp. 174-193.

³⁶⁵ Furet, *Interpreting the French Revolution*.

understand the past, eliminate the threat of radical excesses reminiscent of the Terror and move France towards the establishment of a more enduring regime. In trying to oppose the arbitrary governments of democracy and of individual dictatorship identified with the French Revolution and Napoleon, their main concern was how to conceptualize sovereignty in more modest terms and translate it into a workable form of government that would secure freedom and political stability.

The conventional view among historians was that the liberals, in their attempt to eliminate the dangerous instability of popular sovereignty, introduced the notion of representative government. According to this interpretation, the liberal response represented a reaction against people's power and an effort to balance democratic principles with aristocratic or oligarchic ones. Although the question of whether there was a distinct French liberal paradigm is still open to debate, scholars have shown that the picture was much more complicated than previously thought and that during the Restoration different liberal strands were produced which were, at times, incompatible with each other.³⁶⁶ Scholars thus such as Annelien de Dijn and Lucien Jaume have examined the emergence of elitist or 'aristocratic' liberal currents. For de Dijn, this was associated with a re-reading of Montesquieu and was based on intermediary bodies, while for Jaume it was related to an anti-individualist 'liberalism of the notables', headed by the *Doctrinaires*.³⁶⁷ In addition, historians studying Italian political thought have shown that such 'aristocratic' liberal strands did exist and were in fact conversant with French thinkers, the *Doctrinaires* prominent among them.³⁶⁸

Other scholars, however such as Aurelian Craiutu and Pierre Rosanvallon, in their works on the *Doctrinaires*, have played down these sharp distinctions,

³⁶⁶ For a debate of whether there was a distinct French liberal paradigm or not, see Raf Geenens and Helena Rosenblatt (2012), 'French liberalism: an overlooked tradition?', in Raf Geenens and Helena Rosenblatt (eds), *French Liberalism*, pp. 1-14. See also in the same volume, the article by Larry Siedentop, 'Two liberal traditions', pp. 15-35, and the one by Lucien Jaume, 'The unity, diversity and paradoxes of French liberalism', pp. 36-56.

³⁶⁷ Annelien de Dijn (2008), *French Political Thought from Montesquieu to Tocqueville: Liberty in a Levelled Society?*, Cambridge: Cambridge University Press; Lucien Jaume (1997), *L'individu efface' ou le paradoxe du libéralisme français*, Paris: Fayard.

³⁶⁸ Roberto Romani, 'Reluctant Revolutionaries', pp. 45-73; Maurizio Isabella (2013), 'Aristocratic Liberalism and Risorgimento: Cesare Balbo and Piedmontese Political Thought after 1848', *History of European Ideas*, DOI:10.1080/01916599.2012.762621.

emphasising the political moderation of the latter.³⁶⁹ What all of these studies have shown is that the significance of the *Doctrinaires* should not be underestimated given the significant role they played in European politics for more than three decades. They shared a language of civilisation and progress which, according to Francois Guizot's *Histoire de la Civilisation en Europe*, was identified with the emergence of nation-states and the emancipation of the individual.³⁷⁰ The problem for the *Doctrinaires* was thus to find a system of government that would resolve the tension between the two. It was the science of 'constitutional government' which would elucidate the answer and on which the *Doctrinaires* placed a lot of emphasis.

At the same time, historians have shown that another important liberal strand was represented by the political thought of Benjamin Constant which, although rooted in individual rights and the revolutionary tradition, underwent significant transformations, coming at times to encompass opposing principles of legitimacy, i.e. democratic, traditional and liberal.³⁷¹ Yet, Constant articulated a liberal current which did not deny the revolutionary principle that legitimacy came, in one form or another, from the people. And, probably more importantly, his liberalism arose not so much from a fear of democracy but from a fear of leaders who could potentially usurp this sovereignty. This was also a central preoccupation of Guizot's political thought. As Benjamin Constant and Francois Guizot argued in *De l'esprit de conquête et de l'usurpation dans les rapports avec la civilisation européenne* (1814) and *Du Gouvernement de la France depuis la Restauration et du ministère actuel* (1820) respectively, usurpation occurred when someone assumed the mantle of an authority to which they did not have a legitimate claim.³⁷²

³⁶⁹ Aurelian Craiutu (2003), *Liberalism under Siege: The Political Thought of the French Doctrinaires*, Lanham: Lexington; Pierre Rosanvallon (1985), *Le moment Guizot*, Paris: Gallimard.

³⁷⁰ Francois Guizot (1846), *Histoire de la Civilisation en Europe: Depuis la Chute de l'Empire Romain jusqu'à la Révolution Française; suivie de Philosophie Politique: De la Souveraineté*, Paris: Pichon et Didier.

³⁷¹ Biancamaria Fontana (1991), *Benjamin Constant and the Post-Revolutionary Mind*, New Haven; and Rosenblatt, 'Re-evaluating Benjamin Constant's Liberalism', pp. 23-37; Kalyvas and Katznelson, *Liberal Beginnings*, pp. 146-175; Andre Jainchill (2012), 'The importance of republican liberty in French liberalism', in Rag Geenens and Helena Rosenblatt (eds), *French Liberalism*, pp. 73-89.

³⁷² Benjamin Constant (1814), 'The spirit of Conquest and Usurpation', in Benjamin Constant, (1988), *Political Writings* (ed. Biancamaria Fontana), Cambridge: Cambridge University Press, pp. 44-169; Francois Guizot (1820) *Du Gouvernement de la France depuis la Restauration et du ministère actuel*, Paris: Ladvocat.

In that sense, this current of French liberalism sought to find a way to bring the Revolution to a close without losing its accomplishments.³⁷³ In other words, they sought to turn sovereignty into a form of government that would not collapse into a cascade of usurpations. Their major enemy was not popular sovereignty, as such, but the assertion that this sovereignty was absolute. Constant resolved the apparent tension by simply arguing that sovereign power was not absolute, that it was not a 'power without limits'.³⁷⁴ Attempting to give institutional expression to this formulation, Constant and other French liberals turned to representative government and a complex institutional structure which was based on distinguishing between sovereignty and rule (see below).

The influence and political preoccupations of the French liberals extended beyond the boundaries of France or, more accurately, the liberal responses to the questions raised by them came in a variety of forms. This was logical since, in the context of Restoration Europe, these problems were not unique to France. Indeed, it was in the years during and especially following Napoleon's defeat that constitutions were introduced gradually, not just in Europe but in other parts of the world and especially in Latin America. Accordingly, this was the moment when constitutional liberal thought came to be formed.³⁷⁵ To be sure, people perceived the term 'constitution' in different and at times conflicting ways. It was not only seen as 'the fundamental regulation that determined the manner in which public authority should be regulated', as it was defined by Emmerich de Vattel, whose work, as we have seen, gained a new life in the 1820s. Older notions of the constitution as fundamental law survived as well. Although conventionally this latter was understood as a body of laws which derived from royal authority, in the debates that ensued from late eighteenth century onwards, it was also perceived as an 'ancient constitution' which put limits on that authority.³⁷⁶

³⁷³ Pierre Rosanvallon, *Le moment Guizot*, pp. 16-25.

³⁷⁴ In his *Principes de politique applicables à tous les gouvernements* first published in 1815: in Benjamin Constant (1980), *De la liberté chez les Modernes. Ecrits Politiques*, ed. Marcel Gauchet, Paris: Livres de Poche, pp. 269-278.

³⁷⁵ For Napoleon's legacy, see Riall and Laven, *The Napoleonic Legacy*.

³⁷⁶ Jeremy Jennings (2011a), *Revolution and the Republic: A History of Political Thought in France since the 18th century*, Oxford: Oxford University Press, p. 67. For the view of the constitution as 'fundamental law' and the debates around it in the case of Portugal, see Paquette, *Imperial Portugal*, pp. 117-134.

In any case, historians working on post-Napoleonic Mediterranean Europe have shown that in the liberal debates about the ways to form constitutions and legislation that would combine progress and reform without disrupting social peace and jeopardizing individual freedom the influence of the French intellectual tradition with all its novelties held centre-stage. Even the perception of British constitutionalism was in many cases informed by the diffusion of French political literature. What is more, these intellectual relations were reciprocated. Italian, Genevan/Swiss, Spanish, and even British intellectuals were not just influenced by, but were active participants in a dialogue with French political thought.³⁷⁷ What is more, historians have shown that these were indeed global discussions that evidence the emergence of a liberal international public sphere from the 1820s onwards which cut across many political, intellectual and social phenomena unfolding in the transatlantic world, the Mediterranean and South-East Asia.³⁷⁸ As Christopher Bayly has argued, this liberal sphere—and liberals at this time at least were a broad church—was unified not so much by coherent intellectual influence but by political affect.³⁷⁹

Greek constitutional thought has been excluded from this renewed interest in the European-wide debates about constitutions and wider political reforms that emerged after the 1820s. This chapter seeks to redress this imbalance by locating Greek constitutional thought in the context of post-Napoleonic European liberalism. It will focus mainly, but not exclusively, on Nikolaos Saripolos, the first holder of the Chairs of Constitutional Law and the Law of Nations at the University of Athens and

³⁷⁷ Irene Castells (2004), 'Le libéralisme insurrectionnel espagnol (1814–1830)', *Annales historiques de la Révolution Française*, vol. 76, pp. 221–223; Isabella, *Risorgimento*; idem, 'Aristocratic Liberalism and Risorgimento', and Romani, 'Reluctant Revolutionaries'.

³⁷⁸ Isabella, *Risorgimento*, pp. 21–31; Bayly, *Recovering Liberties* and Christopher Bayly (2007), 'Rammohan Roy and the advent of Constitutional liberalism in India, 1800–30', *Modern Intellectual History*, vol. 4, no. 1, pp. 25–41; Victor M. Uribe-Uran (2000), 'The Birth of a Public Sphere in Latin America during the Age of Revolution', *Comparative Studies in Society and History*, vol. 42, pp. 425–457; On Spanish and Spanish-American constitutionalism, see Roberto Brena (2006), *El primer liberalismo español y los procesos de emancipación de América, 1808–1824*, Mexico: El Colegio de México and Eduardo Posada and Ivan Jaksic (eds) (2011), *Liberalismo y Poder: Latinoamérica en el siglo XIX*, Mexico: Fondo de Cultura Económica.

³⁷⁹ Bayly, 'Rammohan Roy', p. 28.

one of the most prolific jurists of his generation.³⁸⁰ His contributions were not confined to an impressive scholarly output but extended to pamphlets, articles in journals, periodicals, lectures in learned societies, etc. He was also the first Greek jurist to become a member of international legal societies that emerged from the late 1860s onwards.³⁸¹ Greek historians have characterised Saripolos and the other figures of nineteenth-century constitutional thought as liberals without usually specifying what they mean.³⁸²

By looking more closely at the constitutional jurists' ideas, this chapter seeks to complicate this picture and identify the constituents of their claims and the principal intellectual influences by which they were formed. As it will demonstrate, it was Saripolos who, by and large, formed the debate and departed from previous conceptions of constitutionalism. Although rooted in natural-rights philosophy, Saripolos's constitutional thought held an eclectic conversation with several strands of moderate liberalism (Montesquieu, Constant, the *Doctrinaires* and also the *monarchiens*). At the same time, by locating sovereignty in the nation, he was attentive to the revolutionary tradition which he saw culminating in the Greek Revolution. In other words, Saripolos was a moderate liberal whose constitutional language accommodated individual rights and national sovereignty with monarchical power. What he mainly attempted to do was to renovate the ideological foundations of the constitutional monarchy and transform it into a political system that would express the common (national) interest and stand in between divine-right monarchy and popular sovereignty.

These ideas largely informed the claims for constitutional reforms that emerged in the 1850s. The lack of such reforms had not only led to political and economic stagnation but was jeopardizing the place of Greece in the geography of civilisation.

³⁸⁰ According to his autobiography the chair of constitutional law was created for himself. See Nikolaos Saripolos (1889), [Autobiographical Reminiscences of Nikolaos I. Saripolos, ed. by Ariadni Saripolou], Athens.

³⁸¹ In the Institut de Droit International, see for example the obituaries in the *Annuaire de l'Institut de Droit International* (1888), Bruxelles, IX-X années. He was also elected in the *Academie des Sciences Morales et Politiques* of the Institut de France and in the *Institut Royal des sciences, des lettres et des beaux-arts de Belgique*.

³⁸² Georgios Daskalakis (1952), [Constitutional History of Greece, 1821-1935], Athens, Alivizatos [The Constitution], p. 141-143; see also Paschalis Kitromilides et al. (eds), (2011), [Nikolaos Ioan. Saripolos], Athens: Idryma tis Voulis ton Ellinon.

Increasingly, the problem for Saripolos and others was not so much the failure of monarchical policies but the policies themselves and the very ideas behind them. This was because these latter limited the scope of government and went hand in hand with the curtailed sovereignty that the European powers had imposed on Greece. Saripolos's constitutional language thus included a novel perception of the state which put emphasis on its autonomy as a moral being and on its role as an instigator of reforms. This was also made evident at the end of the 1850s when constitutional lawyers turned to the law of nations and the language of the absolute sovereignty of the state in the international arena, turning against the policies of the Great Powers.

The study of Greek constitutional liberalism and its location within its European context is important for three interrelated reasons. Firstly, as Aurelian Craiutu has proposed, it helps capture the nature, complexity and richness of political moderation by seeing it at work within a concrete historical example.³⁸³ The case of Greece offers a combination of a textual and a contextual analysis since the conceptual innovation held a reciprocal relationship with successive transformations in the structure of politics.³⁸⁴ What is more, given the general setback of constitutionalism as political practice after 1848, Greek thought constitutes a significant moment in European constitutional thinking in itself as it shows that the liberal position was not lost in the post-revolutionary crossfire. Secondly, the concept of sovereignty, which was as much about rights of individuals and liberty as it was about the powers and capacities of states, was used by Greek liberals to question the peculiar international 'protection' of Greece by the Great Powers. This raises, as we shall see, important questions about the role of international law in Greece and more generally in countries of the European periphery. Thirdly, it indicates that although the language of liberalism and constitutionalism usually has been related to

³⁸³ In European historiography of nineteenth-century political thought, the case of Greece is usually referred to in relation to the Greek Revolution and its role in the formation of philhellenism and its liberal connotations. The period that followed has hardly been explored. For the Philhellenes in relation to constitutional issues, see Frederick Rosen (1992), *Bentham, Byron and Greece: Constitutionalism Nationalism and Early Liberal Political Thought*, Oxford: Clarendon Press.

³⁸⁴ Aurelian Craiutu (2012), *A Virtue of Courageous Minds: Moderation in French Political Thought, 1748-1830*, Princeton: Princeton University Press, pp. 6-7.

individual rights and freedom, in this case it was equally if not more strongly related to statehood.

The distinctiveness of scholars such as Saripolos, lies in their conception of liberal constitutional thought as a theory of governance and the way they related it to novel ideas of what the state is and what it should do. This should be seen under the light of Christopher Bailey's proposition that 'before the modern state became a reality it was also an idea, which represented an aspiration for complete power and territorial sovereignty, whether in the name of "the people", or "the nation", or despite them'.³⁸⁵ The rest of the chapter will explore first the constitutional ideas during the era of absolutism. The role of the complicated constitutional legacy of the Revolution has to be briefly addressed because it exerted an influence (smaller than usually assumed) over subsequent developments. The period witnessed a combination of ideas of the state that complemented constitutional transformations, not least the political transformation of 1844. This will be followed by an analysis of the methodology, constitutional projects and international thought of Nikolaos Saripolos.

Early Greek constitutionalism between revolution and absolutism (ca 1830 – 1844)

As has been noted in an earlier chapter, 1844 represented the first turning point in the constitutional developments of the Greek Kingdom, as in that year the first constitution was promulgated and the era of absolutism formally came to an end. But, according to conventional Greek legal and political historiography, this moment did not signify the birth of Greek constitutionalism. Its origins lay in the first decades of the nineteenth century, in the numerous constitutional developments that took place in the Ionian Islands from 1797 onwards and much more importantly in the constitutional texts produced during the revolutionary decade of the 1820s.³⁸⁶ These

³⁸⁵ Bayly (2004), *The Making*, p. 247.

³⁸⁶ For the Ionian Islands, see Antonis Maniatis (2008), ['The diplomatically dependent transition from the *'ancien, venetian regime'* of administrative autonomy to national and democratic integration'], pp. 23-28, and Sarantis Orphanoudakis, ['Constitutional texts of the Ionian islands: A

were then followed (after the creation of the state) by the constitutional changes of 1844 and 1864. Before discussing historiography, it is important to mention briefly the major constitutional developments of the 1820s. Even if the relation is not as linear as usually claimed, the revolutionary constitutional experience had considerable implications in the subsequent conception of constitutionalism when it emerged as a major political discourse from the early 1840s onwards.

After the outbreak of the Greek Revolution in 1821 and in the midst of military events which lasted less than a decade, four successive national assemblies were convened. All four of them elaborated the principles according to which the political life of the country should be conducted. All produced constitutional texts in an atmosphere at times of triumph, intense political struggle, military agony and defeat, even civil war. To cut a long story short, as legal scholars have argued, the first three constitutions voted by the revolutionary assemblies (1822 in Epidavros, 1823 in Astros, 1827 in Troizina) articulated the aspirations of the revolutionaries to introduce into the political culture of the country the institutions and values of liberal constitutionalism.³⁸⁷ The last one, the one promulgated by the Third National Assembly in Troizina, was noted for its articulate ‘democratic’ spirit expressed in the proclamation of the principle of popular sovereignty (article 5) and its mention of individual rights and civil liberties.³⁸⁸ A common characteristic of these celebrated texts was that they were never put into force.

The fourth constitution, the one that was finally put into force—promulgated by the national Assembly convened in Epidavros in 1828—was in fact a retraction from the liberal principles of its predecessors. By granting wide-ranging and special executive powers to the Governor, this constitution simply approved and legitimized the powers that had been assumed in the meantime by the Governor, Ioannis

study’], pp. 29-60, both in Aliko Nikiforou (ed.), [Constitutional texts of Ionian Islands], Athens: Idryma tis Voulis ton Ellinon. For a survey of the historical background of the growth of representative institutions and parliamentary government, see Douglas Dakin (1972), *The Unification of Greece, 1770-1922*, London, Mannes, *Deux Etats*. See also George Finlay (edited by H.F. Tozer) (1864), *A History of Greece*, vol. VI, pp. 212-244 and vol. VII, pp. 49-51, 74-76, 177-183, and especially pp. 262-233, for the constitutional developments and the emergence of representative institutions in Greece.

³⁸⁷ See Alexander Svolos (1936), ‘L’influence des idées de la Révolution française sur les constitutions helléniques de la Guerre d’Indépendance’, extrait de la *Revue de la Révolution française*, no. 4, 4 trimestre, Paris, and Paschalis Kitromilides, [The French Revolution and South-eastern Europe].

³⁸⁸ For the constitutional texts Gerozisis et al., [Texts of Constitutional history, 1823-1923], vol. I, Ant. Sakkoulas: Athens, pp. 28-73.

Capodistrias.³⁸⁹ Thus, when Greece formally became an independent state in 1830 with the Treaty of London, signed by the Great Powers and the Porte, the government was already shaped on the model of the centralized absolute monarchies favoured by the conservative powers of Restoration Europe. A significant change occurred after the Governor's death when a new treaty was signed between the Great Powers and Bavaria with which Greece was to be a hereditary monarchy. The treaty was also a potential blow for liberal politics of the revolutionary period since there was no mention of or reference to the monarch granting representative institutions, consultative bodies or a constitution.³⁹⁰

By far the most common treatment of these constitutional developments by Greek historiography has been the one described in the introduction of this chapter, i.e. as successive gradual steps in a linear path towards the establishment of an independent state, democracy and national self-determination.³⁹¹ But the impact of the revolutionary constitutions was a much more complex and less straight-forward issue. The complexity of this relationship was evident in the mere decision of the Assembly which was convened in 1843 to call itself the First National Assembly, thereby bypassing effectively the revolutionary period. Indeed, for authors of the period, the revolutionary constitutional developments did not function in any way as legal sources or as guidelines for subsequent constitutional practice. In fact, many commentators saw them as products of a bygone age. As the first treatise on constitutional law to be published in Greece in 1847 remarked, 'they [the

³⁸⁹ Ibid., pp. 83-96.

³⁹⁰ On the period of absolutism, see J. A. Petropoulos, [Politics and Statecraft] and Panagiotis Pipinelis (1932), [The Monarchy in Greece, 1833-1843], Athens. For a marxist account, see Nikos Svoronos (1989), [An Overview of Modern Greek History], pp. 51-53. More recently, Antonis Makrydimitris (2001), 'La structuration du mécanisme gouvernant pendant la période de l'autocratie d'Otton 1833-1843', *Revue de Science administrative*, 7/2001, pp. 45-75.

³⁹¹ As an indicative example, see Pavlos Petridis (1981), [Modern Greek Political History, 1828-1843], Thessaloniki: Paratiritis, Dimitrios Petrakakos (1946), [Parliamentary History], vol. IIa. More recently, Antonis Manitakis in a revisionist account which sought to criticize the 'national' reading of the Ionian constitutions, argued that these latter were not constitutions because they did not organize the Ionian state as a modern and unified state, but only regulated the relations of dependency between the Islands and their external sovereigns and protectors. This is an extremely normative thesis and historically deepy problematic, since it ignores the various definitions of constitutionalism, especially in the early nineteenth century. See Manitakis, ['The diplomatically dependent transition'], pp. 23-29.

revolutionary constitutions] are sketches raised against the past, not monuments looking towards the future'.³⁹²

At the same time, however, the constitutional experience of the revolutionary period did leave a legacy, not least by putting constitutionalism 'in the air' of political life. This legacy consisted of three interrelated fundamental ideas. Firstly, a constitution had come to be perceived as a written document that clearly defined the scope and nature of the political obligation of each component of the community. This had even become a popular perception, as Governor Capodistrias came to realise after conversing with a peasant.³⁹³ Secondly, the constitutions of the 1820s, at least in theory, had been made by and for the nation or the people (during the Revolution the two were usually identified). Thus, for writers, both of the 1820s and of the 1840s, the constitutions were strongly associated with the language of nationalism and the national struggle against foreign (Ottoman) despotism and were consequently, to some extent, anti-absolutist. Thirdly, this anti-absolutism was increasingly related to the theory and practice of a mixed type of government headed by a King, i.e. a constitutional monarchy. According to the first treatise on constitutionalism to be written in Greek and published in Paris during 1828-29 by Ioannis Kokkonis, a constitutional polity 'mixes [elements] of democracy, aristocracy and monarchy securing thus the royal principle'. Its virtue was to compromise and balance different political outlooks within society by separating the powers. To quote Kokkonis again,

'Political kingship [or civil kingship, i.e. a constitutional regime] is the one where royal power is determined by law; where the king rules not only according to his own will, but also according to that of the citizens *whom the law defines as participants of the state. The citizens do not come only from the classes of the best or the nobles but also from the body of citizens (demos)*'.³⁹⁴

³⁹² Nikolaos Pappadoukas (1847), [Ippodamos, the principles of Constitutional Law, or comment on the Greek constitution], p. xxii.

³⁹³ Kaltchas, *Introduction to the Constitutional*, p. 40.

³⁹⁴ My emphasis. For the constitution as a balancing act, Kokkonis wrote: 'Because under the Constitution, the state is divided into several powers [...] each tempering and controlling the other [...] so that no system of rulers gains advantage, nor any power harms the other', see Ioannis Kokkonis (1828-29), [On Politics/Republics. On their constitution and preservation and on political (or civil) government], Paris, vol. I, pp. 356-357.

Constitutionalism was thus understood as an institutional process which purported to blend various social interests, to compromise and to prevent any political groups from imposing their will over others. But what has to be emphasised—because usually it is downplayed by Greek historians—is the almost undisputed association of constitutionalism with a higher authority, which increasingly meant a monarch. The reason for this was the way in which constitutionalism was politicized. The revolutionary constitutions were produced after fierce political struggles, which in some cases included armed confrontation. Because of this strong politicization and because the first three constitutions were never put into force, a strong executive in the form of a monarch was seen as a safeguard against political strifes and the threat posed by opposing political fractions.

In the long run, probably the most important outcome of all these revolutionary legacies was that the constitutional texts were seen as fundamental political laws of the state but not binding in all circumstances. They were thus, liable to change as part of an open-ended political process. In the post-revolutionary decades of the 1830s and 1840s, this understanding of constitutionalism as a stage-by-stage construction of a modern political order was complemented by a novel legal language: the theory of the *Rechtsstaat* (i.e. the law-based state). As already discussed, according to this theory, not only private individuals but also bearers of public authority, including the royalty, were subjected to legal norms. In its more constitutional variants, this signified a new style of centralized monarchy, which stood between the arbitrary/authoritarian state and the radical French republican model. And its heart was the separation of powers and a constitution or a Parliament.

It was jurists such as Ioannis Kokkonis, Nikolaos Pappadoukas and Pavlos Kalligas who perceived constitutionalism as the political theory of a monarchy, mixed and bound by the law. As the first noted, 'where order and laws do not bound power, a [constitutional] polity does not exist'.³⁹⁵ Since this process was understood to be gradual and progressive, most jurists welcomed and supported the initial phase of

³⁹⁵ Kokkonis, [On Politics], pp. 356-357.

the ‘enlightened’ Bavarian reforms, at the heart of which was the establishment of a unified and uniform legal and administrative structure, exemplified in the process of codification and the redrawing of the local administrative map of the country.³⁹⁶ The aims of these reforms with which the jurists sympathized was the consolidation of central power and the breaking up of local structures of power, or at least their minimization at the local level.³⁹⁷

After the first attempts at state-building, the liberal jurists expected further political reforms and the gradual development of Bavarian absolutism towards a more tempered *Rechtsstaat*-like constitutional order. This was not just related to their political visions but was considered a condition for membership of the ‘civilised community of nations’. Establishing this sort of legal process was perceived as the transition mechanism by which Greece would enter the modern world, civilisation and progress. They saw the establishment in 1835 of the *Council of State* as a consultative body for the legislative power exercised by the Regency and later by the King as such a step towards a ‘civilised’ life. Its establishment was also informed by the belief that, as already mentioned in a previous chapter, Greece was a newcomer in the family of civilised nations.

But this consensus between liberal constitutional jurists and the state authorities was not to last for long. Although it was during the 1850s that the split was articulated more thoroughly, the first cracks between liberal claims and the policies of royal authorities appeared in the late 1830s. As the chapter on the era of absolutism argued, from this period onwards the Romanist jurists criticised the ways in which the state proceeded in the construction of the legal order. But these reflected more general liberal concerns regarding the failure of central authorities to

³⁹⁶ Couderc, ‘Structuration du territoire’, pp. 163-184. For a reappraisal of ‘enlightened reforms’ in Southern Europe, see Paquette, *Enlightened Reroms*, pp. 2-20.

³⁹⁷ The need to submit local centres of power to the central state was a constant concern for many jurists. Periklis Argyropoulos, one of the experts of administrative law in the period argued that, ‘The government in its attempt to form better municipalities than the already existing ones [sought] to overturn all communal relations’, Argyropoulos, [Public Administration in Greece], vol. I, p. 179. Georgios Angelopoulos, later a professor of Administrative Law, was even clearer: ‘the unity of the nation was in danger by the old institutions (of the communes), which had developed a narrow conception of patriotism [...] There was then a need of unification in legislature, unity in administration, submission of local bodies to central government’: Angelopoulos, [On local Administration in Greece], pp. 18-19. See also Kostis, [The spoiled children], pp. 188-191 and pp. 198-203.

pursue further the process of reforms. The restructuring of education, justice, bureaucracy and tax collection had frozen; brigandage and local riots abounded and the formation of a standing army and police forces remained on paper alone.³⁹⁸ As already mentioned in the chapter on Romanist jurisprudence, increasingly for many jurists, this failure was not only due to the political inefficiency of the Bavarian bureaucracy to form and implement state policies. It was also due to the forms of governance which had been implemented from day one of Bavarian rule and had hardly changed long after the King had come of age in 1835.

Underpinning these forms was, as said in an earlier chapter, the *Polizeiwissenschaft*—the late-eighteenth-century administrative science of the domestic affairs of the *Polizeistaat* which lay behind the Bavarian ‘enlightened reforms’. For liberals, this understanding of government was inadequate and jeopardized the civilising process in Greece. That is not to say that they had radical claims. The criticisms and slogans against ‘*kamarila*’ (‘καμαρίλα’), which were increasingly articulated, were not in any sense anti-monarchical but turned against the Bavarian bureaucratic model which was influenced by *Kameralismus*.³⁹⁹ The change towards more modern governing practices in the form of a mixed government and the rule of law was seen as a way out of the deadlock of reforms. What the liberals mainly criticised was the lack of deliberation, respect for the law, and a sort of accountability.⁴⁰⁰

These concerns were made into a specific moderate political agenda in 1841 in what has been called the *Mavrokordatos incident*.⁴⁰¹ In light of fiscal problems and pressures from within Greece, but more importantly from the Great Powers—and especially from Francois Guizot, Prime Minister of France, and the recommendations he made to the Council of the Protective powers regarding the economic problem of

³⁹⁸ Kostis, [The spoiled children], pp. 204-212.

³⁹⁹ Petropulos, [Politics and Statecraft], pp. 561-570 for the opposition to the regime and especially to ‘*kamarila*’.

⁴⁰⁰ Even radicals such as Alexandros Soutsos—who was to be imprisoned later for his attacks against King Otto—called for reforms towards a temperate and constitutional parliamentary monarchy, conformable to law and accountable to the public. The opposite, as he saw it, would lead to anarchy. See Alexandros Soutsos, [The Transformation of September 3rd of 1844], pp. 46ff.

⁴⁰¹ P. Argyropoulos (1935), [Alexandros Mavrokordatos and the Constitutional attempt of 1841], *Ellinika*, vol. 8, pp. 247-267; Petropulos, [Politics and Statecraft], pp. 386 ff; Pavlos Petrides (1994), [Contemporary Greek Political History 1821-1862: From democratic regimes to the abolition of Ottonian monarchy], vol. I, Athens: Govostis, pp. 182-185; Kostis, [The spoiled children], pp. 192-194.

Greece—King Otto asked the old liberal statesman, Alexandros Mavrokordatos, whom he had already nominated Minister of Foreign Affairs, to preside over the Cabinet. Mavrokordatos replied with a blueprint for political reforms (called '*Political sketch*'), stating that its implementation was the precondition for his acceptance of office. This moderate proposal, which has gone down in Greek historiography as a plan to introduce a 'mixed monarchy' ('συγκερασμένη μοναρχία'), meant to represent a transitional plan for the establishment of a constitutional monarchy. It had two main reform agendas: a more open political deliberation (abolition of the Private Council, gradual replacement of Bavarian bureaucracy, extension of the role of the Council of State) and the establishment of a sort of accountability for the Cabinet ministers with the proviso that they would be more independent in their pursuit of state policies.

Mavrokordatos's proposal was rejected. In addition, royal authorities started opposing more strictly any discussion on constitutional reforms. In such an atmosphere, constitutionalism as an agenda of institutional reforms became increasingly an oppositional political language.⁴⁰² This process culminated on 3 September 1843 when the Guard of Athens brought to a head a wave of opposition against King Otto. The King finally agreed to the convocation of what was called the First National Assembly, the task of which was the drafting of a constitution. After some months, in 1844, the first constitution of the modern Greek state was put into force, transforming the kingdom from an absolute to a constitutional monarchy. This constitutional change has been traditionally interpreted as the first attempt after the revolution to constitute a liberal and democratic order.

Recently, however, social historians criticized this 'liberal' reading by paying attention to local politics. They argued that the adoption of constitutional claims were the means through which the local elites attempted to take part in the exercise of political power and thus preserve their old privileges. In light of its financial and infrastructural deficiencies, the monarchical regime saw this as a chance to eliminate the oppositional potential of the local political elites by integrating them into the

⁴⁰² Ivi Mavromoustakou (1994), ['The claim for a 'Constitution' and the press of absolutism'], vol. 20, *To Syntagma*, pp. 25-45.

central political structures.⁴⁰³ This line of argument has certainly enhanced our knowledge of the role of power politics in nineteenth-century constitutional change and has undermined the teleological accounts of older (legal and political) historiography. But it does not explain why the local elites chose this particular language and practice in the first place. This is all the more puzzling given that a national parliament differed from, and was not as easy to control as the local assemblies of the notables of the Ottoman period.⁴⁰⁴ It also implies that there was an ideal way towards genuine liberal parliamentarism, to which the Greek case did not conform. In essence it treats political claims as just instruments of other motives and constitutional and other public documents as bearing no evidence of why people acted as they did.

But the criticisms and political proposals before the convocation of the Assembly and the prominent role of moderate liberals in the drafting of the constitution tell a different story. In fact, older political historians have pointed to the crucial role of small group of very active western-educated liberals.⁴⁰⁵ As J.A. Petropulos has argued, the main cleavage in the Assembly was made along political lines: on the one hand the moderates who supported a strong monarchy under a constitution (a group which included also the anti-constitutionalists) and, on the other, the *left Septembrists* (named after their role in the revolt of September) who wanted a liberal constitution with extensive powers given to the people.⁴⁰⁶

In other words, although focusing on social groups and power politics is crucial, it is impossible to make sense of the political transformation if an analysis of power politics and the aspirations of the elites are not combined with an analysis of the emerging claims about deliberation, accountability, the rule of law and more generally of the changing perceptions of how politics should be conducted. As already mentioned, the most characteristic evidence of this interplay was the

⁴⁰³ Kostis, [The spoiled children], pp. 270-275.

⁴⁰⁴ Even those scholars who were critical of the role of ideologies explained the introduction of universal manhood suffrage on 'the egalitarian ideology of the War of Independence, from which the constitutional claims derived their legitimacy': Kostis, [The spoiled children], p. 279.

⁴⁰⁵ For example see Giorgos Anastasiadis (1997), [The First National Assembly in Athens], University Studio Press, pp. 30ff, who has argued that, this group, headed by Mavrogordatos, focused on consolidating a more tempered monarchy through liberal institutions. In other words, they were not anti-monarchists but wanted a strong monarchical power under the rule of law.

⁴⁰⁶ Petropulos, [Politics and Statecraft], pp. 597-599.

electoral law. The articulation of the law, which in practice established universal manhood suffrage, stemmed both from the politicization of the concept of *industrie* and a favourable political structure. But it was the constitution itself that probably best reflected this interplay. It guaranteed basic civil and political liberties, introduced for the first time trial by jury and a sort of ministerial accountability, while legislative power was divided between the King, the Chamber of Deputies (Βουλή) and the Senate.⁴⁰⁷ At the same time, it allowed the monarch wide-ranging executive powers since all sovereign power emanated from the King.

What is more, from a strictly legal point of view, it resembled the French *Charte* of 1814, being a 'constitution-contract' which the King granted unilaterally to his subjects; this was a point which the King did not fail to point out in his royal address.⁴⁰⁸ What all these indicate is that the revolt did not signify a crisis of legitimacy for the monarchy, nor was the constitution any sort of radical document; rather it was a political text granted by the King in order to appease opposition. Accordingly, it was supported by the local elites because it gave them access to central power. In that way, it did consolidate the power of the King by gradually eliminating the political factions that had been shaped in the years of 'enlightened absolutism'. But it also satisfied basic moderate liberal demands by adding political legitimacy to monarchical power and by introducing some basic tenets of civilised political life. The latter was very important for liberals because it was associated with the place of Greece in the family of civilised nations. In that sense, the constitution was also a contract from a political point of view as it moderated the monarchy while satisfying and helping to reach compromises between the different political groups which struggled for participation in power politics.

And yet, for all its moderation, the political transformation of the regime into a constitutional monarchy was to have considerable long-term effects. First of all, it

⁴⁰⁷ The text in Gerozisis et al., [Constitutional Texts], pp. 209-245. A French translation was published in *Revue de Droit français et étranger*, 1844, vol. I, pp. 859-878, Paris. See also Alexander J. Svolos (1937), 'L'assemblée de 1843 et l'institution du Sénat', *Revue d'histoire politique et constitutionnelle*, vol I, n. 4, pp. 738-755 (pp. 740ff). On the constitution from a legal perspective, see Georgios Aravantinos (1897), [Greek Constitutional Law], vol. II, Athens, pp. 378-423; Ioannis Kyriakopoulos (1932), [Constitutional law of Greece], v. I, Thessaloniki, vol. I, pp. 198-215.

⁴⁰⁸ Mannesis, *Deux Etats*, pp. 48-50; Ivi Mavromoustakou, ['The Greek state, 1833-1871'], pp. 37-45; Alivizatos [The Constitution], pp. 89-95. For the text of the royal address, see Gerozisis et al. (1993), [Constitutional Texts], p. 215.

changed the rules of the political game by introducing a new political framework and novel political practices such as voting.⁴⁰⁹ In addition, the establishment of two chambers changed the way in which political power was exercised. Even if both chambers were practically controlled by the King through the manipulation of the electoral process, the introduction of an elected lower house (members of the Senate were chosen by the King) opened up a new space for political activity and created new possibilities for public life. Gradually, deputies came together into organized caucuses representing different political tendencies, even if the lines of demarcation at the beginning were rather blurred.

This was evident even during the proceedings of the National Assembly when a new political cleavage appeared between natives/indigenous (or 'autochthones', i.e. Greeks born within what became the Greek state) and non-natives (or 'heterochthones', i.e. Greeks born outside the territories of what was then the Kingdom of Greece). In the long run, the creation and realignment of caucuses and their interaction shaped debate and influenced legislation and state policy. Of equal, if not greater, importance was the fact that this change in the structure of politics opened up new possibilities for discussing and thinking about governance and the state, representation and the body politic, political power and sovereignty. In the years to come, it was mainly constitutional scholars who addressed these issues more thoroughly and consistently.

Public law as the science of individual liberty in a constitutional nation-state

The years that followed the constitutional transformation of 1844 signified the 'golden age' of nineteenth-century Greek constitutionalism, both as political practice and as a way of thinking about politics. Characteristically, from the mid-1840s

⁴⁰⁹ Petropulos, [Politics and Statecraft], p. 598. Although Kostis had a somewhat different view on how the existence of an elected house affected politics—arguing that it was in fact a way with which Ottoman political practices were institutionalised—he did stress that the old party lines and cleavages collapsed after the 1843: see Kostis, [The spoiled children], pp. 270-275.

onwards, the literature on representative institutions and on constitutional law flourished. As Paschalis Kitromilides has argued, ‘opposition to Ottonian absolutism and the clamouring for political change since the 1840s had nurtured an ideological climate which was expressed in the symbolic vocabulary of political liberalism’.⁴¹⁰ It was not just general works on liberal political thought that were translated and published but also literature on constitutional and parliamentary practice.⁴¹¹ Even the translation of Tocqueville’s *Democracy in America* was accompanied by the New York Constitution, which was promulgated in 1821 at Albany with its additional amendments.⁴¹²

Much more importantly, this strong interest in constitutional thought was accompanied by the establishment of the Chairs of Constitutional and Law of Nations at the University of Athens in 1846. The first holder of the Chairs, Nikolaos Saripolos, came to dominate the fields for more than three decades. Through his scholarly writings, his public engagements and his role in the Judiciary and the Bar, he largely framed the perception of both these branches of law.⁴¹³ During the late 1850s and early 1860s, he was a key member of the political opposition to King Otto, contributing significantly to the revolution of 1862. He was elected to the Constituent Assembly and was instrumental in its long proceedings and the drafting of the new constitution in 1864. Up until 1875, when he retired from the University, Saripolos remained a central figure in the public life of the country and politically active.

⁴¹⁰ Paschalis Kitromilides (1988), ‘European political thought in the making of Greek liberalism: the Second National Assembly of 1862-1964 and the reception of John Stuart Mill’s ideas in Greece’, *Parliaments, Estates and Representation* 8, n° 1, vol. 8, no. 1, pp. 11-21, (p. 14).

⁴¹¹ The former included Sismonde de Sismondi, [Studies on the constitutions of free people], M.F. Landremont (1848), [Concise history of the recent French Revolution], Athens; Duvergier de Hauranne (1848), [Treatise on parliamentary and electoral reform, translated from the French by N. Hatsopoulos and Emmaouil Kokkinos], Adolphe Thiers, [On Property], Alexis de Tocqueville, (1849), [Democracy in America, by Alexis de Tocqueville, lawyer in the Court of Appeal in Paris, translated by K. Irakleidi], Athens: Gorpola; Thomas Jefferson (1848), [A Manual of Parliamentary Practice, translated in French from English by L. A. Piton and in Greek by Alexandros Th. Edipidis]. For the publishing conditions of this era, see Michail V. Sakellariou (1948), ‘L’Hellenisme et 1848’, in Fr. Fejto (ed.), *1848 dans le monde. Le Printemps des Peuples*, vol. II, Paris: Minuit, pp. 319-354.

⁴¹² This constitution expanded the suffrage by removing property qualifications, gave limited suffrage to African-Americans and abolished the Councils of Appointment and Revision.

⁴¹³ Alivizatos [The Constitution], pp. 141-143 and, more generally, Kitromilides et al. (eds) [Nikolaos Ioan. Saripolos].

Saripolos was an extremely prolific writer. His publications include a large number of scholarly treatises, articles, pamphlets and hundreds of journalistic articles, reviews, brief surveys, obituaries, etc.⁴¹⁴ My analysis will focus on his main theoretical works on public law and on other publications on political matters, including his interventions on issues of public policies. Sometimes these latter publications help make his political thought clearer.⁴¹⁵ Although his first publications appeared immediately after the beginning of his tenure at the University, it was the publication of his sophisticated treatises that established him as the preeminent public lawyer of his generation and set the standard for subsequent generations.⁴¹⁶ His first treatise was on constitutional law and was published in 1851. It remained constantly in print for several decades, with a new edition appearing in 1874-75.⁴¹⁷ His second major work, which is somewhat neglected by legal historiography, was his treatise on the law of nations, published in 1860. For Saripolos, these two fields belonged to the same branch of public law. This part of the chapter will focus on his method and the main themes of his thought before turning to a closer analysis of his theory of constitutional government and his international thought.

The case of Saripolos marked a significant conceptual transformation in constitutional thinking. He shared many of the convictions of the constitutional thought of his (few indeed) domestic predecessors, such as the importance of establishing a mixed type of monarchical government bound by the law and a progressive view of history and civilisation, which he saw culminating in his own constitutional era. But he also departed significantly from his predecessors, by pushing further existing constitutional ideas and articulating novel ones. In order to understand Saripolos's thought and the changes of emphasis it underwent during the course of those thirty years, the Greek political context is certainly important,

⁴¹⁴ For an extensive presentation based on Saripolos' own archive, *ibid.*, pp. 291-375. For his main scholarly books and articles *ibid.*, pp. 281-285. A part of his archive was published in Michalis Stasinopoulos (ed.) (1963), [Personal archive of Nikolaos Ioannis Saripolos], Athens: Panteios.

⁴¹⁵ Saripolos consciously used many archaic forms of Greek in his scholarly writing style. The reason was as he maintained, that in order to form the constitutional concepts and words in a scientific and precise way which would reflect the complexity of modern life, one could not but innovate linguistically: Saripolos (1851), [Treatise of Constitutional Law], vol. I, p. v.

⁴¹⁶ His first published works were his inaugural lectures: Nikolaos Saripolos (1846), [Inaugural lecture on Constitutional Law, delivered on the 14th of October 1846], Athens, Nikolaos Saripolos (1848), [Inaugural Lecture on the Law of Nations, delivered on the 22 January of 1848].

⁴¹⁷ Nikolaos Saripolos (1874-75), [Treatise on Constitutional law], vol. I-V, Athens.

but the origins of his thought lay in the intellectual context of his time, in the subtle and complex field of post-restoration European constitutional liberalism. Saripolos passed the longest part of his long student life in Paris and first came to Greece in 1846, the year he was elected to the University and gave his first lectures. He was thus very much informed by the rich and diverse exchanges of ideas on constitutionalism, representation and the science of government that characterised post-Napoleonic France.

Indeed, Saripolos held an eclectic conversation with a number of intertwined intellectual traditions, all somehow related to the French Revolution. The chief inspirations included natural law philosophy, Montesquieu's theory of *mixed and blended* government, the *Doctrinaires'* method and theory of progress, Benjamin Constant's neutral power and the way in which the Girondins and the group of political thinkers whom Aurelian Craiutu has called the radical moderates (*monarchiens*) tried to reconcile the rights of man with the rights of the nation and the prerogatives of the monarch.⁴¹⁸ The impact of the moderate ideas of the last two groups on Saripolos's views on bicameralism and the powers of the monarch has been mostly neglected. Through this eclectic conversation, Saripolos developed a particular version of moderate liberal thought, with a keen eye on the radical revolutionary tradition.

By so doing, he transformed the terms of constitutional discussions in Greece. He removed the study of law from a positivistic science of administration and turned it into a political and normative science of civilised states and free citizens. His conception thus combined an individualistic language of natural rights with a language of the collective rights of states. For Saripolos, a constitutional state was not only a legal and political order where both population and public authorities had to operate within the law (a claim that lay at the heart of the *Rechtsstaat* theory). It connoted a mixed government with a strong executive which could not but respect individual rights. A way to achieve this was not by separating the powers but by distinguishing them and blending their jurisdictions.

⁴¹⁸ Craiutu, *A Virtue of Courageous Minds*, pp. 69-112.

But, as we shall see, it was the principle of political representation and his theory of national sovereignty that underpinned these statist claims. This was the Greek participation in that historical moment when the ‘contagion of sovereignty’ swept the world.⁴¹⁹ And, as in other cases, this was a language of statehood that included both a commitment to a particular internal structure of authority and to the external independence or international autonomy of the state. This moment of sovereignty thus also signified the moment when Greek scholars realised that formal independence was not in itself a sufficient criterion for statehood. This became a central concern towards the late 1850s when interference in the domestic affairs of the Greek state and direct financial pressure by the Great Powers showed the precarious position of Greece in the international system and its status as a semi-protectorate. Some important initiatives in the field on international law thus ensued which emphasised the need to move from independence and self-determination as the ultimate criteria of statehood to those of sovereign autonomy and equality in the international arena.

Constitutional law, individual liberty and national sovereignty:

Nikolaos Saripolos and the domestic primacy of the state

For Saripolos, the nineteenth century was the product of a long progressive evolution of European society. Following the *Doctrinaires* and more particularly Francois Guizot’s *Histoire de la Civilisation en Europe*, he associated the progress of civilisation with the advance of individual freedom and the emergence of constitutional nation-states. Christianity, it has to be noted, was a defining feature of his notion of civilisation. In his discussion of constitutional developments, Saripolos referred to almost all countries of the Christian world, holding a special place owing to their constitutional development, to England, Scandinavia, the United States, France and Latin America.⁴²⁰ His numerous historical references were used to

⁴¹⁹ David Armitage (2013), *Foundations of Modern International Thought*, Cambridge: Cambridge University Press, p. 230.

⁴²⁰ Saripolos gave a brief—compared to his treatise—comparative perspective of these constitutional developments in his inaugural lecture: Saripolos, [Inaugural lecture on Constitutional law], pp. 13-30.

illustrate the distinctiveness of the modern era and the sense of living in a time of great change.⁴²¹

This transformation was inaugurated in the three centuries before the climactic moment of the great French Revolution, ‘the biggest and most beautiful outcome of human mind’.⁴²² The new order required a novel political system, both domestic and international. Public law—constitutional and international—was the political science that would elucidate the principles and practices of government for this new civilisational stage. As he stated in his first lecture, ‘the science of organizing polities, the science of law, [...] is necessary to a free nation. The study of other sciences makes scientists or technicians, but the study of law makes free citizens’ and ‘[...] political science by teaching the citizen that which is lawful, that which promotes his well-being on earth makes him better, makes him perfect’.⁴²³ Following the *Doctrinaires*, his approach amounted to an exposition of the fixed and general principles of the ideal, the good or the ‘best’ form of government. But this ‘political science’ consisted ‘in studying the nature of humanity, following its laws and needs, studying life, the language of societies, and combining the two extremes, the principle and the aim of society; this is law’.⁴²⁴ In other words, it aspired to be a middle ground between founding science on purely abstract principles and using history as the foundation for political science.⁴²⁵ Both of his scholarly works started with the general principles upon which public law and its subfields were based, followed in the second volume by more concrete historical examples, a sort of comparative exposition of different case-studies where the principles of ‘good’ government were applied.⁴²⁶

⁴²¹ His view of the stadial progress of civilisation was also along the lines proposed by Guizot. Criticising the ancients and especially the Greeks, he praised Christianity for establishing equality. Its failure, however, to reform the political system resulted in the bloody Dark Ages (Byzantium included). According to this view, government by divine right had invited constant disputes about who represents God and accusations of usurpation of divine authority. By contrast, the Reformation and late Enlightenment signified the dawn of the new constitutional era. *Ibid.*, pp. 2-6.

⁴²² Saripolos, [Inaugural lecture on the Law of Nations], pp. 22-23.

⁴²³ Nikolaos Saripolos, [Inaugural lecture on Constitutional law], p. 32 and pp. 1-2.

⁴²⁴ Saripolos, [Inaugural lecture on the Law of Nations], p. 6.

⁴²⁵ Saripolos [Treatise of Constitutional Law], p. 3 and pp. 153ff. His method had many affinities with Guizot’s: see Aurelian Craiutu (2004), *The Method of the French Doctrinaires, History of European Ideas*, vol. 30, pp. 39-59, pp. 42-46.

⁴²⁶ See also Drosos, [Essay on Constitutional Theory], pp. 21-71.

In addressing the principles upon which the ideal form of government was built, the influence of the *Doctrinaires* began to lessen. That was because Saripolos' thought was heavily influenced by naturalism and especially by Leibniz's theory of the divine origin of law and Condorcet's theory of legislation.⁴²⁷ This superior natural or divine law was eternal and inaccessible to human manipulation. Its moral and political norms, upon which human society was constituted, according to Saripolos, were virtue, justice, reason and the rights of man. Because of his natural capacities for reason and freedom of conscience, man was capable of making sense of these norms and applying them to legislation. From this perspective, Saripolos rejected theories which founded modern states on principles other than natural rights such as interest (Hobbes) and utility (Bentham).⁴²⁸ He was also critical of Montesquieu's theory according to which natural law was one among other categories of laws by which men should be governed.⁴²⁹ For Saripolos, man-made legislation could not but conform to the hierarchically superior, divine, eternal or natural law (all used interchangeably). At the same time, he criticised 'the paradoxical' Rousseau by claiming that man is a social animal and therefore his inalienable natural rights were only enjoyed within society.⁴³⁰

Saripolos had a complex perception of these rights. The highest was liberty, a multifaceted principle which was defined as preservation of the self ('η ευαυτού συντήρησις') and consisted also in the right to life and security. The second was property which had the sense of self-possession ('η διά της ιδίας κτήσεως διάσωσις').⁴³¹ The exercise of both made equality a necessary condition for human relationships. With the advance of progress and civilisation, political (or civil) society was constituted based on these principles, thus facilitating the well-being and the

⁴²⁷ Condorcet is not mentioned by name in this part, but Saripolos did quote Destutt de Tracy's work on Montesquieu's theory of legislation, in which Destutt de Tracy used Condorcet's arguments: see Saripolos, [Treatise of Constitutional Law], pp. 3-12; Nikolaos Saripolos, (1860), [On of the Law on Nations during Peace and War], pp. 479-480.

⁴²⁸ Saripolos, [Treatise of Constitutional Law], pp. 20-26.

⁴²⁹ Montesquieu was a thinker, for whom he held the utmost admiration. See Saripolos, [Treatise of Constitutional Law], p 28-29. For Montesquieu's theory of the good legislator, see Craiutu, *A Virtue of Courageous*, pp. 54-60.

⁴³⁰ Saripolos, [Treatise of Constitutional Law], pp. 26-28.

⁴³¹ *Ibid.*, p. 16. There was a strong unacknowledged influence of Locke in this point.

good life of its citizens.⁴³² What distinguished this stage were the distribution of powers (legislative, juridical, executive) and the constitution of three sets of laws: domestic public law (or constitutional law, regulating relations between the state and its citizens), external public law (regulating relations of states with other states) and private law (regulating relations among citizens). In that stage, the natural rights of man were complemented by more tangible forms of rights such as freedom of conscience and of faith, freedom to govern and to be governed.⁴³³

The next issues were by whom, how and in what ways or institutions was political (or civil) society to be constituted. These were key issues for a wide number of public lawyers and more generally for European liberals, related as they were to one of the fundamental problems of modern political thought, that of sovereignty—its nature and its location. Certainly, as James Sheehan has argued, the concept of sovereignty was much older. But, by the middle of the eighteenth century, the role of law in making sovereign claims increased significantly. This process was closely connected to the state's territorial consolidation in its endeavour to create a uniform political space, open to state authority and unencumbered by competing claims. From the late eighteenth century onwards, nationality joined law and territory as a principal element of statehood.⁴³⁴ This resulted in the emergence of a tension between the King and the nation or the people as to which was the source of political power. Most nineteenth-century liberals opted for the nation even when they were supporting a king. But then the fundamental question—one that has troubled liberals ever since—became that of who, and under what form of government, speaks for the nation.⁴³⁵

In his answers to these two key issues of constitutional thought, Saripolos was largely informed by analogous answers given by that broad church of liberal political thinkers whom Aurelian Craiutu has called 'the moderates'. Regarding the first issue – the source of political power – Saripolos maintained that sovereign power emanated from the nation (ἔθνος), a word he used interchangeably with polity,

⁴³² Ibid., pp. 15-17.

⁴³³ Saripolos (1851), pp. 62-64.

⁴³⁴ James Sheehan (2006), 'The Problem of Sovereignty in European History', *American Historical Review*, v. 111, issue 1, pp. 1-15, (pp. 7-9).

⁴³⁵ Bryan Garsten, (forthcoming, 2015), *The Heart of a Heartless World: Liberal religion and modern liberty*, Cambridge, Mass.: Harvard University Press.

‘πολιτεία’). The nation was thus defined in political terms as a unity of laws and public authority: ‘a group of a society, which sharing sovereignty, subjects itself to common laws, having as its aim the [general] well being and accepts to be governed by its own chosen governors’.⁴³⁶ By giving this answer (which only in retrospect seems easy) to the question of who possesses sovereignty, Saripolos turned against both the *Rechtsstaat* thinkers and the Bavarian understanding of the King as sovereign. His solution to the second issue was much more complex. The reason was that, in the aftermath of the eighteenth-century revolutions and the experience of the Terror (the Napoleonic Wars), the issue itself had become much more complex. As mentioned in the introduction of this chapter, it was the theory of absolute sovereignty and the problem of its usurpation that lay at the heart of the liberals’ concerns.

Saripolos was attentive to these concerns. Following Montesquieu, he argued that the criterion for the best government was not the form but the manner in which authority was exercised. But he qualified Montesquieu’s insight by stating that this depended on three conditions that would limit the chance of sovereign power violating individual rights and usurping power. Firstly, in order to ‘guarantee’ ‘that the ‘freedom and the citizens’ rights will not be violated’ it is imperative to make sure that ‘none of the powers is absolute’; secondly, that it will be ‘recognised that sovereignty belongs to the entire nation, so that the state authorities cannot usurp it’; and thirdly, that authority will be ‘divided and not concentrated in one power’, and ‘the limits of those powers will be clearly delineated so that the work of each is independent from and not hindered by another’.⁴³⁷ The advantage of a ‘constitutional regime’ (‘κατά Σύνταγμα πολιτεία’) was that it was more efficient in fulfilling these criteria because it clarified and determined more clearly the manner in which institutions of the state and public authority operated, thus preventing the chance of usurpation.⁴³⁸ It was not by accident that Saripolos criticised the theories

⁴³⁶ Saripolos, [Treatise of Constitutional Law], p. 150. In this part he also criticised Royer Collard and the rest of the *Doctrinaires* because, as he argued, they had not specified who was supposed to express the sovereignty of reason.

⁴³⁷ Ibid, pp. 99-101.

⁴³⁸ ‘The man-made political laws, such as a constitution (‘το μεταβλητόν ή ‘ποιητόν’’) is secondary in terms of importance compared to the divine and natural law. This superior law must not be put on paper, but legislation has to follow its principles’: *ibid.*, pp. 115-119.

of both Hobbes and Rousseau. Although quite different, as he acknowledged, both lead to despotism, ‘under one despot’ in the case of Hobbes, ‘under a myriad of despots’ in the case of Rousseau. The reason was that both were theories of absolute sovereignty.⁴³⁹

Saripolos argued that the best way to deal with the problem of excessive power was a complex institutional arrangement in the form of a constitutional monarchy that would mix the powers of the Monarch, the Parliament and the Judiciary. His sketch was very close to Montesquieu’s mixed government where the balance of the three powers prevented any particular one from gaining precedence over the others. That was why he criticised the unlimited sovereignty of the English Parliament—by quoting De Lolme’s *Constitution of England*—and the potential danger this posed to individual liberty.⁴⁴⁰ Strictly speaking, the system he proposed was a ‘moderate’ or representative government headed by a king. As a political system, it had several institutional advantages that secured individual rights: publicity and especially freedom of the press, independence of the Judiciary, trial by jury, judicial and municipal authorities as secondary powers, accountability of administration and a respect for due procedure.⁴⁴¹

But there was more to the system of representative government than just constitutional procedures guaranteeing individual freedoms. As Bryan Garsten has argued, by devising this system, post-revolutionary liberals sought to institutionalize the distinction they had come to draw between sovereignty and government.⁴⁴² Indeed, for Saripolos, the nation as sovereign did not necessarily rule, except at extreme moments. Although he stressed that national sovereign power was indivisible (‘αδιαίρετον’), non-expropriated (‘αναπαλλοτριώτων’), inalienable (‘απαράγραπτον’) and unaccountable (‘άνεύθυνον’, from a legal, not a moral, point of view), it could never legislate against the natural, divine law. In other words,

⁴³⁹ Ibid., p. 28. Saripolos spend much more space criticising Rousseau and especially his theory of absolute sovereignty: see pp. 39-41.

⁴⁴⁰ Saripolos, [Inaugural lecture of Constitutional Law] p. 8.

⁴⁴¹ Saripolos, [Treatise of Constitutional Law], pp. 106-108. For the principle of publicity, he referred also to Bentham: *ibid.*, pp. 395-397.

⁴⁴² Bryan Garsten (2010), ‘Representative government and popular sovereignty’, in Ian Shapiro, Susan C Stokes, Elisabeth Jean Wood and Alexander S. Kirshner (eds), *Political Representation*, Cambridge: Cambridge University Press, pp. 90-110.

Saripolos asserted that sovereignty was never unlimited nor constantly in action and that there were spheres of life that should always be protected from infringement by a strong set of rights.

What is more, the exercise of that sovereignty was restricted to those critical moments when it was transformed into and *performed* as a constituent power.⁴⁴³ This transformation could not avoid taking the form of a special representative convention (constituent assembly). For Saripolos, the principle of representation was almost a natural outcome of his theory of sovereignty. It was during these moments that the 'state' (the 'political body', as he put it), its laws and the three powers were constituted. After that constituent moment, the sovereign nation would turn into a community of private subjects ('κατ' άτομον υπήκοο') and the state authorities would take charge. But that would not mean that the sovereign goes to sleep or that its power dissolves, as Rossi and Portalis had argued respectively. It is on constant alert, not only to bring back to order any sort of constitutional deviation but also to reconstitute the political community, if need be.⁴⁴⁴

In normal times it was the government and the state that exercised sovereignty—including the King. Saripolos defended a representative government with two chambers: one elected by electoral body, the other containing the 'best' members of the nation and selected by the King. This model was a qualified version of the English representative system. In his advocacy for bicameralism, Saripolos made reference to Constant but rejected the hereditary principle which Constant had defended by referring to the example of England.⁴⁴⁵ Although Saripolos did not acknowledge their influence, his theory and justification of bicameralism was very close to that forwarded by the *monarchiens* in the way in which he defended the 'prudence' of life magistratures. His criteria for electoral participation were very

⁴⁴³ Saripolos, [Treatise of Constitutional Law], pp. 40-41, pp. 50-58.

⁴⁴⁴ In order to illustrate his point Saripolos likened the nation to a mechanic and the constitution to a machine. The mechanic puts the machine to work, supervises it and does not interfere as long as it works properly. But when its function fails, the mechanic repairs it. See Saripolos (1851), pp. 55-56. Saripolos did not quote Rossi directly, but a member of the French Assembly, Duc de Broglie, who was influenced by Rossi and who argued in 1842 that there is a part of the government which is 'sommeillant dans un lointain mysterieux, mais toujours prêt a se reveiller'. Regarding Portalis' theory, Saripolos used a direct quotation where the French jurist had argued that, 'Quant la constitution d'un peuple est etablie, le pouvoir constituent disparaît': cited in *Le Moniteur* du 20 Août 1842, p. 1832.

⁴⁴⁵ Benjamin Constant, *De la liberté*, pp. 314-316.

close to Guizot's arguments. He argued that voting rights should not depend only on property but on 'capacity' ('αξία'), which Saripolos perceived in a much broader sense than the French statesman.⁴⁴⁶

But it is important to note that Saripolos, probably following Rousseau but without acknowledging it, maintained that this system did not mean that sovereignty was delegated or represented. As he stated, 'the state authorities are just authorized' ('εντολοδόχοι'), while the 'electoral body can never be that large as to comprise the whole nation'.⁴⁴⁷ In other words, for Saripolos the representatives were not to be taken as having an incontestable legitimacy—they were not to be mistaken as being the bearers of the citizens' sovereignty. In his modest version of sovereignty, the sovereign was not an active ruler but an authority distinct from the rulers and tasked with evaluating them. It thus manifested itself in keeping in check the government and in giving the rulers an always temporary and provisional consent. By so doing, it required the citizens to be watchful and to nurture their critical capacities in civil society, a realm outside of but related to politics. The key capacities of the sovereign were those of 'supervision' ('επίβλεψη') and 'monitoring' ('εποπτεία'). This was, according to Saripolos, the meaning of the last clause of the constitution of 1844 which stated that 'The observance of the constitution rests on on the patriotism of the Greeks'.

At the same time, Saripolos accorded extensive powers to the King. In modern Greek historiography, Saripolos has gone down in a heroic fashion as a true liberal and member of the (liberal) opposition to King Otto. But what many historians usually underplay is that he was a strong advocate of royal power and remained so throughout his life. His final resignation from the University in 1875 was due to his support for the King in the political crisis of 1874-75 (next chapter). His refusal to oppose the King has usually been seen either as a caprice of an old liberal turned royalist owing to political frustrations or just an inconsistency.⁴⁴⁸ Neither of the two

⁴⁴⁶ Saripolos, [Treatise of Constitutional Law], vol. II, pp. 307-314. For the English case, *ibid.*, vol. II, pp. 284-295 and *ibid.*, edition of 1874-75, vol. II, pp. 22-136. See also his more general comments in Saripolos, [Inaugural lecture on Constitutional Law], pp. 21-24. A more extensive discussion of Constant can be found in the 1874-75 edition of his [Treatise of Constitutional law], vol. II, pp 504-507. For Guizot's theory on electoral rights, see Jennings, *Revolution and the Republic*, pp. 364-365.

⁴⁴⁷ Saripolos, [Treatise of Constitutional Law], p. 52.

⁴⁴⁸ Alivizatos, [The Constitution], pp 142-143.

explanations is convincing. As a matter of fact, Saripolos' understanding of executive and legislative power was rather consistent in being influenced by moderate liberals, from Montesquieu and the *monarchiens* to the restoration liberals and especially Benjamin Constant.

His main concern—which he shared with Constant—was how to limit the chance of the usurpation of sovereign power. Attempting to deal with this danger, Saripolos turned to Constant's idea of royal power in his 1815 edition of the *Principes de politique applicables à tous les gouvernements représentatifs et particulièrement à la Constitution actuelle de la France*. For Constant, royal power was perceived as a neutral power, distinct from the others, the role of which was to maintain order and liberty. As he argued: 'The executive, legislative and judicial powers are three competences which must cooperate, each in their own sphere, in the general movement. When these competences, disturbed in their function, clash with and hinder one another, you need a power which can restore them to their proper place. This force cannot reside within one of these three competences [...]. It must be external to it, and must be in some sense neutral [...]. Constitutional monarchy creates this neutral power in the person of the head of state'.⁴⁴⁹

Saripolos was inspired by Constant and also by the *monarchiens* and in particular by Clermont-Tonnere in his perception of royal power as a special power. But he disagreed with them in seeing it as distinct from the executive power.⁴⁵⁰ And, rather paradoxically, he accorded a much more active role to the monarchy both through its participation in executive power—which it should hold in total—and through its role in the legislative power, in which it participated along with the two chambers.⁴⁵¹ By exercising the executive power and participating in the legislative power, as a 'complementary' ('συμπληρωματική') and 'moderating' ('μετριαστήν') authority, the monarch would ensure that the balance of powers was not disturbed and that liberty

⁴⁴⁹ Constant, *Political Writings*, p. 184. For Constant's neutral power see Craiutu, *A Virtue of Courageous*, pp. 198-236.

⁴⁵⁰ Saripolos, [Treatise of Constitutional Law], p. 189 and p. 200.

⁴⁵¹ *Ibid.*, pp. 189ff. For his reference to Constant and Clermont-Tonnerre for royal power as a fourth power, see pp. 189, 200 and 203-205. For a criticism of Saripolos' reading of Constant, see Mavromoustakou (2011), ['N.I Saripolos as a scientist of Law'], in Kitromilides et al. (eds), [Nikolaos Ioan. Saripolos] pp. 129-138.

would be preserved.⁴⁵² By so doing, Saripolos was probably more realistic than Constant, who had tried to present the monarch as being 'above human anxieties' and hence a neutral power.⁴⁵³

Although Saripolos maintained that, in theory, the King 'can do no wrong', his understanding was that the King participated as a higher authority in the exercise of power without any pretension that he was not ruling. On the contrary, the King 'rules, [and] governs but does not administer'.⁴⁵⁴ Saripolos, in this way, sought to put royal power not as an *exterior* provision to good government but as a balancing power within the *interior* structure of the government. And yet the power of the king was not unchecked. In fact, Saripolos unequivocally rejected the idea (common in Greece at the time of writing his treatise) that the constitution of 1844 was a pact between the King and the nation. The reason was that for Saripolos the legitimacy of the former stemmed from his being the 'first ruler of the state' or 'representative' of the nation.⁴⁵⁵ This was an important departure from Constant. As Jeremy Jennings has argued, in the debate that originated in the French revolutionary decade about whether it was the monarch or the people who spoke for the nation, Constant took an intermediary position denying any one person or category this exclusive privilege.⁴⁵⁶ This was not the case with Saripolos. Nor was he in any way in agreement with the English doctrine of 'the-King-in-Parliament' (discussed by De Lolme in *La Constitution de l'Angleterre*). In fact, in a long footnote in his treatise on the controversial idea of whether a king can be dismissed or not by the nation, Saripolos clearly supported the idea, referring both to Blackstone's *Comments in the law of England* and to Vattel's *Law of Nations*.⁴⁵⁷

The logic behind his formulation stemmed from his theory of sovereignty. Since the government did not represent the nation, in the sense of bearing its sovereign authority, it would be safer to have a government which would contain more than one authority commissioned by the nation and working simultaneously in its name. In order to avoid any concentration of power, Saripolos sought to put a degree of

⁴⁵² Saripolos, [Treatise of Constitutional Law], pp. 158-159.

⁴⁵³ Constant, *Political Writings*, p. 187.

⁴⁵⁴ Saripolos, [Treatise of Constitutional Law], p. 203.

⁴⁵⁵ *Ibid.*, pp. 158 and 192. For his representative quality, pp. 158 and 543.

⁴⁵⁶ Jennings, 'Constitutional liberalism', p. 354.

⁴⁵⁷ *Ibid.*, p. 187.

instability within the government by allowing contestation about who spoke for the nation (as in the case of a contest between the King, the Senate and the Parliament). This was also why he was very keen on the monarchical right to dissolve the Parliament whereby the King could refer the matter of choosing representatives back to the nation. And this was also why he was an ardent spokesman for the importance of free press and the right of assembly. These were forums where people explored different interpretations of the national will, trying to persuade others. Saripolos' later insistence on making the revision of the constitution an easy process should be understood in light of this desire to have a politics of contestation and persuasion and not in light of his being a monarchist (next chapter). For Saripolos, representative government was not confined in choosing anew only officeholders and deputies, but included discussing about the constitutional form of government.

But, what did these formulations mean in the Greek context? By making the monarch the 'first servant of the nation' and by stating that citizens of the nation have only rights, whereas the rulers have only duties to perform, Saripolos, at least theoretically, subsumed the monarch to the sovereign nation and the dictates of natural law. What that meant was that, notwithstanding the moderation of his constitutional theory, it had significant and potentially radical political implications. Or at least that was the way it was read and criticised by an anonymous reviewer in *Pandora* in the 1850s. As the reviewer very correctly pointed out, Saripolos' theory of sovereignty as the supreme 'social' power subsumed the political laws to the nation and to natural law. This implied both that disobedience of the nation to unjust laws was legitimate, and that the constitution was legally binding only when the constituent power was not in action. If and when it exercised that power, even the King had to comply. And if there was a violation of the fundamental laws, then the constituent power had to convene to correct it, if need be by revolution (thus legitimizing violence, as the reviewer argued), the last and most extreme, but still legitimate, means of correction. Although the review was written as a rather

unsympathetic critique and provoked an angry reply by Saripolos, it was not far from the truth.⁴⁵⁸

Indeed, by tacitly going against absolute sovereignty—which he saw as prone to arbitrariness—Saripolos was in effect calling sovereignty into question, envisaging a different form of political association. This vision of a constitutional order was not a projection of the future, a dream of a time yet to come. He argued that such an order existed already in the configuration of the state, but in order to secure this immanent structure, it needed to be put on a different constitutional footing. By so doing, he attempted to reconceive the basic principles of state authority. This state was no longer conceived as a royal state or as a legal mechanism but as a moral being that derived its authority from the nation. In the context of Greece, this version of constitutional monarchy and Saripolos' perception of the state were radical departures from the ideas of government that underpinned the monarchical state.

What is more, his theory was rather radical when compared to the liberalism of the *Rechtsstaat* thinkers because he did not only seek to legitimize state power as a legal authority but also to extend and consolidate it as the supreme political authority. Conventionally, such mixed representative governments have been seen as elitist as they were based on incorporating oligarchic and monarchical elements in their attempt to put checks on popular sovereignty. But, ultimately, Saripolos' concern was to put checks on absolute sovereignty and limit the chances that sovereign power could be usurped. In order to do that, he tried to reconcile a language of individual rights with an advocacy of a much more enhanced role of the state, framed as this was by a complex internal institutional structure. Increasingly, however, Saripolos came to realise that the problem of consolidating the political authority of the state as a moral being was not just an 'internal' problem but also an 'external' one. In other words, it was about making assertions of autonomy within the international order. Constitutionalism as a language of statehood thus came to

⁴⁵⁸ [Review of the 'Treatise of Constitution law of Mr. Saripolos], *Pandora* (1851), vol. XXIII, pp. 542-549. Saripolos, who contributed regularly to *Pandora*, replied refusing to answer on the specific criticisms because of the choice of the reviewer not to provide his real name: his answer in *Pandora* vol. XXV, pp. 579-580. For Saripolos' view of revolution as an undesirable but still legitimate form of political action, see Saripolos, [Treatise of Constitutional Law], pp. 67-69.

include both a commitment to a particular internal structure of authority and to the external independence or international autonomy of the state. It came, that is, to address international law.

The law of nations and the sovereignty of nation-states: Nikolaos Saripolos and the international autonomy of the Greek state

Recent scholarship on the history of nineteenth-century political thought has paid particular attention to the relationship between imperialism, nationalism and liberalism. The conventional view especially that deemed liberalism and imperialism as mutually exclusive has come under severe criticism. Scholars, such as Jennifer Pitts and Uday Mehta, have argued that while in the eighteenth century there was a more universalistic understanding of justice and equality with respect for cultural diversity, by the middle of the nineteenth century, liberals embraced ideas of cultural superiority and imperial conquest as a means of consolidating freedom at home and disseminating it abroad.⁴⁵⁹ What is more, scholars have emphasised the importance of international law in this process during this period, when it actually expanded both as theory and as practice. Whereas some legal scholars have maintained that this expansion took place when non-European states were admitted as new members in the international legal order, others have argued that this occurred when international legal rules and ideas were imposed outside Europe to enable imperialism.⁴⁶⁰

This thesis of the 'imperialist' turn of international law has been partly sustained by the argument that in the fifty years around the turn of the century the natural

⁴⁵⁹ Uday Singh Mehta (1999), *Liberalism and Empire: A study in Nineteenth-century British Political Thought*, Chicago: Chicago University Press; Jennifer Pitts (2005) *A turn to Empire: the rise of Imperial Liberalism in Britain and France*, Princeton: Princeton University Press. The literature is quite large and is not limited to the works of these scholars; see Andrew Fitzmaurice (2012), 'Liberalism and Empire in nineteenth-century International Law', AHR Forum, *The American Historical Review*, vol. 117, n. 1, pp. 122-140.

⁴⁶⁰ For the former view the key work is Wilhelm Grewe (2000), *The Epochs of International Law*, De Gruyter: Berlin. For the latter key works are: Antony Anghie (2005), *Imperialism, Sovereignty and the Making of International Law*, Cambridge: Cambridge University Press; Martti Koskenniemi (2001), *The Gentle Civilizer of Nations: The Rise and Fall of International Law, 1870–1960*, Cambridge: Cambridge University Press.

jurisprudential foundations of the law of nations gave way to a positive conception of international law. Indeed for earlier scholars such as Grotius and Vattel the law of nations (*ius gentium*) derived its authority from natural law (*ius naturae*), and applied equally to all rational creatures and their societies. In addition, political communities and/or states were not simply analogous to persons (as in later conceptions of international law) but morally equivalent to them in their autonomy, rationality and duty to obey the dictates of natural law.⁴⁶¹ By contrast, the emerging discourse of legal positivism emphasised that shared customs and legal conventions formed the basis of law and that rights were guaranteed only by state-made law and could not therefore exist outside civil authority.⁴⁶²

More importantly, as Mark Mazower among others has argued, from the very first moment of the emergence of an international system after the defeat of Napoleon, legal positivism was strongly related to the notion of ‘European civilization’. This latter became the fundamental concept of the international order and of the new techniques of international rule which were formed and applied the following years. And as we know from the work of Martti Koskienniemi, international law, not least in the way it was formed within liberal international legal institutions such as the *Institut de Droit International* (established in 1873), was a key factor both in the liberal apology of empire and in the division of the world according to the European standard of civilisation.⁴⁶³ Thus, the discussions among international lawyers over the limits of ‘the government of the world’, at least within Europe, were framed by an hierarchical language in which a small number of European states—the ‘civilised community of nations’—were considered subjects of international law.⁴⁶⁴ Accordingly, through the doctrine of international recognition, states could only join as new members when they were brought by increasing civilization within the realm of law.

⁴⁶¹ Armitage, *Foundations*, p. 208; see also Richard Tuck (1979), *Natural Rights Theories: Their origin and development*, Cambridge: Cambridge University Press.

⁴⁶² Jennifer Pitts (2007), ‘Boundaries of Victorian International law’, in Duncan Bell (ed.), *Varieties of Global Order*, pp. 67-80 (p. 69).

⁴⁶³ Mark Mazower (2012), *Governing the World: The transformation of an Idea*, London: Penguin.

⁴⁶⁴ *Ibid*, *Governing the World*, p. 6-10, and idem (2006), ‘An International Civilization? Empire, internationalism and the crisis of the mid-twentieth century’, *International Affairs*, 82, 3, pp. 553-566 (pp. 554-559).

And in fact Greece held a particular place in the formation of new techniques of international rule, at the very moment of their creation. In light of the identification of the standard of civilization with Christianity and its juxtaposition to the Muslim Powers, prominent among which was the Ottoman empire, the support for the autonomy and then the independence of Greece in the 1820s was justified as a means to remove it from Ottoman rule. In addition, as Mazower has argued, the ‘protection’ which the Great Powers offered to the newborn and semi-civilised state from the early 1830s onwards was a means with which they sought to further civilize Greece and also avoid complications in regards to the European balance of powers.⁴⁶⁵

Nevertheless, the above account of international law has come under criticism. Legal scholars and intellectual historians have argued, in particular, that international law continued to have some sort of universalist aspirations. They have also maintained that the liberal debates among international lawyers about the civilising mission of law, the status of states and the sources of international law were vigorous and fed, in large measure, liberal critiques of empire and the standard of civilisation.⁴⁶⁶ The case of scholars such as, for example, Augustin Heffter, a founding member of the *Institut de Droit International*, has been used to reveal a much more complicated picture. In his celebrated *Das europäische Völkerrecht*—one of the first international law treatises to be translated in Greece—Heffter deemed the constitutional state to be the highest form of European political development, rejected force in the conduct of empire and was similarly dismissive of the rights of civilisation.⁴⁶⁷ The main criticism has been thus that the ‘imperialist turn’ thesis does not render justice to the many divisions within international legal thought. One could also add that the ‘imperialist’ narrative about international law neglects (and many times also the critics of this narrative) the perspective on international law from those geographical regions that were *not clearly within or outside* the ‘civilised

⁴⁶⁵As mentioned in a previous chapter, the independence of Greece was guaranteed by the three ‘protective’ Great powers—which had actually negotiated and signed the treaties with the Ottoman empire. Mark Mazower has argued that this notion of semi-civilised states, which were to be ‘protected’ and brought to the standard of civilisation, was employed after Greece to the colonial world: Mazower, ‘An International Civilization?’, pp. 556-557.

⁴⁶⁶Pitts, *A turn to Empire* pp. 69-70; Fitzmaurice, ‘Liberalism and Empire’, pp. 122-140.

⁴⁶⁷Fitzmaurice, ‘Liberalism and Empire’, p. 127.

community of states' but occupied a place in-between civilisation and barbarism. And in fact Greece was such a case.

As Arnulf Becker Lorca has recently argued, it was in fact when jurists from such semi-peripheral countries appropriated international legal norms that international thought was universalized.⁴⁶⁸ Indeed, with the emergence of new states and the expansion of Europe in the nineteenth century, a number of non-European and semi-peripheral scholars came to study European law in Western-European universities. And, according to Lorca, these scholars did not just appropriate the western international legal norms; rather, by re-signified them, they came to form a distinctive legal paradigm—what he has called 'particularistic universalism'—and transform international law in the direction of equality. This paradigm was based on three features: positivism, an absolute notion of sovereign autonomy and the internalization of the standard of civilisation as the attribute granting international legal subjectivity. What was probably more important was that non-Western-European jurists developed different political and legislative projects in their attempt to overcome the unequal treatment in international law and make the international community more inclusive of peripheral and non-Western states.⁴⁶⁹ And as Lorca himself has pointed out in his comparative analysis, Greek scholars did just that. Even though some of his specific arguments on Greece need to be qualified, the point is that Greek lawyers did not read and use international law in the same way as many liberals of the core 'European civilised community'. That is not to say that they rejected outright the civilizational language with which Western Europeans defended and justified imperialism. In fact Greek scholars did use this language against the Ottoman Empire. Yet, they also used international law to defend the rights of a small nation and the principle of equality at least for those states which fulfilled the criteria of independent stathood and could claim membership in the international legal order.

Greek legal thought had developed an interest in international law from the early years of Independence by turning to Vattel (see chapter I). As already noted, in

⁴⁶⁸ Arnulf Becker Lorca (2010), 'Universal International Law: Nineteenth-century histories of Imposition and Appropriation', *Harvard International Law Journal*, vol. 51, n. 2, (pp. 476-552).

⁴⁶⁹ *Ibid.*, pp. 476-483.

1846, a Chair of the Law of Nations was founded, and, in 1848, Nikolaos Saripolos delivered the first inaugural lecture in which he identified the foundations of international legal thought with natural law. But it was in the late 1850s that this interest intensified rapidly. It came to fruition in 1860 when Saripolos published his long treatise, 'On the law of Nations in Peace and in War', and two other legal scholars translated Auguste-Guillaume Heffter's *Das europäische Völkerrecht* and the part on the Law of Nations from Louis Auguste Eschbach's *Cours d'introduction générale à l'étude de droit, ou manuel d'encyclopédie juridique*.⁴⁷⁰

The motivation behind these theoretical choices stemmed from what was perceived as the 'incomplete' or 'curtailed' sovereignty of the Greek state. These concerns were accentuated by the severe and long economic, financial and social crisis that Greece faced during the 1850s. Although details will be mentioned in the next chapter, suffice it to state here that for many contemporaries the failure of the Greek state to play a political role in the Eastern Mediterranean during and after the Crimean War, the blockade and occupation of Piraeus by English and French forces during the war and the attempt of the Western powers to impose a financial control in 1859 were side-effects of this crisis and of the inability of the monarchical state to address it. The language used by the European powers in light of their desire to push for economic and administrative reforms jeopardized national sovereignty and put at risk the effort of Greece to enter the family 'civilised nations'.⁴⁷¹

It was in this context that scholars turned to the language of international law which they related to claims about the sovereign rights of states in the international arena. For them, this was a way to fill the gap of what they perceived as an institutional 'anomaly'. On the one hand, Greece was formally an independent state, and on the other, it was politically unable to exercise the rights and duties that stemmed from this independence. The aim of the 'international' turn among Greek

⁴⁷⁰ Saripolos, [On the Law of Nations]; Guillaume Heffter (1860), [European Law of Nations, translated into Greek and complemented by notes and quotes from ancient Greek treaties and other documents from Diomidis Kyriakos], Athens; Louis Auguste Eschbach (1858), [Elements of the Law of Nations translated from the French from Legal Encyclopedia by L. A. Klotsiaris], Athens.

⁴⁷¹ In 1859, the British-French-Russian financial Commission forced the country to pay 900,000 francs every year, an amount that was supposed to increase when revenues allowed. With the exception of economic historians, this incident has received little attention. See for example Alexis Frangiadis (2007), [The Greek Economy, 19th-21st century: From the War of Independence to the Economic and Monetary unification of Europe], Athens: Nefeli, p. 75.

scholars was to criticise this anomaly by forming an alternative strategy towards self-reliance. With his writings and especially his treatise, Saripolos tried to offer an authoritative theoretical justification of the injustice and unnaturalness of this international practice and the necessary legal vocabulary with which to address it.⁴⁷² He did so, by perceiving the Law of Nations as a normative science that was based on natural law and by emphasizing the rights of states and the 'doctrine' of national sovereignty. The latter was deemed a criterion of independent statehood and of integration in a system of sovereign equals. At least on a theoretical level, therefore, and contrary to other scholars from semi-peripheral European and non-European countries, Saripolos was not a positivist.⁴⁷³

In addition, this naturalism, which included a progressive view of modern civilisation, went hand in hand with a legal geography which limited the application of the 'common' public law to the 'Christian and civilized powers', excluding the Ottoman and other 'barbarian' states.⁴⁷⁴ In that sense, Saripolos, like many other scholars of similar cases (in Latin-American or in Italy), subscribed to the European standard of civilisation. The difference was that whereas Western-European publicists utilised the idea of civilisation to justify colonialism over non-civilised people and special rights on 'quasi-sovereign' nations, lawyers from peripheral or non-European countries appropriated the standard to overcome their precarious position and to justify the recognition of their countries as sovereign states.

This is what motivated Saripolos to publish his first pamphlet on the international affairs of Greece under the characteristic title, *Pro Graecia* in 1853.⁴⁷⁵ Written in French, the first part of the pamphlet presented a general argument in favour of the Greek cause in the Eastern Mediterranean, in which Saripolos attempted to justify the claim of Greece to sovereignty and civilisation. The second part provided some solid foundation for the above claims in the form of statistical

⁴⁷² Saripolos did acknowledge in the prologue of his book that he was strongly motivated by the need to translate and transfer into Greek the key concepts and theories of international legal theories: Saripolos, [On the Law of Nations], p. xi.

⁴⁷³ Lorca quotes Stephanos Streit, minister, jurist and professor of International Law at the Law School of Athens who was indeed a positivist. But Streit wrote late in the nineteenth century and his thought constituted a break with the previous naturalism of Saripolos's international thought: see Lorca, 'Universal International Law', pp.491-492.

⁴⁷⁴ Saripolos, [On the Law of Nations], p. 307.

⁴⁷⁵ Nikolaos Saripolos (1853), *Pro Graecia*, Athens.

data. In general, in his effort to prove that the Greek kingdom was a civilised state, Saripolos emphasized what he saw as the shared cultural roots of Greece with the West and Europe. What is more—just like the jurists around the *Spectateur d'Orient* that we saw in a previous chapter—he constructed his arguments in contradistinction to the Ottoman Empire and Muslim civilisation. In this sense, at least initially, the internalization of the standard of civilisation through its embrace of an idealized past did not challenge the Western idea of international law.

Increasingly, however, it did. And the contrast between Saripolos's early pamphlet and his later treatise is a case in point. That is not to say that he challenged the standard, as such, but, rather, the way in which the international legal norms that went with it were implemented. The problem for Saripolos was that the principles of natural law were constantly violated by modern European powers, both within Europe (as when England turned against the French Republic) and outside it, in the colonial world. But, more crucially, this state of affairs was evident closer to home. As he asked in the Introduction: 'Under what right of the Law of Nations and without declaring war, did England impose a blockade and sanctions to Greece in 1850 and a military occupation of Piraeus, along with France, in 1854?' This was one more sign of the 'disrespect (‘ασέβεια’) with which the fathers of the peoples of Europe treated the common Law of Nations'.⁴⁷⁶

From a European perspective, Saripolos' case showed that the struggle between the older universal and natural conception of the law of nations and the new positivist conception that regarded the law of nations as the exclusive province of Europe and its daughter states had not subsided and that the 'Vattelian moment' was not totally eclipsed.⁴⁷⁷ As David Armitage argued, this moment had to do with the impact that Vattel's positive conception of independence had in the late eighteenth and early nineteenth centuries. Vattel's theory, rooted as it was in natural law theories, gained popularity because of the prominence of independence in its definition of statehood. By proposing an analogy between human beings living under the law of nature and the existence of states in a similar condition, Vattel gave

⁴⁷⁶ Saripolos, [On the Law of Nations], pp. xxiii-xxv.

⁴⁷⁷ The origins of this theoretical struggle lay in the second half of the eighteenth century: see C.H. Alexandrowicz (1961), 'Doctrinal Aspects of the Universality of the Law of Nations', *British Yearbook of International Law*, 37, pp. 506-515.

the concept of independence a new political meaning: it connoted the 'autonomy of a political community' among other political communities and 'the ability to prevent other nations from interfering in one's own business and to fend off insults, blocking whatever might be prejudicial to one's interests'.⁴⁷⁸ Saripolos, in a way, renovated these Vattelian formulations by arguing that formal independence was not in itself a condition of the state's sovereignty. In other words his theory signified the transition of the law of nations from being a language of statehood based on independence to a language of statehood based on sovereignty.

The state lay at the heart of Saripolos's treatise on the law of nations. As a descriptive category, the state referred to a particular genus of political unit—a unit distinguishable (ideally) from empires, regions, colonies, cities, counties, provinces and simple political societies. It was not, however, conceived of as simply a mode of political organisation but increasingly as one that articulated a moral purpose in the eyes of its proponents. For Saripolos, whereas constitutional law studied the relations between the citizens and the government, international (or external) public law studied the relations among polities (i.e. states) perceived as 'moral persons, that is whole nations' which were equivalent to individuals in their autonomy, rationality and duty to obey the dictates of natural law.⁴⁷⁹ This theorization of the state was not so much about the degree to which state institutions should intervene in society and the economy but the assumptions about the necessary and sufficient conditions of statehood.

As Saripolos asserted, a state was made a subject of international law when it was 'a self-governed or autonomous national political community living in its own territory'.⁴⁸⁰ Although this was more of a definition of sovereignty in domestic terms, Saripolos stated that it had also an external dimension, namely 'the absolute independence of the state from any kind of foreign will'.⁴⁸¹ Recognition by other states was an important but not a necessary condition for a state to be sovereign.⁴⁸² The sources of international law were structured hierarchically: natural law, legal

⁴⁷⁸ Armitage, *Foundations*, p. 224.

⁴⁷⁹ Saripolos, [Inaugural lecture on the Law of Nations], p. 3. And '(...) element of the social and political group is in both the individual citizen': Saripolos, [On the Law of Nations], p. 1.

⁴⁸⁰ This is a concise distillation of a long argument: Saripolos, [On the Law of Nations], pp. 12-22.

⁴⁸¹ *Ibid.*, pp. 22-23.

⁴⁸² *Ibid.*, pp. 24-25.

science, positive law and customs. The last two were accorded a lower status because no treaties or customs which 'violate the rights of states and aim at reducing them are valid'.⁴⁸³ His naturalistic foundations of the law of nations aimed at proving that 'the law of nations is not the will of the strongest'.⁴⁸⁴ One of the reasons for the prevalence of this theory was, for Saripolos, the insistence of the 'classical' international thinkers (since Grotius) to study the law of nations as the law of war. He maintained that instead he would follow the method of the 'physiologist' who 'in order to prevent disease, needs to observe first the condition of the body in its healthy condition; in the same way, before the study of the unnatural and deformed condition of states we need to study the natural and healthy condition, the peaceful life of the nations, the sovereign rights of each nation [...]'.⁴⁸⁵

In the state of peace, sovereign states had three rights. The first was the right to self-preservation ('δικαίωμα της ιδίας συντηρήσεως'). This was a complicated right and signified the 'right of self-defense against any kind of foreign military attack', but also the right to 'hold to any kind of pressure against the state's decency and honour'.⁴⁸⁶ Saripolos was very clear about the political implications of this natural right. In a long passage of the book, he criticised the principle of intervention which intended to preserve the balance of powers.⁴⁸⁷ His arguments were both moral and political since such an intervention 'violates the nations' autonomy and harms humanity by advancing war'.⁴⁸⁸ But Saripolos went a step further, claiming that any 'intervention or influence whatsoever in the internal organization of the form of government was *illegal*'.⁴⁸⁹ In other words, the exertion of any sort of economic, political or diplomatic pressure was a violation of the state's right to independence.

The second complementary right was the 'right to self-possession' or 'self-government' ('δικαίωμα αυτοτελείας'), which resulted in the 'freedom to act' and the 'unreserved use and possession of things'.⁴⁹⁰ These rights were specified as

⁴⁸³ Ibid., pp. 209-210.

⁴⁸⁴ Saripolos, [Inaugural lecture on the Law of Nations], p. 3.

⁴⁸⁵ Saripolos, [Inaugural lecture on the Law of Nations], p. 26.

⁴⁸⁶ Saripolos, [On the Law of Nations], p. 94.

⁴⁸⁷ Ibid., pp. 96-100.

⁴⁸⁸ Ibid., p. 97.

⁴⁸⁹ Ibid.

⁴⁹⁰ Ibid., p. 105.

freedoms to choose the form of government, to policing, to supervise religions, to organize education, to be economically self-governed'.⁴⁹¹ Last, but not least, sovereign states had the natural right to equality in the international arena. For Saripolos, the exercise of these rights of sovereign statehood had a number of implications. He went to great lengths to show that their application undermined the widespread legal practices of Western powers at the time, and in particular 'extraterritoriality' ('ετεροχθονία'), the 'exemption of local jurisdiction' ('ετεροδικία') and the 'immunity' ('ασύμβολον').

The unlawfulness of the exercise of these rights had already been addressed by Saripolos in court cases like the celebrated case of the Argyrocastritis family which went to the Supreme Court in 1858. In fact, the case reached a wider public as evidenced by the publication of Saripolos's court addresses in the press and then almost immediately as a pamphlet both in Greek and in French.⁴⁹² The case was related to a specific incident that took place in Greece when the Ottoman ambassador, on the basis of a treaty signed between Greece and the Porte, enforced an Ottoman court ruling on an Ottoman subject who was in Greece at the time. The subject was brought before a Greek lower court which just approved the indictments of the Ottoman authorities and convicted the accused. In the Supreme Court, Saripolos, defending Argyrokastrites, first argued that only a Greek Court has the jurisdiction to take action and proceed to a trial. In his second address, he refuted arguments concerning international law made by the litigant, Pavlos Kalligas, by stating that 'a sovereign nation cannot tolerate within its territory any kind of power which is exercised in the name of a foreign sovereign'. And this, he continued, 'is an absolute right', a principle which should apply irrespective of which state or power that is.⁴⁹³ In other words, he turned against any positive law that violated the state's

⁴⁹¹ For the 'freedom to choose the form of government' («ελεύθερη επιλογή του πολιτεύματος»), *ibid.*, pp. 107-108, for 'policing jurisdiction' ("αρμοδιότητα της αστυνομείσεως"), pp. 154-156. For the 'supervision of religions' ("επιτήρησης των θρησκειών"), pp. 156-158. For 'organizing education' ("οργάνωσεως της εκπαιδείσεως"), pp. 160-162, and for 'economic autonomy' ("οικονομική αυτοτέλεια"), pp. 163-171.

⁴⁹² Nikolaos Saripolos (1858), [Two addresses before the second division of the Court of Appeal of Athens for the defence of Athanasios Argyrocastritis], Athens. See also Saripolos, [Autobiographical], p. 52.

⁴⁹³ Saripolos, [Two addresses before the second division of the Court], p 24.

legal jurisdiction while criticising the Greek officials for accepting the limitation of their own legal authority.

At the heart of Saripolos' arguments were claims that went beyond formal independence and turned against the state of tutelage of Greece under the Great Powers. Even after the Revolution of 1862 and the drafting of a new constitution in 1864, through which the Greek nation, in Saripolos' eyes, asserted its sovereignty, Greece's international position remained precarious. In his pamphlet, *Le passé, le présent et l'avenir de la Grèce*, published in 1866, he re-expressed his concerns by claiming again something more than independence, namely the end of tutelage and paternalism:

'Pour que la Grèce se forme une politique à elle, il faut qu'elle s'affranchisse de la prétention exorbitante que s'arrogent sur elle chacune des trois puissances protectrices de la traîner comme un simple satellite dans l'orbite de sa politique. La Grèce ne doit pas vouloir ni accepter la condition humiliante d'être traînée à la remorque de qui que ce soit. Parce qu'on est un faible esquif- c'est une raison de ne pas naviguer avec sa boussole, mais de se mettre bon gré mal gré à la remorque d'un gros vaisseau?'⁴⁹⁴

And later in the same text, referring to the collective Great Powers' protection of Greece, he asserted: 'Et puis: si cette protection collective a quelque forme qui ressemble à une tutelle, il est évident que comme il y a une fin à toute tutelle, il devra y avoir aussi une fin à cette protection.'⁴⁹⁵ For Saripolos' theory of sovereignty, any sort of dependence, direct or indirect, political or economic, moral or military, was a violation of statehood. This again was underpinned by a conception of the state, in moral terms, as something more than just a legal mechanism that would enforce and respect the law.

Conclusion

This chapter sought to demonstrate that the period between the establishment of the Greek state and the 1860s witnessed significant developments in Greek

⁴⁹⁴ Saripolos (1866), *Le passé, le présent et l'avenir de la Grèce*, Athens, p. 174.

⁴⁹⁵ *Ibid.*, p. 175. For his positions towards Europe, see also Varouxakis, 'The idea of Europe', pp. 24-25.

constitutional ideas. Thinking about political organisation and the sources of its legitimacy became central concerns both for Greek jurists and politicians, especially in light of the failure of the Greek state to reform and to play a role in the Mediterranean. What is more, the chapter showed that Greek constitutionalism was conversant with a large array of political traditions. It was Nikolaos Saripolos who came to dominate the field by drawing upon a number of late eighteenth- and nineteenth-century European sources of moderate political thought. In broad political terms, Saripolos's 'good' constitutional government was a middle way between monarchical absolutism and unchecked parliamentary sovereignty. The reason was that these modes of politics were susceptible to usurpation because both were prone to an absolute understanding of sovereignty. He believed that a mixed government based on a plurality of powers and a continuing contest about who speaks for the nation provided the best safeguard for guaranteeing the preservation of natural individual liberties and the advancement of national well-being.

Saripolos's theory of national sovereignty underpinned these formulations. By locating sovereignty in the nation, Saripolos's main domestic preoccupation was to put the Kingdom on a new constitutional footing and thus accommodate national sovereignty with monarchical power. His theory thus turned against—at least indirectly since he did not, initially, challenge monarchical rule—what he saw as the limited understanding of both the Bavarian conception of the state and the legal *Rechtsstaat* version of the Romanists. By so doing, Saripolos tried also to reconceptualize the principles of state authority, turning to an understanding of the state as 'a moral being'. The language of sovereignty he employed was as much about the internal political authority of the state as it was about its international position. This was a moment when Greek scholars realised that formal independence was not in itself a sufficient criterion for statehood. This became a central concern towards the end of the 1850s, when interference in the domestic affairs of the Greek state and direct financial pressure by the Great Powers showed the precarious position of Greece in the international system and its status as a semi-protectorate. By turning to international law, Saripolos criticised the ways in which the Great Powers had curtailed or limited Greece's sovereignty. As a remedy, he emphasised the need to move from independence and self-determination as the ultimate criteria

of statehood to those of sovereign autonomy and equality in the international arena. Again, it was the state that lay at the heart of Saripolos's analysis.

This preoccupation with the state, its character and its relation to the individual was not restricted to Greek liberals. As Christopher Bayly has argued, one of the most controversial issues of the Restoration was how to deal with the new and invigorated state that had emerged from the French revolutionary wars. Its style of governance and its centralizing tendencies had raised practical issues of government, but also questions of political legitimacy and ideology, which were matched by an increasing penchant to theorize about it and about the progress it could foster.⁴⁹⁶ Constitutional thought of the time was a manifestation of this efflorescence of interest in statehood. The response of European liberals to the tension created between individual liberty and a centralizing state took many forms. With regards to French liberalism, Lucien Jaume has distinguished between three different liberal responses: Catholic liberalism, the 'liberalism of the subject' and the dominant liberalism of the *Doctrinaires* that subordinated the individual to the state.⁴⁹⁷

Saripolos took an intermediary position by creatively using and adapting these French liberal traditions to his own concerns and context. For Saripolos, Greece may have been a latecomer in the process of political modernity, but both the Revolution and the late political and constitutional reforms (1844) had opened up its way into the modern era. In a way, just like his counterparts—constitutional liberals in France (Guizot, his fellow *doctrinaires* and Benjamin Constant)—Saripolos sought to institutionalise the revolutionary tradition by establishing a moderate *juste milieu* based upon 'order, legality, and constitutional liberty'.⁴⁹⁸ And, actually, compared to liberal proposals in France and across the Channel, Saripolos did not seek to reduce royal prerogatives but on the contrary to extend them. His constitutional vision implied a complex institutional structure which placed great emphasis on the benefits of a strong state with the King as its head. A state such as this could respect individual rights but also create the institutions that would enhance their protection and their exercise. In short, for Saripolos, a language of individual rights and claims

⁴⁹⁶ Bayly, *The Making*, pp. 108-109, and p. 143.

⁴⁹⁷ Jaume, *L'individu efface*'.

⁴⁹⁸ Jennings (2011a), *Revolution and the Republic*, p. 365.

for a strong central power were not mutually exclusive. At the same time, what seemed to be a very important element of his theory of mixed government was that the sovereign nation was entitled to regain its sovereignty in the face of monarchical abuse. What was probably of even greater importance was that these ideas played out not just in the Judicature but in the political developments that swept Greece from 1862 to 1875.

5. Ideas into practice: the ‘lawful’ revolution and the building of a new constitutional order (1862-1875)

Introduction

The previous chapters located the emergence of post-independence Greek legal thought in a number of European intellectual contexts, thus further developing the notion of a transnational sphere of intellectual history. Although largely ignored by modern Greek historiography, the terms of Greek debates were set both by the peculiar position of Greece in the European imagination and by its incorporation, on unequal terms, in the European political system, which was dominated by the Great Powers. At the same time, the specific liberal ideas which developed were largely determined by the ways in which a generation of jurists attempted to accommodate them in the Greek setting and make them into applicable political projects. In the 1840s and 1850s, concepts such as the ‘constitution’, ‘sovereignty’, ‘individual rights’, ‘private property’ and the ‘rule of law’ and their practical application were of central concern to Greek liberals.

Far from being confined only to scholarly debates—although these were important in their own right—this intellectual production was disseminated to the public sphere, informed the formation of policies and institutions and was made by and large into law, not least through legal politics. For the jurists, the authorities should give priority to a thorough but gradual legal transformation and to the inculcation of liberal manners through education. Thus, through their works and their participation in the Judicature and the civil service, at least initially, the jurists complemented the attempts made by the monarchical state to rationalize administration, facilitate the exercise of private property and generate sound economic policies and material prosperity.

Nevertheless, by the 1850s, this process had come to a halt. After successive failed attempts on the part of the King and the central authorities at financial and institutional reforms, Greece entered a period of crisis which increased social and political discontent. What is more, short-sighted foreign-policy initiatives during the Crimean War jeopardized the already precarious position of the state in the family of

civilised nations. From the late 1850s, a political struggle against the King gradually culminated in the most serious domestic political crisis the country had faced during its early life.⁴⁹⁹ In October 1862, a full-blown and bloodless revolution broke out. As a result, the King was forced to abdicate the throne and a provisional government was set up to call for national elections. The primary task of the newly convened National Constituent Assembly, which was to have a long life (1862-64), was to promulgate a new constitution and elect a new King. At the same time, it held all legislative and executive power, thus making this period a sort of provisional 'republican interregnum' (from Ottonian reign to that of George I).⁵⁰⁰

By 1864, after intense constitutional debates and political turmoil, Greece had a new King and, more importantly, a constitution which has been appraised as one of the most 'democratic' of its time and, in the context of Balkan political history, as an act of 'absolute theoretical purity' (meaning a text in which liberal principles were articulated in pure form).⁵⁰¹ Yet, it took a decade of political instability and a relatively small-scale political crisis in 1875 to settle (partially, as we shall see) the crisis by consolidating the jurisdiction of the Parliament.⁵⁰² The chapter will focus on this long crisis, treating it as a clearly distinct period in Greek political development. It will do so not only because of the conventional boundaries of political history but because this period contained the seeds of subsequent political developments. It was, in other words, one of those particular constitutional moments when the way

⁴⁹⁹ For a general overview, see Thomas Gallant (2002), *Modern Greece*, Hodder Headline: London, pp. 42-44, and Douglas Dakin, *The Unification of Greece*, pp. 87-89. See also Joh Kofas (1980), *International and Domestic Politics in Greece during the Crimean War*, New York: East European Monographs.

⁵⁰⁰ Neither contemporaries nor historians characterised the period as republican. In theory, Greece remained a kingdom in search of a new king. In practice, however, the country lacked a head of state and was governed by cabinets elected directly by the Parliament. Thus, for the first time since the War of Independence, the Parliament had extensive legislative and executive powers. Probably one of the best analogies would be the Second Continental Congress in 1875 America which, in essence, replaced the British Crown in American political life and assumed the same kind of authority.

⁵⁰¹ Alivizatos, [The Constitution]; Giorgos Sotirelis (1991), [Constitution and Elections in Greece: 1864-1909], Athens: Themelio. For its appraisal in the Balkan context, see Kitromilides (1988), 'European Political Thought', p. 13.

⁵⁰² Although in the British political system the Parliament includes both the House of Commons and the House of Lords, in Greece, even when two chambers existed, they were always considered two different legislative institutions. From 1862 onwards, when the Senate was abolished, the Assembly of Deputies has gone by the name 'Βουλή', which is officially translated as Parliament.

of 'doing' politics was transformed.⁵⁰³ In this section, therefore, the focus shifts from the intellectual formation of legal ideas and political arguments to a discussion of a political conjuncture during which these ideas took a very acute political relevance.

Although this period represented a key moment in the history of political institutions in nineteenth-century Greece, it has received surprisingly little attention from historians.⁵⁰⁴ Most commonly, the 'October' Revolution and its aftermath have been treated from a diachronic and often teleological perspective as important steps in a process which began with the Greek War of Independence. For legal historians, the Revolution of 1862 was another episode (after the Revolution and the constitutional change in 1844) in the conflict between authoritarianism and the 'national democratic' ideas of emergent liberal forces. The final triumph of the latter, exemplified in the constitution of 1864 and in the acceptance of 'majority rule' by the King in 1875, just consolidated this path to parliamentary 'democracy'.⁵⁰⁵

Recently, social historians denied the influence of political ideas or ideology by focusing on the interests and role of local social groups. In the more consistent of these revisionist accounts, the Revolution was seen as the process by which the landed elites demanded a share in political power, turning against the centralizing tendencies of the monarchical authorities. According to this reading, the Revolution and the dethronement of the King were— implicitly, it has to be noted—not so much a revolution but the outcome of a conservative movement. It was wrought by elites

⁵⁰³ As Paschalis Kitromilides argued, 'The 1864 constitution ushered in a long period of parliamentary government. The major constitutional changes in the 20th century, the revision of the constitution in 1911 were premised on the constitutional principles and formulations of 1864': Kitromilides, 'European Political Thought', p. 13.

⁵⁰⁴ Some of the few attempts include: D. Michalopoulos (1981), *Vie politique en Grèce pendant les années 1862-1869*, PhD thesis, University of Athens; A. Skandamis (1951), [The thirty years of Otto's rule, 1832-1862], Athens; Epameinondas Kyriakidis (1892-94 [1972]), [History of Contemporary Hellenism], vol. II, Athens. See also Fr. Lenormant (1862), *La révolution en Grèce, ses causes et ses conséquences*, Paris.

⁵⁰⁵ This is the most common approach of general constitutional or political histories of modern Greece. Indicatively, see Nikolaos Kaltshas, *Introduction* and Mannesis, *Deux Etats*. Others have followed the same line of argument by focusing on the indecisiveness and incompetence of King Otto or the royal authorities' disrespect for parliamentary democracy. See Theodoros Couloumbis, John A. Petropoulos and Harry J. Psomiades (eds) (1976), *Foreign Interference in Greek Politics: A Historical Perspective*, New York: Pella Publishing Company, and John V. Kofas (1981), *Financial Relations of Greece and the Great Powers, 1832-1862*, New York: Columbia University Press.

who sought to consolidate their local power in a struggle which had started during the revolutionary war against the Ottoman authorities.⁵⁰⁶

Although they come from different perspectives, both accounts suggest that the political developments of 1862-1875 completed the political struggle of the War of Independence. These interpretations have enhanced our knowledge of the role of ideological conflicts and local politics, but they are also examples of how historians may be too quick to conclude that they have understood something when they have identified vested interests or reified ideological doctrines lurking behind it. By treating the revolutionary crisis and its outcome as natural developments of past struggles, they have failed to take into account what the events meant to contemporaries.

It was only very recently that Sakis Gekas revisited the period and emphasised its historical contingency. Comparing the Ionian state and the Kingdom of Greece, Gekas located the formation of anti-establishment politics and the regime change in both cases in the severe, long-lasting and multifaceted crisis of the 1850s. The failings of authorities to deal with the crisis and the lack of reforms increased discontent among old and new social groups (army officers, lawyers, students, merchants, etc.), resulting in a crisis of legitimacy that turned revolutionary. But, again, he treated the 'liberal and democratic' claims of the revolutionaries instrumentally and the political change that followed as natural and inevitable.⁵⁰⁷

This chapter seeks to enhance this approach which privileged contingency by taking a different perspective. It suggests that the Revolution of 1862 was primarily an ideological, constitutional and political struggle and not only a controversy between social groups that was undertaken to force changes in the organisation of

⁵⁰⁶ Kostas Kostis argued that the origins of the Greek Revolution lay in the political claims of the 'marginal' elites of the Greek mainland—local Christian landlords who were not participating in the Ottoman administration and were thus either outside the political game or just controlling areas in which the Ottoman authorities had a scant, if any, presence. The 1862 revolution, according to Kostis, was their final triumph: Kostis, [The spoiled children], pp. 344-356.

⁵⁰⁷ Sakis Gekas (2013), 'The Crisis of the long 1850s and Regime Change in the Ionian state and the Kingdom of Greece', *The Historical Review / La Revue Historique*, Section of Neohellenic Research / Institute of Historical Research, vol. x, pp. 57-84. It has to be noted, however, that Gekas studied the crisis precipitating the outbreak of revolution, not the Revolution itself. See also Theodoros Sakellariopoulos (1994), [The crises in Greece: economic, social and political aspects], vols I-II, Athens: Kritiki.

society or the economy.⁵⁰⁸ In the very initial outbreak of the Revolution lay a deeper reality which was crucial for its course and outcome: the King's and his government's version of affairs had ceased to be convincing, the command of public opinion had been lost and the whole regime had begun to appear illegitimate in the eyes of its subjects.

Thus, from its very beginning, it was a revolution about the principles and practice of government. And by its very success, which culminated in the Constituent Assembly and the constitution it promulgated in 1864, it transformed significantly, if not radically, the practice of and the way of thinking about politics. Thus, in order to make sense of the Revolution and subsequent events we need to understand what the revolutionaries sought to achieve. We need, in other words, to explore the main political claims made by the revolutionaries and situate them against the backdrop of contemporary debates and disputes.

This immediately raises several questions: Why and how did attitudes towards the King and the monarchy change? Or, to be more precise, why and how did moderate calls for a reformed monarchy, which existed, as we have seen, from the early 1850s, turn to claims which justified the dethronement of constituted authority and the remaking of the political structure on a new constitutional footing? To what extent can these claims help us make sense of the political change and the political disputes within the Constituent Assembly and thereafter? If this change and the claims against the King were not natural and inevitable, how did they come to be articulated?

In order to answer these questions, political languages and ideas are important and have to be studied alongside social or economic changes because it is the intimate relationship between political thought and the circumstances of life and public action that give revolutions their political form. Furthermore, as is often the case, the political thought of the Revolution was not created *ad hoc*. The Greek case thus bears evidence of the argument made by Quentin Skinner that it is the 'rhetorical re-inscription' of existing modes of political discourse, the remodeling of

⁵⁰⁸ This is something which Gekas also partially admits by arguing that '[...] the change of regime in both states focused and was expressed ultimately in the field of political institutions': Gekas, 'The crisis of the long 1850s', p. 72.

political vocabularies to meet or accommodate specific goals, that is the key to political transformation—at least in the absence of violence. Or, as he put it more succinctly, ‘all revolutionaries are [...] obliged to walk backwards into battle’.⁵⁰⁹ As the previous chapters argued, such a mode of political discourse had been developed in Greece from the 1840s onwards in the form of a complex and diversified liberal political language which the jurists had played a crucial role in shaping. The importance, however, of this political discourse and the individuals who articulated and propagated it was enhanced at this moment of crisis when existing political arrangements and the ideas that sustained them were challenged.

This chapter will focus on the ways in which the legal and, more generally, the political thought of the jurists played out during this crisis. It will look at how ideas about representation and the constitution, sovereignty and the nation and individual rights and the state found their way into the language and claims of the revolutionary texts, the constitutional proceedings, the constitution itself and the subsequent debates. The jurists’ influence was not just intellectual. They were extremely active participants in the events themselves. To some extent the emphasis has been placed on Nikolaos Saripolos because of his key role in formulating the revolutionary texts of the Provisional Government and of his capacity as *rapporteur* of the constitutional draft. But others, such as Pavlos Kalligas, Kyriakos Diomidis, Emmanouil Kokkinos and Ioannis Soutsos, were involved either as members of the Assembly and the drafting committee or as commentators in the public sphere.

What is more, Pavlos Kalligas held several ministerial seats during this interregnum period, and Kyriakos Diomidis became Prime Minister for a short period. That is not to say of course that in the process of drafting the constitution, they just tried to implement ideas worked out in their field of study; rather, their interventions were products both of their theorizing and of the contentious political debates in which they participated. In fact, within the Constituent Assembly, they came to form a loose political grouping called the ‘Eclectics’ (‘Εκλεκτικοί’), the

⁵⁰⁹ Quentin Skinner (2002), *Visions*, vol. I, pp. 149-150 and pp. 175-188. See also Raymond Geuss (2001), *History and Illusion in Politics*, Cambridge: Cambridge University Press, pp. 159-162. The quotations in Duncan Bell, *The Idea of Greater Britain*, p. 120.

significance of which surpassed its size in the drafting process.⁵¹⁰ Thus, they played a significant role in setting up the terms of the constitutional discussions and in articulating a varied but distinctive political agenda. For most of them this political experience was so important that in subsequent publications of their works they included their speeches and interventions in the Assembly as evidence both of their political thought and of their services to the nation.

During this constitutional crisis, the jurists combined a moderate political agenda with more radical positions. Although they turned against the King and his system of government, they did not wish to destroy the political and constitutional system but rather to reform it into a political structure which would respect the rule of law and the individual rights of the citizens, which had been previously guaranteed only on paper. At the same time, they also had more 'communitarian' concerns which were close to democratic nationalism. Some, and especially Nikolaos Saripolos, were hospitable to the idea of a strong national state and sought to change its basis of political legitimacy. Yet, their liberalism did not lead them directly to democratic government, as evidenced by their views on the franchise and the democratic 'excesses' of the new constitution. During the proceedings of the Constituent Assembly, their views carried the day on many issues, but were rejected on others. A point of general agreement and probably the most important outcome of this complicated process was the emergence of a new conception of representation and sovereignty, one that gave a more prominent role to the legislative power and the Parliament and considered the nation as the source of political power.

The key issues then for the Assembly were to renegotiate the relationship between the nation and the (new) King and to establish the constitutional monarchy on a new footing. Accordingly, the meaning of the constitution changed as it was no longer perceived as a contract granted by the King to the nation. By so doing, the Constituent Assembly, at least in theory, created a new system of power and reconfigured the structure of politics. For one, it constrained royal power, by transforming the accepted and lawful forms of governance, obedience and resistance. Accordingly, it enhanced the role of Parliament and in the long term set

⁵¹⁰ Giorgos Sotirelis, [Constitution and Elections].

the foundations for mass politics. And yet, many issues remained controversial, in particular the relationship between the executive and the legislative power. In order to avoid the concentration of power in one authority, the deputies established a complex constitutional system, delegating the power of the nation to different political authorities—both the King and the Parliament. Thus, by institutionalizing competing claims about who speaks for the nation, they put a degree of uncertainty in the exercise of political power. This opened the possibility of a constitutional impasse in the case of a disagreement between the crown and the Parliament. A partial solution was given in the following constitutional crisis of 1874-75.

In this sense, this was a long constitutional crisis—or revolutionary moment of over a decade—which had significant repercussions. In the following decades, Greek political life was stabilized, political parties were formed, the economy started growing in significant rhythms and the modernization of the state was systematized. But, notwithstanding these long-term benefits, the constitutional structure left a tension between the political authorities that was to play out in the twentieth century. This tension, the origins of which lie in 1864, has never been conceptualized as a constitutional tension by modern Greek historiography. The reason for this is that for most Greek historians the problems that followed the promulgation of the 1864 constitution were due to the antinomy between imported liberal and democratic models and a society which was traditional and conservative, if not millenarian and populist, in its outlook. Thus, by praising the 1864 constitution as an idealised product of Western liberal ideas, Greek historiography has failed to read it closely, situate it in its intellectual and political context and therefore to understand the impact it had in the political life of the Kingdom.

The ambition of this chapter, therefore, is to propose a survey and an explanation of an intense intellectual and political conflict and of the concomitant crisis of legitimacy that caused a radical political transformation. By so doing, it has three aims. Firstly, like the previous chapters and the thesis in general, it seeks to undermine the treatment of the case of Greece as ‘peripheral’ or ‘anomalous’ and integrate it instead in the fruitful and ongoing discussions about liberalism in the nineteenth century. From the perspective of the ongoing debates among historians about liberalism in this period, what the Greek case shows is that that liberal

contributions were not just about protecting individual rights against the state but equally, if not more so, about the state itself and the role of the monarchy in that state. It also has to be noted that, generally speaking, both of these features of liberal thinking have been downplayed by European historiography.

Secondly, the chapter seeks to reinforce an old argument about the perceived association between theory and public action. As Alasdair Macintyre argued long ago: 'There ought not to be two histories, one of political and moral action and one of political and moral theorizing, because there were not two pasts, one populated only by actions and the other by theories. Every action is the bearer and expression of more or less theory-laden beliefs and concepts; every piece of theorizing and every expression of belief is a political and moral action'.⁵¹¹ Thirdly, by relating political thought to the 'high' political context of the time, the chapter aims to challenge accounts which take liberal ideas as abstract concepts which were just used incidentally and instrumentally by elites with specific social interests. Although hardly an exception, the Greek case does require a conception of liberal ideas as active political doctrines more closely related to practice than appears in numerous conceptions of liberalism and in the writings of many historians of ideas.

Greek legal thinkers were not, in other words, only spokesmen of moderate 'liberal' politics which centered on reforms and mainstream political processes, but they were also instrumental in the very remaking of the political structure and indeed in the ways in which this long revolutionary moment escalated. The next section of this chapter will open with a discussion of the political crisis that precipitated the outbreak of the Revolution of 1862 before moving on to a closer look at the revolutionary texts. Then, the focus will move to the Constituent Assembly, the proceedings of which lasted for almost two years. Last but not least, the chapter will examine briefly the next constitutional crisis of 1874-75 through which parliamentary rule was consolidated.

⁵¹¹ Quoted in Sudhir Hazareesingh (2001), *Intellectual Founders of the Republic: Five Studies in 19th century French Political Thought*, Oxford: Oxford University Press, p. 14.

The 'Lawful' Revolution of 1862: Crisis, failure of reforms and the rise of political opposition

The Revolution of 1862 is generally understudied by modern Greek historians. The most conventional interpretations view it as an outcome of a combination of popular discontent and the rise of a radical 'intellectual' opposition which came to express 'higher' democratic claims against the regime of King Otto. And primarily the emphasis has been placed on the latter. As Douglas Dakin stated long ago, it was the 'intelligentsia' which produced, on a smaller scale, the kind of political opposition to government which had faced Charles X and Louis-Philippe in France and which provided many of the political figures of the new post-revolutionary constitutional regime.⁵¹² According to Paschalis Kitromilides, this opposition turned increasingly to liberal thought as an ideology of political criticism and a language that would foster the struggle for civil liberties and political freedom.⁵¹³

What is more, these ideas were diffused by a flourishing press, which, by the beginning of 1860s, numbered over 20 newspapers, to say nothing of periodicals, pamphlets and occasional broadsheets, all of which had transformed the role of public debate.⁵¹⁴ Even though this contribution of the intellectuals and the role of the printed word have been generally acknowledged by modern Greek historiography, the nature of the claims against King Otto remain unclear. In other words, what needs to be explored if we want to understand subsequent developments are the specific grievances against the monarch and how they were justified.

By and large, contemporaries turned against what they called 'Otto's system'. But, in order to make sense of what that meant and why people turned against it, we need to understand the theoretical structure of the constitutional monarchy at the outset, before the revolutionary crisis began. As already noted in the chapter on the early period of Bavarian rule, the royal authorities and the King perceived the monarchy and the government as having strong affinities with the 'enlightened'

⁵¹² Dakin, [The Unification of Greece], p. 95.

⁵¹³ Kitromilides, 'European political thought', pp. 11-21.

⁵¹⁴ Dakin, [The Unification of Greece], p. 95.

monarchies of the *ancien regime*. What is more, the monarchy drew its legitimacy from the foundational treaties with which the political structure of the Greek state had been established and according to which the King was recognised as the single and supreme sovereign of the Kingdom.⁵¹⁵ At the same time, as the Treaty of London made clear, the delegates of the Great Powers, which had offered the crown to the Bavarian Prince, had acted as mediators upon a power granted to them by the Greek nation.⁵¹⁶ Even though this could—as it did later on—complicate things, for the Bavarians it meant that the monarch, in his own person, represented the Greek nation and alone was capable of expressing its permanent and common interests.

His power, however, was not arbitrary but was based on several fundamental premises. The first was the dynastic right to the Greek throne, according to which succession was secured not by election but through direct male line and later through the Orthodox faith.⁵¹⁷ The second was that the person of the King was distinct from the institution of the State. The King, as the supreme and sovereign authority, embodied the public dimension of the state and stood above particularistic interests, but he was not the proprietor of the state domain. This national/'unitarian' role of the monarchy was even more enhanced after the experience of the civil strifes that had engulfed Greece during the Revolution and after the death of Capodistrias. Thus, for many commentators, not least for members of the Senate at the time, only monarchical power could provide effective protection against the dividing tendencies.⁵¹⁸ In that situation, the King's main

⁵¹⁵ These included, the several international treaties and legal acts between the Great Powers, the treaties and legal acts between the Great Powers and the Bavarian monarchy, and the legal acts between the Bavarian monarchy and the Greek monarchy.

⁵¹⁶ [Protocol of London, 3 February 1830], and especially [Treaty of London, 7th of May 1832 for the election of Otto and its legalization by King Ludwig of Bavaria], both in Gerozisis et al. (1993), [Constitutional Texts], the first in pp. 136-137, the second in pp. 148-153 (especially pp. 148-149).

⁵¹⁷ Article n. 1 of the Treaty: see *ibid.*, p. 149. See also [Interpretative and complementary article of the Treaty of London, 18th of April 1833], *ibid.*, pp. 156-157. In 1852, a treaty was signed between Bavaria and Greece, according to which Otto's successor was to profess the Orthodox faith; if he was a minor, Queen Amalia would act as regent: *ibid.*, [Treaty of London on the succession in the throne of Greece and on the regency of Queen Amalia, 8/20 November 1852], pp. 240-241.

⁵¹⁸ This anxiety was made prevalent in the acts produced by the Senate and Provisional Government and sent to King Ludwig of Bavaria after the news of his son's election to the Greek throne. As the former stated: 'The Senate, informed for the election of his highness Prince Otto to be the *sovereign* of Greece, did all it could to put an end to the riots and *anarchy*; but as things stand now, the situation cannot take any more delays and it is only upon the coming of our venerable sovereign or his surrogate that the rehabilitation of *civil (common) order and peace* depends' (my emphasis). See [Communication of the Senate to the King of Bavaria, Ludwig, 13/25 April 1832], in Gerozisis et al.

preoccupation was to render royal power 'more truly' public and to secure civil peace. The third premise of the Bavarian understanding of the monarchy, influenced as it was by the *Polizeiwissenschaft*, saw the state—as already mentioned—as a mechanism which would act in accordance with its own laws and do so for the greater good and welfare of the Kingdom. That is to say, it was seen as a critical agent of change and instigator of reform from above. In this sense, even though the primary focus was on the welfare of the state, authorities were not totally unconcerned with the securities and liberties of its population.

The constitutional arrangement of 1844 had in fact solidified this understanding of the monarchy. At the same time, it had introduced some new elements which were to prove important. By its own language, the constitution of 1844 was basically a contract between the King and the nation. For some commentators, such as the *Rechtstaat* thinkers, whom we saw in an earlier chapter, the constitution was the foundation of a law-based state. It put into force a mixed and balanced constitution with the King as sovereign and ultimate authority and two chambers, one elected and representing the nation, the other representing the 'best' among the nation and selected by the King. The crown with its legal rights was perceived as an independent constitutional entity with which the nation bargained collectively. By concluding this contract, the nation could attain a position through which it could protect some of its liberties and participate in the government. The representative bodies were the means by which the members of the nation could bargain with the King and put on paper the rule of law.

In addition, through some of the basic clauses of the constitution, the two chambers were also the means by which the nation participated in government and protected its liberties or, according to Saripolos's interpretation which we saw in the previous chapter, the natural individual rights (liberty, security and property) of its members. What all this meant was that contemporaries before the revolutionary crisis perceived the constitutional monarchy as a regime ruled according to some fundamental premises: the King held the sovereign power, the state would promote welfare and instigate reforms and the national Parliament would protect the rights

(1993), [Constitutional Texts], p. 145 (pp. 145-146). See also [Communication of the Provisional Government to the King of Bavaria Ludwig, 14/26 April 1832], in pp. 147-148.

of the nation. The problem was that the exercise of power from the royal authorities and the King himself was challenging this theoretical structure.

For one, the monarchical state had failed repeatedly in the domain of material prosperity, civil peace and in fostering reforms. Indeed, as the previous chapter argued, from the late 1840s, concerns were raised in several circles and in particular by the jurists about what they conceived as failed or half-hearted attempts at further reforms. These concerns intensified during the 1850s when the Greek economy and society entered a period of severe crisis. The economic situation of the country was deteriorating, and eventually became engulfed in commercial downturn and financial instability. Discontent abounded and a series of episodes early in the 1850s served to expose the weaknesses of the monarchical system of government. A number of rebellions in the early 1850s broke out in the countryside over high taxes, debt, foreclosure and increasing immiseration. Even though these rebellions had mainly local origins and did not directly threaten the government and the monarchy, as happened elsewhere in Europe, they clearly highlighted the growing disaffection among the people.⁵¹⁹

At the same time, public finances were out of control, and the state was unable to meet its obligations towards its international creditors, to the extent that external borrowing became unavailable. Reform on taxation, which could have eased the effects of lack of external borrowing, dragged on for years and put the country in a state of permanent debt which resulted in a liquidity crisis. This diminished any possibility of state intervention to rebuild the economy. These financial deficiencies had wider implications for all economic sectors. What is more, during the late 1840s, crop failures brought famine, poverty and cholera, causing food riots and, more generally, a humanitarian crisis.⁵²⁰

⁵¹⁹ Gallant, *Modern Greece*, p. 42. See also Kaiti Aroni-Tsichli (1989), [Rural revolts in 'Old' Greece, 1833-1881], Athens: Papazisis.

⁵²⁰ P. E. Petrakis (1985), 'The Borrowing Requirements of the Greek Public Sector, 1844-1869', *Journal of the Hellenic Diaspora*, vol. 12, pp. 35-46. See also Gekas (2013), 'The crisis of the long 1850s', p. 62. For the loans of the Greek War of Independence, see Maria Christina Chatziioannou (2013), 'War, Crisis and Sovereign Loans: The Greek War of Independence and British Economic Expansion in the 1820s', *The Historical Review/La Revue Historique* Section of Neohellenic Research/Institute of Historical Research, vol. x, pp. 33-55. See also Socrates Petmezas (2011), 'Foreign Trade and Capital Flows in Nineteenth-Century Greece', in Edhem Eldem and Socrates Petmezas (eds), *The Economic*

This crisis was exacerbated during the Crimean War. In light of the Russo-Ottoman War, Greek military and paramilitary groups backed by the government had started operating in the borders with the Ottoman Empire. Not only did these groups fail, but the Anglo-French alliance, in trying to preserve the integrity of the Ottoman Empire, enforced a naval blockade to Piraeus and, in May 1854, sent troops to the Greek capital.⁵²¹ At the same time as this humiliating occupation, King Otto was forced to ignominiously give up his irredentist policy against the Ottoman Empire and accept an administration selected by the foreign legations and headed by Alexandros Mavrokordatos—that which became known as the ‘occupation cabinet’ (‘υπουργείον κατοχής’). Although the consequences of the crisis remain largely unexplored, this was the first time that the authorities had to face a crisis, which had national as opposed to local or regional consequences.⁵²²

Developments over the next few years only made matters worse. In the words of Sakis Gekas, Greece in the late 1850s was more of a debt colony than it had ever been in the past.⁵²³ These problems did not just undermine national prosperity but also risked the place of Greece in the geography of ‘civilised nations’, as exemplified by the humiliating events during the Crimean War, the failure of the Greek state to play a political role in the Eastern Mediterranean and, more thoroughly, by the attempt of the Western powers to impose a financial control in 1859.⁵²⁴ As Saripolos noted in his treatise on international law—which we saw in the previous chapter—

Development of Southeastern Europe in the 19th Century, Athens: Alpha Bank Historical Archives, pp. 447-491, and Alexis Frangiadis, [The Greek Economy], p. 75.

⁵²¹ In Athens, the problem of pauperism was prevalent before the cholera outbreak. The later was brought by the French and British occupation forces and lasted from June 1854 to January 1855, causing the death of 3,000 people. See Maria Korasidou (1995), [The miserables of Athens and their healers: poverty and philanthropy in the Greek capital in the 19th century], Athens: Centre for Neohellenic Research / NHRF, pp. 58-60. See also Sakellaropoulos (1994), [The crises in Greece], vol. II, pp. 159-161.

⁵²² Gekas, ‘The crisis of the long 1850s’, p. 60. Several humiliating events, instigated by the occupying forces, took place during the occupation. Apart from military marches in the street of Athens, journalists such as Ioannis Filimon—editor of *Aion*, a pro-Russian newspaper—were arrested and imprisoned.

⁵²³ Gekas, ‘The crisis of the long 1850s’, pp. 62-67.

⁵²⁴ The condition for lifting the blockade that had been imposed on Greece was the first informal financial control imposed on one country. The conclusion of the report reiterated the harsh terms of the 1833 loan agreement, stating that that Greek government would have to honour the annual payment obligation before spending for other purposes: *ibid.*, pp. 76-77; Edouard Driault and Michel Lheritier (1925), *Histoire diplomatique de la Grèce de 1821 à nos jours*, vol. II, PUF: Paris, pp. 406-413, pp. 417ff; Kofas, *International and Domestic*, pp. 69ff.

actions like the occupation of 1854 and the naval blockade jeopardized the status of Greece as a sovereign state. Under these conditions, many commentators, including the jurists, became more vocal in their calls for reforms, employing a moderate language which focused on reforming state policies and the monarchy. These calls were in fact backed by the Protective Powers and especially the British owing to their dissatisfaction with the monarchy's financial, economic and foreign policy, especially during and after the Crimean War.⁵²⁵ Nevertheless, any attempt at reforms, including those related to the pressing issues of landholding and taxation, had largely failed.

Things came to a head during 1859-1862 when Otto and his regime faced an increasing crisis of legitimacy which finally brought about their downfall. This was due to several factors. One factor was the failure of his foreign policy and the frustration this had caused even for supporters of irredentist visions against the Ottoman Empire. This was also exacerbated by Otto's initial refusal to support the Italian unification struggle in 1859, which eroded his popularity with the general public. The support of France and Great Britain for the Italian insurgents gave the public the impression that Otto was the main reason why Greece was not favoured by the Great Powers in its struggle against the Ottoman Empire.⁵²⁶ A second factor was the issue of succession, which had continued to loom large for Otto since the King had proposed no solution to the lack of an Orthodox heir.⁵²⁷ A third and much more important factor was the rise of a more radical opposition against Otto.

Indeed, in light of the monarchy's stubborn resistance to actual reforms, from 1859 to 1862 opposition to the monarchy became more outspoken, and public interventions acquired a more directly oppositional political tone. Discontent spread among a new generation—including people educated in the University of Athens, members of the growing trading, commercial, and professional classes and others widely travelled or educated abroad—whose political sympathies were more liberal and democratic. In 1859, political protests and riots involving high-school and

⁵²⁵ The 'occupation cabinet' was rather popular among many western-educated liberals since it took several reform initiatives which would have long-term effects, such as the introduction of an efficient public account system, gas lighting in the streets of Athens, the making of a railway and many others. See Kostis, [The spoiled children], pp. 267-268, and Kofas, *International and Domestic*, pp. 33-34.

⁵²⁶ Antonis Liakos (1985), [Italian Unification and the Great Idea, 1859-1862], Athens: Themelio.

⁵²⁷ Dakin, *The Unification of Greece*, p. 87.

university students broke out in Athens.⁵²⁸ In the following years, these incidents proliferated, causing a violent reaction from the authorities in their attempt to break any opposition rally that expressed anti-government sentiments. Symptomatic of the rising opposition to the Bavarian monarchy was the attempt by radical university students to assassinate Queen Amalia in 1861, an attempt which nearly succeeded.

Yet, what ultimately made this crisis a legitimacy crisis—and indeed gave the revolution its language—was the way in which the King's rule increasingly came to be seen as usurpation of power. In other words, from the early 1860s onwards, contemporaries accused the King of unsettling the balance of the constitution and, in a way, breaking the very contract with the nation. Indeed, from the early 1860s onwards, Otto made several attempts to suppress dissatisfaction and bypass the Parliament by rigging elections and by using his power to appoint his favourites to offices and to the Parliament.

In particular, in 1860, the Miaoulis administration, which was favourable to the crown, lost parliamentary support and was forced to resign. The King, instead of accepting the resignation, dissolved the Parliament immediately. In the rigged elections that followed, opposition supporters and candidates were threatened, Miaoulis won and significant opposition figures, such as Alexandros Koumoundouros, Epameinondas Delliorgis and Thrasylvoulos Zaimis, were not elected.⁵²⁹ Not only that, but the Parliament was packed with the so-called 'mayors'—unpopular local officials close to the crown—whom the King had managed to have elected. In addition, he replaced 18 Senators with others who did not even meet the formal requirements, and he waged a war against the anti-governmental press by way of censorship and the dissolution of newspapers.⁵³⁰ The political crisis deepened during and after the elections of 1861. The opposition demanded free elections, reforms, public works and administrative rationalization, among others claims, but repression

⁵²⁸ The most famous among them were the 'Skiadika' riots and those which followed the imprisonment of Alexandros Soutsos for defamation of the King: see Kostis, [The spoiled children], pp. 283-285.

⁵³⁰ Epameinondas Deligiorgis (1896), [Political diaries. Political notes. Political correspondence], Athens, vol. I, pp. 226-246. See also Kostis, [The spoiled children], pp. 284-285.

from the authorities continued with open, violent clashes and with daily newspapers such as *Athina* openly accusing the government of rigging the election.⁵³¹

Thus, by 'Otto's system', contemporaries essentially meant an autocratic system of government in which the King ruled as the head of a royalist faction of sycophantic politicians. The governmental practices had effectively reduced constitutional government to a sham and were corrupting the constitution and undermining the public authority of the state. That is why, initially, the quarrel was not with the monarchy as an institution but rather with its current practice. There were at least two possible responses to this situation. One was to attempt to prevent this usurpation of power by claiming that the fundamental premises of the constitutional contract should be respected. The second was to reconstitute the principles of the political order by breaking the pact with the monarch and putting it on a different footing. The failure of the first in 1861 prepared but did not exactly cause the second response which came one year later 1862. Indeed, the first response came in late 1861 when the King asked the old and highly respectable Konstantinos Kanaris to form a government. The King saw this as a way out of the political deadlock and the mounting opposition. Kanaris responded with a long blueprint for political reforms. In a rather sharp introduction, Kanaris went straight to the heart of the problem:

'History teaches us that there are times in the life of nations when they suffer silently the *usurpations* of existing fundamental laws and their application and are absorbed instead in their material and moral development, but that these are followed by other times when, from a small occasion, symptomatic of a disorderly situation, the nation revolts and asks insistently to support its political liberties. In that precarious crisis of nations, it is legally and politically sound for the governments to succumb in order to avoid the big turmoil, which threatens the peace of societies and the security of the thrones.'⁵³²

Kanaris, in other words, was giving the monarch a warning (while making a prediction which was to prove correct). The suppression of political liberties and the usurpation of power by the King were threatening the security of the throne. So, although Kanaris stated that old habits and perceptions would die hard and would be

⁵³¹ See, Indicatively, *Athina* [Αθηνά], n. 2943 (9 January 1861), n. 2945 (14 January 1861), n. 2946 (18 January 1861) and n. 2950 (2 February 1861).

⁵³² [Memorandum of Konstantinos Kanaris to King Otto regarding the necessary conditions for forming a government, 12 January 1862], in Gerozisis et al. [Constitutional Texts], pp. 246-256 (pp. 246-247) (my emphasis).

ready to conspire against any radical change, he proposed urgent reforms which he conceptualized as '[...] the sweeping and radical reform of the present governmental system, through measures that would guarantee a real *return* to the constitutional path'. What Kanaris advocated was the genuine and honest application of the fundamental law of 1844, the protection of which rested, according to their respective vows, on both the crown and the Greek nation.⁵³³ Kanaris' proposals focused on high politics and the governmental structure: abolition of the private council which was advising the King, legal and political responsibility of the cabinet as a body and of each minister separately, respect of the institution of the Senate, conduct of free and fair elections, reform of the army and the establishment of a National Guard. But they also included a call for freedom of the press and sound fiscal and economic policies.

The King refused to comply with these suggestions. Thus, people increasingly vocalized and contemplated the second response, at least in the sense of a revolt against the King. This potential for revolt was first carried out later in 1862 when an armed local uprising in Naflpion broke out which directly targeted the regime of Otto and was supported by the liberals of the town. The uprising failed, but discontent spread even further to the Cyclades, including Syros; this sent a message that, at least at a local level, Otto's regime was becoming increasingly isolated and unpopular.⁵³⁴ A report on the rebellions drafted by the Minister of Interior, Charalampos Christopoulos, showed that the main demands were political: constraints on the King's power, free parliamentary and local elections, an Orthodox heir to the throne and expansion of the borders.

In the summer of 1862, Nikolaos Saripolos in a review of a book on the Girondins, which was published in *Pandora*, made one of the most direct attempts to justify both theoretically and historically the opposition to constituted authority and, implicitly, a revolt against it.⁵³⁵ His review addressed mainly the threat that monarchical power posed to the constitutional arrangement, and, at least implicitly,

⁵³³ Ibid., p. 246.

⁵³⁴ These local uprisings have received surprisingly little attention by historians.

⁵³⁵ Nikolaos Saripolos (1862), [‘Review of *Les Girondins, leur vie privée, leur vie publique, leur prescription et leur mort par J. Gaudet, neveu du représentant*, vol I-II, Paris’], *Pandora*, vol. XIII, n. 296, pp. 236-248.

its gist was a conceptualization of revolt not against the monarchy or the constitution but on behalf of them. After paying tribute to the French Revolution as the origin of modern civilisation, Saripolos praised revolutions in general as those moments which are created only by great nations. Next, he focused on the attempts of the Girondins to save the monarchy and the constitution of 1791, attempts which proved to be impossible. For, he wondered, what kind of monarchy was to be saved? The 'divine-right monarchy based on might' had been crushed by its incompatibility with the 'healthy political principles' and in particular the doctrine of national sovereignty. For Saripolos, the Girondins had tried to save the monarchy which was based on a contract with the nation. Yet, the monarchy refused by cutting itself off from the source of its existence, i.e. the nation.⁵³⁶

For Saripolos, the fundamental problem of the constitution of 1791 was that it had institutionalized two competing and potentially rival authorities—the King and the nation—without clarifying the relationship between them. What the moderate and liberal Girondins had tried to do was to save the nation, not the monarchy, as such. The turning point of course had been the attempt of the King to flee France. For Saripolos, the lack of prudence shown by the French King, the Queen and their advisory council exacerbated the problem. After the rejection of the proposals of the Girondins for reforms, events escalated. The dramatic storming of the Tuileries Palace was perfectly justified for Saripolos as 'one of those days, during which the long and silent sovereignty of the nations expresses itself tremendously against those who misunderstood or insulted it.'⁵³⁷ Subsequently, during the Convention, mob-rule may have prevailed, but, ultimately, this was a result of the King's behaviour. Although, according to the constitution, the King bore no political responsibility, by his actions he had paralyzed the forces of France and betrayed its interests. He had thus violated the constitution by constantly usurping his power. He was, therefore, morally guilty. But it had not been in the interest of France or its constitution to have him tried and executed.⁵³⁸ Saripolos' allusions were difficult to

⁵³⁶ Ibid., p. 239.

⁵³⁷ Ibid., p. 242.

⁵³⁸ Ibid., p. 245.

miss, but, if they were missed, his last sentence made them even clearer: ‘a people being in a state of revolution is invincible, the flag of freedom is the flag of victory’.⁵³⁹

The revolutionary moment which Saripolos awaited came within a few months. The wave of political opposition against Otto came to a head in a series of revolts which broke out in the countryside in October and spread like wildfire in all the major cities. But it was the uprising and the formation of a provisional government in Athens that sealed the King’s fate by turning the revolts into the full-blown ‘October Revolution’. Contrary to the events of 1844 which were only considered a revolution in retrospect, the political events of 1862 were deemed revolutionary from the very beginning and by everyone involved either directly or indirectly, including the representatives of European governments.⁵⁴⁰

By the end of the month, the King had been ousted and national elections for a Constituent Assembly called for. During those first months, the Provisional Government that was set up produced several texts—proclamations, legislative acts and resolutions.⁵⁴¹ With these texts, the revolutionaries not only attempted to justify legally the break from the King, but, more importantly and of long-term consequence, they made a radical call to reset the political structure of the monarchy on a new constitutional footing. By so doing, they laid the groundwork for the future debates on the new constitution. Drawing from studies of other revolutions—and this revolutionary/constitutional moment had indeed strong similarities with the American Revolution and the early years of the French Revolution—a point should be made about the revolutionary texts. As is usually the case with texts of their kind, they were consensus-building documents. They used a moderate language which sought to persuade the reader through arguments and not alienate the potential opponents of the Revolution.⁵⁴²

⁵³⁹ Ibid., p. 248.

⁵⁴⁰ FO, 3073, (1863), *Correspondence respecting the Revolution in Greece: October 1862*.

⁵⁴¹ The first official legislative act of the Provisional government abolished the monarchy of King Otto and stated that it would govern the state until a national assembly was convened. Its legitimacy was of course precarious. According to the first two short texts published in the EK, the Revolution drew its legitimacy from the joint action of the nation and the army to abolish ‘Otto’s royalty’: see EK, 1/15 October 1862.

⁵⁴² Gordon Wood has argued that we need to be cautious with texts of this kind: ‘There is an old fashioned explanation in this treatment of public documents; an explanation that has been somewhat disparaged in 20th century historiography, namely that formal public documents provide the best

According to his autobiography, Nikolaos Saripolos played a major role in the composition of these texts.⁵⁴³ His inspiration certainly came from his knowledge of other cases, but the discussions and problems of the previous years lay at the heart of the basic claims that went into the texts: the injuries that the King had inflicted on the body politic and the state, the apparent corruption of the constitutional monarchy and the usurpation of the individual rights of the citizens by the King. The very first texts used emotional language while being rather ‘technical’ in their claims. Addressed to the ‘Citizens’ in resemblance of the French revolutionary texts, they made it abundantly clear that the primary goal of the Revolution was not to overthrow the existing social and political order, nor was it to eliminate the monarchy; it was the election of a new king. And, more importantly, in order to prevent the monarchical government from degenerating again and violating the rule of law and the rights of the nation, they called for elections for a new National Assembly, whose tasks would be the ‘constitution of the polity, the election of the new King and the completion of the national project’.⁵⁴⁴

Given the corruption, however, which had infiltrated Parliament, this National Assembly, according to the revolutionaries, needed to be of a different character. It would have to be elected by voters who ‘would be completely free from any material or moral influence to form a pure and perfect choice’.⁵⁴⁵ The National Assembly needed, in other words, to be based on a different electoral law because the old one was flawed in that it was liable to infringement which resulted in the distortion of the national will. Due to lack of time, however, the old electoral law had to be preserved but with some changes that were specified in a series of legislative acts.

The revolutionaries thus applied reforms that had been discussed the previous years among legal and political circles: increasing the size of the Parliament, equalizing representation, putting safeguards in place for the free exercise of voting

historical evidence of why the people acted as they did. An important question is of course whether this is enough as a historical explanation. Did – or do – public documents mean what they say? Should they be taken at face value? Do they convey all the motives for political thought and action?’ See Gordon S. Wood (1997), ‘Dusting of the Declaration: review of American Scripture: Making the Declaration of Independence by Pauline Maier’, *The New York Review of Books*, 14 August 1997.

⁵⁴³ Saripolos, [Autobiographical Reminiscences], pp. 58-68.

⁵⁴⁴ PPK [Proclamation of the Provisional Government], 23 October, EK, 9/25 November 1862.

⁵⁴⁵ PPK, 23 October, EK, 9/25 November 1862.

rights and broadening the suffrage as well as the base of those eligible to get elected.⁵⁴⁶ All these reforms went at the heart of the concept of representation and the perception of the constitution. In particular, by removing the qualification that the representatives had to be residents of or have property in their specific local electoral district, the revolutionaries 'nationalized' the understanding of representation, or at least reduced the influence of locally entrenched magnates. Although locality and elections remained important, the members of the Assembly were expected to be deputies of and represent the nation and not their localities. In addition, they re-invigorated the old idea that a constitution as a fundamental law had to be a special act which could only be promulgated by an assembly with special powers granted by the nation.

What all the above meant in constitutional matters became clearer with the last proclamation of the Provisional Government. The reason for the proclamation was the critical upcoming elections. Even though it is impossible to verify what Saripolos's actual role was in the composition of these texts, his style and especially his political thought were very prevalent in this one at least. The proclamation made two important claims. Firstly, it introduced a distinction between the corrupt political form of 'Royalty' ('Βασιλεία') and the good form of (constitutional) 'Monarchy' ('Μοναρχία'). Secondly, it conceptualized something to which the previous texts had only alluded, namely a transfer of sovereignty to the nation. In its opening lines, the nation was praised for the orderly Revolution and the respect with which it observed the citizens' rights of property and honour. Next, the text directly addressed the injuries inflicted on the body politic during the previous thirty years. This characterisation of the regime, which the author described as 'Royalty', was very close to the sustained comparison which Benjamin Constant made in his *De l'esprit de conquete et de l'usurpation* between usurpation as a novel form of government (with its destructive pathologies), on the one hand, and monarchy on the other.⁵⁴⁷ As

⁵⁴⁶ PPK, 23 October, EK, 9/25 November 1862); [Act of the Provisional Government for the election of the delegates of the nation], 23 October 1862, EK, 9/25 November 1862; [Resolution of the Provisional Government for the execution of articles 5 and 6 of the resolution of 23 October on the election of the delegates of the nation], EK, 9/25 November 1862; [Act of the Provisional Government on the abolition of 'Civil Death'], 31 October 1862, EK, 4/2 November 1862.

⁵⁴⁷ For Constant, England was the exemplar of monarchy, see p. 163. Usurpation, on the other hand, was a system which nothing could modify or soften and which was characterised by 'the individuality

the proclamation argued, this was a period when authorities were disrespecting the law ('εποχή ασεβείας προς τους νόμους') and usurping the rights and the morality of the people ('επιβουλής των δικαιωμάτων και της ηθικής του λαού'). The cause of the Revolution lay in the impossibility of tolerating any longer these 'backward political conditions which were undermining morality and defying civilization and the material and moral progress of the nations'.⁵⁴⁸

The role, therefore, of the Constituent Assembly was to overturn the past and establish the system of government which the nation had been deprived of by the 'fallen Royalty', to establish that is a proper constitutional monarchy. In order to do this, several additional measures had to be taken to prevent any possibility of moral or material pressure on the voters: the National Guard was abolished, and the power of the local governors, the 'mayors', was suspended. More importantly, and this was very close to Saripolos's theory of constituent power, the proclamation saw the convocation of the Constituent Assembly as one of those critical moments in the progress of the nation when its sovereignty was expressed and performed, a moment when 'the Assembly will become the sovereign of the future of the motherland' ('[...] η Συνέλευσις έσεται ο κυρίαρχος του μέλλοντος της Πατρίδος.').⁵⁴⁹ In particular, its tasks included: rehabilitating the Church and the past and future of the army, securing political rights, preserving the independence and the betterment of the municipalities, satisfying the eternal passions of the nation (a possible allusion to irredentism) and consolidating political and social morality.

Although these tasks were rather vague, the text made something clear: even though the old state of affairs was attacked, the revolutionaries did not generally oppose the public authority of the state by asserting private interests or individual rights against it. These had been usurped by an unlawful King who broke the contract with the nation. The Constituent Assembly was thus seen as a special representative

of the usurper', a single individual in favour of whom it exacted 'an immediate abdication'. The usurper was routinely required to trample upon principles and to resort to treachery, violence and perjury. For want of legitimacy, he surrounded himself with guards, engaged in 'incessant warfare' and was forced to 'abase' and 'insult' all those around him. In short, usurpation was a system which was based on illegality and injustice: see Benjamin Constant (1980), *De la liberté*, pp. 103–261 and in particular pp. 164–71.

⁵⁴⁸ PPK, 10 November 1862 in EK, 9/25 November 1862.

⁵⁴⁹ *ibid.*

convention which was temporarily given the exclusive authority to address the problem and put the monarchy on a new constitutional footing. This was manifested also in the choice of words for those elected in the Assembly. From the first revolutionary texts there was a clear distinction between the ‘Plenipotentiaries’ (‘Πληρεξούσιοι’)—i.e. those invested with full power on behalf of the nation in the specially convened National Assembly—and the ‘Deputies’ (‘Βουλευτές’) of the ordinary Parliament.⁵⁵⁰ At the same time, the revolutionaries did not seek to separate the interests of the crown from those of the nation, but on the contrary to integrate the crown into the constitutional and sovereign power of the nation. But, as the documents also stated, these were the only things that the Provisional Government could do. After the free elections, the power to shape these revolutionary claims would rest with the Constituent Assembly.

The Constituent Assembly of 1862-64 (I): National sovereignty, the King and individual rights

The Second National Assembly of Athens, as it named itself, which convened in the last days of 1862 and concluded its proceedings in late 1864, has been considered a landmark in Greek constitutional development. Apart from promulgating a new constitution and electing a new King, for a period it also replaced the crown in Greek political life by holding all legislative and executive power, assuming thus an authority that had never been conceded until then to parliament. Its major importance of course lies in the ways in which it completed the tasks it had set for itself and especially in the constitution it drafted following heated discussions. The change of 1864 has been studied primarily by lawyers focusing on the legal and institutional aspects of the subject or by social historians whose foremost concern was with the social basis of these political developments. In general, however, the evidence provided by the constitutional proceedings has been largely ignored.

⁵⁵⁰ PPK, 23 October 1862, in Gerozisis et al., [Constitutional Texts], pp. 266-269. (p.268).

At the same time, some scholars have attempted to explore the theoretical and ideological sources of the constitutional philosophy which illuminated the discussions and decisively shaped the eventual outcome.⁵⁵¹ As Paschalis Kitromilides argued, the available sources and most notably the voluminous proceedings of the debates in the National Assembly itself contain a wealth of material for the historian of ideas.⁵⁵² It is of course impossible to conceptualize all the discussions that took place within the Assembly. By relating the constitution to the specific political and intellectual context of its time, this section of the chapter will firstly discuss how representatives in the Assembly perceived and discussed basic constitutional notions, such as sovereignty, representation and rights. Secondly, it will examine the ways in which these notions were finally incorporated into the constitution, changing its meaning and the political structure of the Kingdom. The outcome was a mixed and balanced constitution that combined monarchical and democratic elements, leaving some things unresolved and open for the future.

One of the most exhaustive accounts on the Second National Assembly was written by Giorgos Sotirelis who concentrated on the issue of the electoral law and the idea of universal suffrage in the Assembly. According to Sotirelis, two large and rather incoherent political groupings were formed in the Assembly: one 'democratic and progressive', and the other 'conservative and royalist'. The former privileged the democratic principle as opposed to monarchical prerogative, advocated rights and self-government for the people, detested foreign intervention and was deeply anti-intellectualist ('κατά του λογιοκρατισμού'). Sociologically, its advocates were members of the rising economic bourgeoisie, lawyers and others who, as students, had been involved in the opposition against King Otto. The delegates of the Ionian Islands held a special place among them. The 'conservative' grouping was comprised of members of the old political class and mainly of the 'Eclectics' ['Εκλεκτικοί'], a loosely affiliated grouping which included intellectuals and the professors of the University of Athens and which was politically 'moderate' and 'centrist'. According to

⁵⁵¹ Kitromilides, 'European political thought' pp. 11-21. See also Sotirelis, [Constitution and Elections in Greece].

⁵⁵² EES [Official Gazette of the (National) Assembly], Athens 1863-64, vols. I-VI. This source is a rich mine of arguments and rhetoric which provide evidence of the ideas and attitudes of those debating and drafting the constitution.

Sotirelis, they were in favour of ‘the monarchical principle – according to which the monarch was the source and bearer of power – which they combined with an elementary representative system and the constitutional institutionalization of classic individual rights’.⁵⁵³

It has to be noted that these distinctions were not used as such by the protagonists. Additionally, and more generally, although Sotirelis’ typology is useful, it can be misleading, not least with regard to the ‘Eclectics’, who were never a completely coherent or unified group and more often than not disagreed with one another.⁵⁵⁴ Nevertheless, there is some merit in the argument that their political role outweighed their numbers. Most important among them were Emmanouil Kokkinos, Kyriakos Diomidis, Pavlos Kalligas (the law professors), and Georgios Milisis, Antonios Kalos and Theodoros Diligiannis. Nikolaos Saripolos was quite idiosyncratic, being both very vocal in his claims and also the *rapporteur* of the constitutional draft. In short, the members of this group sought to secure what they regarded as the proper application of national sovereignty within a mixed and balanced constitution—a stance which disposed them towards allowing the monarch greater discretion in the use of his power—whilst ensuring that this was done in a liberal spirit.

From the very beginning of the constitutional proceedings, virtually no one challenged the principle of monarchy. On the contrary, the first task that the Assembly set for itself was to elect not just a new King but a new dynasty.⁵⁵⁵ Nevertheless, its actions made it clear that this time the election would be a national affair, excluding any possible interference from the Great Powers, apart from

⁵⁵³ Sotirelis, [Constitution and Elections], pp. 112-119. For the characterisation of ‘moderate’ and ‘centrist’, see p. 57.

⁵⁵⁴ Even though they were ‘moderates’ and ‘centrists’, Sotirelis argued that they had at times excessively ‘conservative’ beliefs, see Sotirelis, [Constitution and Elections], p. 57. At the same time, he identified them with the ‘dominant [in the mid-nineteenth century Europe] conservative version of the bourgeois ideology as this was expressed in the principle of “national sovereignty”’, p. 115. How this was reconciled with their subscription to monarchical source of power was not answered.

⁵⁵⁵ By one of the first legislative acts, the revolutionaries abolished the dynastic right of the royal house of Bavaria. This was a clear sign sent by the Assembly to some of the Great Powers and Bavaria and their discussion of the possibility of having another member of the Bavarian family on the throne, ANA [Act of the National Assembly] for abolishing Otto’s dynasty], 6/28 February. Lord Palmerston also ruled that article four of the treaty of May 1832 gave no guarantee to Otto personally, nor to the Bavarian dynasty; what was guaranteed was the nationhood of Greece. He also stated that the Greeks had the right to change the dynasty, a principle to which, as Douglas Dakin noted, Queen Victoria, despite her Hanoverian antecedents, subscribed with considerable remorse: Dakin, [The Unification of Greece], p. 89.

negotiations on the possible candidates. A referendum under universal suffrage was immediately called for, after which Prince Alfred, the second son of Queen Victoria, was declared 'under the sovereign will of the Nation, Constitutional King of the Greeks' ('κυριαρχική του Εθνους θελήσει, Συνταγματικός Βασιλεύς των Ελλήνων').⁵⁵⁶ Firstly, by changing the title, the revolutionaries stated that sovereignty emanated from the nation. Secondly, by making Alfred constitutional monarch 'of the Greeks' instead 'of Greece', they recognised the King's political authority but were stripping him of any aspirations to sovereignty. In addition, they added an irredentist implication to the effect that he was named King of all the Greeks and not just of those within the Kingdom. But, in this instance, these changes were of little practical significance. The act of the Assembly clashed with a clause of the foundational international treaties which had established the Greek state and which excluded from the Greek throne any member of the royal families of the Great Powers. The Assembly was in effect playing a diplomatic game, trying to take advantage of the new international power politics of the 1860s when the presence of Great Britain in the region was strengthened. In any case, Lord Russell rejected the candidacy out of cautiousness and respect for the balance of powers in the region.

By its next move, the Assembly delegated its power to a diplomatic committee, which finally offered the crown to Prince George of Denmark, son of Prince Christian and heir (this latter) to the throne of Denmark. In order to accept the Greek throne in the name of his son, apart from economic assistance and territorial extension, Prince Christian claimed a right of succession similar to the one held by King Otto. These provisions would make sure that the King was free to abdicate but could not lawfully be deposed. In addition he asked for the creation of a new Greek army which would take an oath of allegiance not to the constitution but to the King personally.⁵⁵⁷ Essentially what Prince Christian was trying to secure was that the principle according to which sovereignty resides in the crown would remain intact.

The issue of the throne and its power was dealt with in a diplomatic act and an act of the Assembly. The first one was the Treaty of London of 13 July 1863, which

⁵⁵⁶ ANA [On the election of the prince son Alfred as King of Greece], in Gerozisis et al., [Constitutional Texts], pp. 282-283.

⁵⁵⁷ Dakin, *The Unification of Greece*, p. 90.

settled its more formal part. According to this, King Frederik of Denmark accepted for the son of his heir the hereditary sovereignty of Greece that was offered by the Greek National Assembly in the name of the Greek nation (art. 1; the Prince would bear the name ‘George I, King of the Greeks’ (art. 2); ‘Greece, under his sovereignty and under the guarantee of the three powers, was to form a monarchical, independent, and constitutional state (art. 3); successors must belong to the Orthodox faith (art. 7).⁵⁵⁸

The essential issue was resolved by the Act of the Assembly on the rights of the King (22 October), which followed his long-delayed arrival. By this act, the Assembly provisionally vested in the new King the royal prerogatives and executive power of the old constitution (1844), but it did so—and this was a significant step—only insofar as these prerogatives did not clash with the acts and proclamations of the Provisional Revolutionary Government. More importantly, by that same instrument, the Assembly excluded all constitutional matters from the royal veto and the legislative power of the King. In this way, the plenipotentiaries, by holding to the principle of national sovereignty, in the name of which the Revolution had been made, denied the crown any role in the making of the constitution.⁵⁵⁹ This argument against the involvement of the King in the constituent power, which was articulated also in the drafting discussions, provoked a reaction from Nikolaos Saripolos. As his theoretical works had made clear, for Saripolos, the King, as a significant part of the nation, embodied national political power and thus the Assembly should acknowledge his ‘[...] right to participate in the drafting of the constitution’.⁵⁶⁰

But the counter-argument prevailed with little opposition. As Georgios Milisis put it: ‘The amendment [proposed] by Mr. Saripolos presupposes two powers, two sovereignties coexisting within the polity and co-acting/cooperating (‘συμπρατούσας’) in one and the same work. But this supposition is both false in theory and impossible in practice. Sovereignty is one and indivisible [...] the king is the supreme authority of an already constituted polity, but its very constitution is a

⁵⁵⁸ This was also the treaty with which the Ionian Islands were to be added to the Hellenic Kingdom when such a union proposed by Great Britain should have been given the assent of the Ionian Parliament and of Austria, France, Prussia and Russia (art. 4). See Treaty of London, 1/13 July 1863, for the election of King George: in Gerozisis et al., [Constitutional Texts], pp. 293-295.

⁵⁵⁹ ANA on the Oath and the rights of the King, EK, 38/31 October 1863. See also EES, vol. III, pp. 575ff.

⁵⁶⁰ EES, vol. III, pp. 585ff.

duty of the Assembly'.⁵⁶¹ The young Prince accepted this situation in his proclamation of 30 October when he acknowledged that he had been chosen sovereign by the Greek people and pledged to observe the constitution. After the issue with the role of the King within the Assembly had been settled, the representatives set out to complete their second and probably much more difficult task: the drafting of a new constitution. The process had three steps: the members of the Assembly elected a special parliamentary committee, the task of which was to produce a constitutional draft. When this was completed, it was brought (May 1864), along with an introductory report, to the Assembly for deliberation. This was concluded in November of the same year.

The principle of national sovereignty was, for the representatives, the crucial starting point of the drafting process and of the constitutional change. In fact, during the long discussions in the Assembly, the principle was deemed so evident that it was hardly discussed. As Nikolaos Saripolos argued in the introductory report, the principle drew its source from the Revolution: 'It is an uncontestable principle that Sovereignty belongs solely to the national group, and that it is from this that all power and force emanates. And although it is unnecessary on the morrow of a revolution to write this doctrine as *heading* of the section dealing with the constitution of the polity, it was deemed necessary to make explicit reference to it [the doctrine] in the Constitution so that the constituted authorities have always in mind the uncontested source from which they derive their powers.'⁵⁶²

The Assembly had to give institutional form to this principle; however, its members knew from the very beginning that this was no easy task as it was related to an old problem which had originated in the French Revolution and which preoccupied European political thought throughout the nineteenth century. As soon as the practical organisation of authority began, the sovereign had to delegate power, thus jeopardizing its own qualities, and this process was becoming even more troublesome by how this delegation was conceived. As article 21 of the constitution stated (and it was the same in the draft): 'All powers emanate from the nation and

⁵⁶¹ EES, vol. III, p. 586.

⁵⁶² EES, vol. V, reproduced in Gerozisis et al., [Constitutional Texts], pp. 300-341 (p. 314); hereafter Saripolos, [Introductory Report].

are exercised in the way prescribed by the Constitution' ('Άπασαι οι εξουσίαι πηγάζουσιν εκ του Έθνους, ενεργούνται δέ καθ'ο τρόπον ορίζει το Σύνταγμα'). This meant that the Greek nation surrendered to political institutions not a part of, but its full sovereign power, or, in other words, that the delegation of sovereignty was absolute.

There was nothing exceptional in this since most European constitutions did the same, but it did run counter to an earlier Greek understanding of delegation which had been influenced by the American constitution and held that sovereignty *resided* in the nation ('ενυπάρχει'), meaning that it was never given up entirely.⁵⁶³ The problem with the absolute delegation of sovereignty was that, irrespective of whether sovereignty was delegated to representative institutions or the monarch, it potentially ran the risk of threatening the rights and liberties of the nation and its citizens. So, the essential issues for the plenipotentiaries and their next moves were: firstly, to sketch out a legitimate form of government which would subscribe to the principle of national sovereignty; secondly, to make that government stable by putting it on more solid institutional foundations than before; and thirdly, and more crucially, to diminish any chance of sovereign power being usurped.

At the heart of many delegates' and especially the 'Eclectics'' response to this challenge was the conviction that the only way to accomplish this task would be by placing guaranteed restrictions upon the possible abuse of power, by limiting that is, not a particular form of sovereignty but sovereignty itself; to quote Saripolos again: 'Only those [regimes] can be named well-governed and civilized which have a written constitution which outlines the limits of each power and authority and balances the action of each, so that each one, becoming in itself useful to the polity, remains unified with the others and, complementing them, pursues its own work without encumbering the others.'⁵⁶⁴ And, in order to outline these limits, he added that there

⁵⁶³ That was the formulation (article 5) of the third revolutionary constitution which was promulgated by the National Assembly in Troizina (1827) and was the first to have the term 'Constitution' on its title ('Πολιτικόν Σύνταγμα της Ελλάδος'). It was also heavily influenced by the American constitution. For the American understanding of delegation and generally for American constitutionalism, see Gordon S. Wood (2006), 'The American Revolution', in Mark Goldie and Robert Wokler (eds), *The Cambridge History of Eighteenth-century Political Thought*, Cambridge: Cambridge University Press, pp. 599-625.

⁵⁶⁴ Saripolos, [Introductory Report], p. 313.

was no need for the drafting committee to ‘innovate’, or to ‘intervene in the theory of what the best form of government is’. It should solely ‘restrict itself to putting the monarchy on better foundations’ in order to prevent any possible ‘transgression from the constitutional path’.⁵⁶⁵

At least for Saripolos, this inspiration on how to circumscribe sovereignty came, as we saw in the previous chapter, from an eclectic reading of several eighteenth- and nineteenth-century sources. This time he turned increasingly to Benjamin Constant, who had argued most systematically in his *Principes de Politique*, first published in 1815, that no authority, not even that exercised in the name of the people, should be unlimited. Just like the power of the monarch, the sovereignty of the people should be ‘circumscribed within the limits traced by justice and by the rights of individuals’ and could be made into a reality ‘through the distribution and balance of powers’.⁵⁶⁶ And it was of course the excesses of the Terror and the radicalism of the democratic theory of sovereignty associated with Rousseau which Constant had in mind.

As we saw in the previous chapter, Saripolos was attentive to these concerns. This became manifest, for example, in his criticisms against the unquestioned sovereignty of the English Parliament. But he was equally, if not more, concerned with the usurpation of power by the Bavarian King and his entourage. His solution in the constitutional draft was thus a set of political institutions which would limit the possibility of power being usurped. By drawing on Constant (and directly acknowledging the influence in his sketch for royal power, as we shall see) he proposed two ways through which to limit and control the exercise of sovereignty. The first was by formulating and putting into the constitution a new and more explicit section on individual rights and liberties which no authority, whatever its source, could call into question. The second was through an institutionally complex distribution and balance of powers which could prevent the concentration of power in one law-making authority. In essence, the discussion that followed in the Assembly went along with this idea of circumscribing sovereignty even though it

⁵⁶⁵ Ibid., p. 314.

⁵⁶⁶ Constant, *De la liberté*, pp. 269–278.

qualified several of the committee's proposals. It was these formulations which were the most innovative in the final constitution.

The language of rights occupied an extremely central place in the proceedings. As noted in the preceding chapters, this was not a novel preoccupation among Greek political thinkers. Indeed, several scholars, the jurists prominent among them, had, in the previous years, concentrated on a language of rights which they had usually defined as those of liberty, property and security. They had also asserted that the only legitimate limitation upon their enjoyment was the rights of others, and that these limits could only be established by legislation. But these concerns acquired urgency in light of the usurpation of these rights in the last years of Otto's rule. Rights were thus made into a special chapter of the constitution, being a sort of preamble with the one on religion (art. 1-2), which was also preoccupied with establishing freedom of faith. Although the constitution of 1844 did have a similar chapter, it was significantly expanded in the draft and the final document of 1864.

The major difference between this and the older conception, according to Saripolos—who cited with approval the simplicity and wisdom of the American Bill of Rights—was that individual rights drew their source from nature and not the 'will of the polity'. They were rights of universal validity and application, not limited to Greeks and not eligible to be limited by political authority. Their incorporation into the fundamental law of the state was thus important in order 'to secure them from any kind of malign influence and put them under the protection of the general will so to speak'. In his report, Saripolos stated that the first and ultimate right was liberty. Owing to opposing voices within the drafting committee, especially those of Pavlos Kalligas and others who feared the dangers emanating from an unlimited emphasis on liberty, Saripolos counter-argued that 'liberty is either full or it is not liberty; [...] liberty is one and indivisible in essence, only through its exercise it takes other names [...]'. But he immediately qualified this statement by arguing that this meant the reasonable, harmonious, organic liberty exercised within a society governed by good laws. For Saripolos—and this was probably shared by most plenipotentiaries in the Assembly—society was not an aggregate of individuals in which each one was

pursuing his own interests and whims, it was an organic whole in which the movement of its parts should follow the movement of the body.⁵⁶⁷

This conception of liberty was incorporated into the language of rights and specified in a mixture of legal and political liberties. More particularly, these consisted of equality before the law (art. 3); a set of legal liberties, among which was the right to obey only those laws and pay only those taxes authorized by one's representatives (art. 3, 7, 8, 9); the inviolability of 'personal liberty', specified as the right not to be arrested, detained or restricted in any way other than the one defined by law (art. 4, 5); the right to free conscience (art. 2); the right to protect and dispose of property (art. 12, 17); and the right to free speech (art. 14). Saripolos and the delegates in general put extra emphasis on the last two rights because of their continual violation by the previous authorities. This reflected the centrality of property in Greek intellectual debates, which we saw in the case of the Romanists, but what needs to be emphasised is that both the committee and the Assembly did not conceive property solely as a right to be protected but also as a social condition which the state needed to promote. Therefore, they included in the constitution a special provision ('διάταξη') by which they ordered the next government and of course the royal authorities to enact laws for the distribution of land (art. 102).

Accordingly, Saripolos stressed that the distribution was justified both in terms of fairness and in terms of the economic benefits that it would incur to the citizens and the state.⁵⁶⁸ It deserves also to be noted that it was during the proceedings of the National Assembly that a bill regarding a large-scale distribution of land was discussed. Its implementation would have to wait until 1871.⁵⁶⁹ What is more, brigandage—which, as we saw in an earlier chapter, was related in the eyes of many scholars to the incomplete understanding of property and by extension to a pre-modern economic and political outlook—was given a serious blow by the decision of the Assembly to prohibit amnesty for brigands.⁵⁷⁰ As far as the freedom of the press was concerned, the drafting committee, acknowledging the influence of arguments made by Alexis de Tocqueville in his *De la Democratie en Amerique*, abolished any

⁵⁶⁷ All quotations from *ibid.*, p. 301.

⁵⁶⁸ *Ibid.*, p. 338.

⁵⁶⁹ See Sotirelis, [Constitution and Elections], p. 111, footnote p. 118.

⁵⁷⁰ Kostis, [The spoiled children], p. 353.

sort of censorship or any other measures that could restrict in any way the freedom of expression (accepting, nevertheless, after long discussions, exceptions in case of insults against Christianity and the person of the King).⁵⁷¹

The point, however, where the committee self-consciously innovated was in the introduction of some 'collectivist' liberties, namely the rights to assembly and association (art. 10-11).⁵⁷² The discussions in the drafting committee were intense. Most of the 'Eclectics' and especially Pavlos Kalligas and Kyriakos Diomidis argued that these rights would threaten social order. For Kalligas, it was absurd to expect reason and order to be applied in popular assemblies. On the contrary, they would be forums conducive to the spread of socialist ideas and would jeopardize 'property' and by extension 'order', given that 'it is impossible to distinguish the protection of property from the idea of order'.⁵⁷³ In the same vein, Diomidis Kyriakos (both within the Assembly and in his 'Observations on the constitutional draft' which he published while the draft was in the Assembly) feared that this right would threaten political order by allowing the spread of subversive ideas.⁵⁷⁴ But the plenipotentiaries in general equated these rights with national sovereignty and, more importantly, with those institutions that stand between the government and the individual, or what Montesquieu and Tocqueville had called intermediary bodies. For both Saripolos and Adamantios Diamantopoulos (a very active member in the drafting process), these rights gave expression to man's sociability and complemented free polities.⁵⁷⁵ Last but not least, the committee, again after heated discussions, preserved from the previous constitution the 'right to education' as the only way to spread social and political virtues.

⁵⁷¹ Saripolos, [Introductory Report], p. 307. And in the assembly: 'The nation is sovereign – science says so, it is written in the Constitution; therefore the nation must be free to express itself. It must also be free to vote; the sovereignty of the nation, free elections and freedom of expression [...] are intertwined. Therefore, it makes no sense to recognize the first two principles while imposing limitations on the press [...]. When the sovereign will is expressed through mild means instead of radical ones, the polity is safe [...]. What is the mildest means? It is the free press? [...] Do you want to force the people to resort to arms at once, by denying the nation this mild and rational means?': EES, vol. VI, p. 177.

⁵⁷² Saripolos, [Introductory Report], p. 304.

⁵⁷³ EES, vol. VI, pp. 111ff and 153ff.

⁵⁷⁴ Kyriakos Diomidis (1864), [Observations on the constitutional draft of the committee of the Assembly], Athens.

⁵⁷⁵ EES, vol. VI, pp. 109-110 for Diamantopoulos's comment and p. 117 for Saripolos's.

So, in essence, by individual rights, the plenipotentiaries established in the first place a set of legal rights which they thought would facilitate the pursuit of individual preferences and interests. These were 'negative' rights, understood as barriers from abuse from the authorities. Yet, in the second place, they complemented these rights by acknowledging everyone's right to exercise some influence in the life of the nation through actions which the authorities would be more or less compelled to take into consideration. In other words, the Assembly acknowledged 'positive' rights (assembly, association, education) with which citizens could develop and expand their individual capacities and interests. No matter how varied the specific understandings of these individual rights might have been, the ultimate intention beneath their institutionalization was the delegates' attempt to protect the citizens from oppressive governments and from the possibility of political institutions usurping their power.

Suffrage, one of the most controversial issues that the Assembly addressed, was also related to the above discussion on rights. The discussion revolved mainly around whether it should be regarded as a right or a public function, but the issue went straight to the heart of the principle of representation and was closely related to national sovereignty. In the constitutional draft, voting was only mentioned in the section on the Parliament and was not specified, but it became central when the draft went to the Assembly. Furthermore, as Giorgos Sotirelis has argued, suffrage was ultimately understood as a right in the context of the National Assembly.⁵⁷⁶ To be sure, the constitutional recognition of universal suffrage owed a lot to the influence of the deputies from the Ionian Islands, but the rationale behind the provision that recognised voting as universal, direct and secret was that universal suffrage was the expression and the realisation of national sovereignty, the 'means through which the supreme will of the people is externalized and activated'.

This view was strongly associated with a democratic language which equated democracy with equality. 'We are a democratic nation', Alexandros Koumoundouros—plenipotentiary and later on Prime Minister—argued during the discussion on suffrage, 'we have tendencies and inclinations of absolute equality'.

⁵⁷⁶ Sotirelis, [Constitution and Elections], pp. 66-74.

For most plenipotentiaries, equality meant not only civil equality but also political equality. In essence, this view equated national sovereignty with national representation. As Spyros Antonopoulos, defending universal suffrage, put it:

‘If, gentlemen, you fail to inscribe in the regime the principle of universal suffrage; if you leave pending this most important right of the citizen, I will tell you that your most valuable rights, being at the discretion of others, are not secure, and your liberties may become problematic. You will not have your liberties established, you will not see implemented the voted provisions of the Constitution unless you have good representation; and you will not have good representation unless you have deputies backed by the majority of the nation, unless you have representatives deriving their power from the entire body of this nation.’⁵⁷⁷

Two opposing views were expressed, one by some of the ‘Eclectics’ and a more subtle one by Saripolos. Some of the ‘Eclectics’, such as Pavlos Kalligas, Giorgos Milisis and Emmanouil Kokkinos, considered voting as a function and supported a limited suffrage, usually based on property or taxing - and indeed Nikolaos Saripolos shared the same view. Most of them, it has to be noted, were not against the equation of Greece with democracy and equality, at least in principle, but they disagreed with the constitutionalization of universal suffrage, pointing out that voting was a political right and not a civil right.

Furthermore, ‘political rights’, Kokkinos argued, ‘cannot be regarded as absolute [rights]. Political rights are not rights generally of the human species, they are rights of people living in a specific political society, established and granted for the interest of the polity and not for the interest of the individual’.⁵⁷⁸ At the heart of their arguments was an elitist conception of deliberative institutions and a belief that the ‘active’ citizens (the taxed, the propertied, the educated, the ‘*capacitaires*’) were better suited to speak for the affairs of the nation. In addition, as we saw in the chapters on Roman law and on Political economy, many of these scholars put more emphasis on the cultivation of manners than on the benefits that political participation and politics more generally could have for citizens. As Kalligas had

⁵⁷⁷ EES, vol. V, pp. 560ff.

⁵⁷⁸ EES, vol. VI, p. 563

argued since 1841, ordinary citizens should not deal with politics but should stay focused on their private affairs.⁵⁷⁹

Kyriakos Diomidis—Professor of Law and Prime Minister for a short period during the interregnum—went even further and dismissed universal suffrage outright, arguing that it is ‘incompatible with legal equality’. Kyriakos justified his opinion in a pamphlet he published in the summer of 1864 amidst the constitutional proceedings. As he was a sort of a Greek *Ideologue*, Kyriakos drew inspiration from several French thinkers, among whom he reserved a special place for Duvergier de Hauranne, Alexis de Tocqueville and others. His major worry was what he saw as a strong relationship between universal suffrage, majority rule and the making of a strong central power. This tendency to make the state ‘the master of every man’, as Tocqueville had argued after the Revolution of 1848, jeopardized, according to Diomidis, the preservation of local independence and could easily turn to despotism. In general, what he recommended was a system of limited government resting on free elections with limited suffrage, civil liberties (including freedom of the press and freedom from arbitrary arrest), legal but not economic equality and a society led by an educated elite.⁵⁸⁰

It is crucial to point out that Kyriakos’ pamphlet did not really target the ‘democratic’ view of the majority which supported universal suffrage, but was published as a reply to the draft and especially to the report which accompanied it. According to Diomidis, this was Saripolos’ undertaking. Indeed this made sense because Saripolos had a different perception of suffrage and representation than both the ‘democratic view’ and the view of the ‘Eclectics’. Both these views assumed that voting—whether limited or universal—was the single most important form of political participation and, more crucially, that by doing so, the nation granted its absolute sovereignty to its representatives. Saripolos, as we saw in the previous chapter, had a different understanding of the relationship between sovereignty and government, according to which governing institutions and officers were *not* sovereign (and did not represent the national will). Only the nation was sovereign,

⁵⁷⁹ Kalligas, [The end of the Parties], pp. 483-505.

⁵⁸⁰ Diomidis, [Observations], in Gerozisis et al., [Constitutional Texts], pp. 341-416.

and any claim by an assembly or any sort of institution to fully represent or embody the national will was a form of usurpation.

So, although Saripolos subscribed to the equation of Greece with democracy, since 'equality is rooted at the bones of the nation', he could still refuse universal suffrage as a way of preventing the Parliament from being considered as sovereign.⁵⁸¹ Although this contained an elitist conception of the Parliament—its members would be chosen by limiting suffrage to the 'best'—it was not anti-democratic. Its elitism arose from an insistence that sovereignty was different from ruling and that the crucial role of the nation as sovereign was to pass judgments on governors, kings, elites and institutions, including representative institutions. It could do this not just by voting but by setting up and participating, as we saw, in intermediary bodies. Yet, Saripolos and many others also knew that if they wanted to place limitations upon the exercise of sovereignty and restore political stability in Greece they had to pay equal, if not greater, attention to the structure of its central institutional arrangements. They did this by establishing an increasingly complex political system.

The Constituent Assembly of 1862-64 (II): Balancing and mixing the powers

Probably the most complex discussion in the constitutional proceedings occurred when the plenipotentiaries tried to devise the structure of the political system. The issue was to combine representative government with a constitutional monarch as head of the state and at the same time erect higher barriers against prerogative power, whether of royal power or of representative institutions. In a manner similar to their American counterparts in the previous century, they solved this problem by distinguishing the powers, and at the same time balancing them, by mixing and blending their jurisdictions.

⁵⁸¹ EES, vol. IV, p. 375.

Saripolos had a key role in this. His starting point was to break with the idea that there has to be one final indivisible and incontestable law-making authority to which all other authorities must be ultimately subordinate—whether this was the Parliament or the monarch. He did this because he believed that the possibility of usurpation could be diminished only by having competing powers with the ability to check each other. Accordingly, he moved away from a strict separation of powers since one power could check another only if there was considerable overlap between them. This was hardly a new idea. It can be found both in Montesquieu's theory of mixed government and in the ways with which the American Founding Fathers allowed contestation among the multiple different powers, all of which claimed to act in the name of the people.⁵⁸² Many of these ideas found their way into the final document.

The first question the plenipotentiaries had to address was how to delegate national sovereignty and its exercise to three 'state powers': legislative, executive and juridical. The issue of the third was dealt with immediately by allocating it exclusively to the courts (art. 28, art. 87-98). The problem in the drafting committee was now how to allocate the exercise of the other two powers to the three existing political institutions—the Parliament ('Βουλή'), the Senate and the King. According to the introductory report, legislative power was the highest in importance because it represented the national will and because of the participation, through the representative institutions, of the people in its exercise. As a result of its centrality, the discussion about the control and exercise of legislative power was the most controversial and the first and most important test for the Assembly of how to mix and balance the powers. According to the provisions in the draft, legislative power was to be exercised equally by the two chambers and the King. But, in the discussion in the Constituent Assembly, the inclusion of the Senate was dropped. Almost everyone seemed to agree that Greece did not have the social conditions of other countries which would have made the choice of an 'aristocratic' institution more reasonable.

⁵⁸² Bryan Garsten, *The Heart of a Heartless World*.

Thus, the discussion in the Assembly concentrated on whether the existence of a non-elected upper house was compatible with national sovereignty. As one plenipotentiary put it: '[...] in nations where society is divided into classes, there social discourse is also divided [...]. But social discourse in Greece is one and indivisible, since Greek society is one and indivisible [...]'.⁵⁸³ Most delegates saw no need to retain the institution and, contrary to the wishes of all the 'Eclectics' and especially of Saripolos, the Assembly decided to exclude the provision for a Senate from the new political structure. Saripolos, in his report, had strongly defended the need for a Senate, the members of which would be chosen by the King. Again, his rationale was based on the argument that the political system and the government should include more than one power that would act in the name of the people. That is why he argued that the Senate was necessary as a vital 'intermediary' body between the monarch and the Parliament.⁵⁸⁴

The exclusion of the Senate left only the other two institutions—the King and the Parliament—as the two key players to be mixed and mutually checked in exercising legislative power. According to the accepted draft, the King and the Parliament would share the legislative power equally (art. 22-26) while executive power belonged to the King alone (art. 27). The chapters 'On the King' and on the 'Special provisions' attempted to clarify the relationship between the two and thus strike a difficult balance. The King was not just declared 'irresponsible and sacrosanct' (art. 29), but he was also given the right to appoint and dismiss ministers and to dissolve the Parliament. The justification for these extended and highly important powers was given by referring to what for many delegates was the ideal model: the English constitution. If one looked at the English system of government, Saripolos argued, closely following Constant, one would see that the monarch exercised the essential function of ensuring that the whole system worked in harmony.⁵⁸⁵ 'In a free country', Constant argued, 'the king is a being apart, superior

⁵⁸³ EES, vol. VI, p. 339.

⁵⁸⁴ Saripolos, [Introductory Report], p. 314 and pp. 330-335.

⁵⁸⁵ *Ibid.*, p. 319.

to differences of opinion, having no other interest than the maintenance of order and liberty.⁵⁸⁶

Accordingly, for Saripolos, the monarchy was accredited not only with the function of preserving the constitution but also of acting as the guarantor of all political liberties and as an umpire of divisions and different social interests: 'The King, possessing the supreme place in the polity, overseeing everything, and re-setting into harmony the governmental structure when it has been in any way disturbed, ought by nature to abstain from the passions which divide the citizens [...].'⁵⁸⁷ What is more, Saripolos acknowledged his intellectual debt to Constant by referring in his report to his theory of 'royal power' as that which would put an end to any 'dangerous conflict' that might take place between the powers. Therefore, if the actions of the executive were unsound, the monarch could dismiss his ministers; should the hereditary chamber be unduly troublesome, the monarch could simply create new peers, and so on. 'The royal power', as Constant wrote, 'is in the middle, yet above the four others, a superior and at the same time intermediate authority, with no interest in disturbing the balance, but on the contrary having a strong interest in maintaining it.'⁵⁸⁸

Indeed, as we saw in the chapter on constitutional law, for Saripolos, too, the King was that power which would bring harmony and order. But, contrary to Constant, Saripolos refused to see the King as a neutral power, as an external authority or institution that would police the delegation of powers. Instead, he sought to make the King a significant pole in the interior structure of government and a part of the nation. In essence, what he had in mind was a dualist political system, which required the confidence of both the King and the Parliament for the government to be formed and stay in power.

This association of the King with harmony and order was shared by most members in the Assembly, and, in fact, it was further accentuated in light of the escalating events in 1863 that recalled memories of national discord. In February and June of 1863, following strong divisions within the Assembly, clashes broke out in the

⁵⁸⁶ Constant, *De la liberté*, p. 282.

⁵⁸⁷ Saripolos, [Introductory Report], p. 316.

⁵⁸⁸ Constant, *De la liberté*, p. 280.

streets of Athens between the two major political factions, causing several deaths.⁵⁸⁹ In this context, many members in the Assembly saw the establishment of a strong central government and a strong royal power as the only way to secure political stability. But, still remaining loyal to the idea that in no way should authority reside in just one of the active powers, most of the plenipotentiaries (following Saripolos) attempted to put limitations on the King's authority. They tried to accomplish this by a number of provisions. One such provision specified how royal power was executed. The draft and the final document stated that executive power 'belonged to the monarch, and is activated through the ministers whom he chooses' ('Η εκτελεστική εξουσία ανήκει εις το βασιλέα, ενεργείται δέ διά των παρ'αυτού διοριζομένων υπουργών', art. 27). This provision was complemented by others which established ministerial responsibility (art. 29, 30, 79). What these meant was that ministers were no longer seen solely as the monarch's functionaries. They were responsible for their actions and they could be removed from power if they lost political support (whether that meant the support of a majority in Parliament was left unanswered and was only resolved a few years later—see below).

A second and much more important provision was contained in the two articles through which the King was effectively rendered 'legally incompetent' to act alone.⁵⁹⁰ According to article 44, the King had 'no other powers than those explicitly conferred upon him by the constitution and the special laws made in pursuance thereto'. According to article 107, the King had no powers of revision and thus no power to initiate or veto constitutional changes. These were vested in specially elected revisionary assemblies. With these provisions, the plenipotentiaries essentially curtailed the powers of the King. By so doing, they were in fact addressing the major task they had set for themselves, i.e. to erect barriers against any prerogative power and at the same time give institutional form to the transfer of power to the nation. This is why the voting of these two last provisions received very few objections and was in fact mostly perceived as just complementing the principle of national sovereignty.⁵⁹¹

⁵⁸⁹ Kyriakidis, [History of Contemporary Hellenism], vol. II, pp. 224ff and 247ff.

⁵⁹⁰ Sotirelis, [Constitution and Elections], p. 146.

⁵⁹¹ EES, vol. V, p. 40.

Interestingly enough, before the end of the process the King attempted to intervene by submitting to the Assembly a revised version of the committee's draft. The Assembly refused outright to set this draft proposal as a basis for discussion. It accepted some 'observations' the King made after the Assembly send him the final official draft, but only for deliberation.⁵⁹² In this way, it restated the mindset of the delegates regarding the constituent process and the role of the King therein. In case there was any doubt, they reiterated the principle again when they sent the final constitutional draft to the King. Indeed, when the constitution was launched, the King had no role other than to sign it formally and to swear to abide by it. This he did, and the constitution was promulgated on 17 November 1864.

All of these developments fundamentally changed the perception of the constitution. Within the drafting committee, there was a long discussion about the revision process which revealed two different conceptions of the constitution. For some, it was a fundamental law, ineligible for any sort of revision. For others, recalling the example of England, it was a human artifice and, as such, eligible to 'change and improvement through the progress of the years'.⁵⁹³ The final understanding adopted by the Assembly was a compromise. While the constitution was seen as a human artifice, liable to change, the delegates made the revision process rather long and difficult. Aside from these discussions which revolved around the revision process, the Assembly changed the perception of the constitution in a more fundamental way.

By locating sovereignty in the nation and putting its power under the joint jurisdiction of Parliament and crown, the delegates were clearly stating that the power of the monarch emanated from the nation. They were, thus, ultimately subordinating monarchical power to the nation. By so doing, they were breaking with the understanding of the constitution as a contract between the King and the nation. The King was no longer considered an independent constitutional being with which the people or their leaders had to bargain and contract. On the contrary, by this reconfiguration of the structure of politics, he was made a part of the nation. Yet, this mixed and mutually checked constitution was still a contract, although this

⁵⁹² EES, vol. VI, pp. 968ff.

⁵⁹³ Saripolos, [Introductory Report], p. 340.

time it was seen as a contract between rulers and ruled *within* the nation, in a situation where the former had only duties and the latter only rights.⁵⁹⁴

Ultimately, what the plenipotentiaries tried to do was to blend and subordinate in a harmonious way the different powers of the realm into a potentially powerful central government. Similarly, even though the need for a strong central power was recognised, the memory and the experience of its abuses was such that the National Assembly sought consistently to reduce the prerogatives especially those of the executive. Notwithstanding these formulations, the constitution was imbued with a fundamental ambiguity because it accorded legitimacy and an equal standing to two potentially rival bodies, the Parliament and the King, or at least it was leaving the relationship in question. Saripolos was aware of this and that is why he had insisted on a Senate in his advocacy. In any case, the tension played out in subsequent years. It took another (but smaller) political crisis to clarify the constitutional arrangement, or at least to move it to a more recognisably parliamentary form.

The ‘lawful’ rearrangement: The political crisis of 1874-75 and the consolidation of parliamentarism

In the years following the promulgation of the constitution, the main ambiguity of the constitution with regard to whether the government of the day was responsible to the Parliament or the Crown—the two rival institutions—was exposed. As Pavlos Kalligas had argued, ‘that those cabinets have a constitutional character, which are based on the majority of the parliament, no one doubts’.⁵⁹⁵ Yet, in practice, coalitions in the Parliament were scarce after 1864, and when they were formed they were never sufficient to secure a stable majority. Owing to the instability of party coalitions, the King frequently and freely used his right to appoint the cabinet and to dissolve the Parliament. The result was that the King, though lacking in extensive constitutional powers, enjoyed considerable influence. Not infrequently, in order to apply policies or bring foreign policy within limits prescribed

⁵⁹⁴ Ibid., p. 312.

⁵⁹⁵ EES, vol. VI, pp. 358.

by the European powers, the King governed through minority or even extra-parliamentary ministries. Hence, there were recurrent ministerial crises which produced a state of paralysis. In a sense, stable government, a central demand for many contemporaries, hardly existed.⁵⁹⁶ In that way, there could be no firm foreign policy, no prospects of reorganising the army and the fiscal system and no chance of carrying out a social, economic and legislative programme.

For some, the 'democratic' constitution and the liberal institutions which it had established were responsible.⁵⁹⁷ Others increasingly raised criticisms against the royal practice of selecting the Prime Minister from the parliamentary minority. And, as in the previous times, these claims were articulated in a blueprint for reforms sent to the King by Alexandros Koumoundouros, one of the leading liberal politicians, where he argued that only a government which was fully independent from the monarchy would be effective enough to formulate a coherent political programme.⁵⁹⁸ Developments escalated and the political crisis became an even greater threat to political stability in early 1874 when Dimitris Voulgaris, one of the old politicians with the implicit approval of the King, tried to distort basic parliamentary rules in order to have the budget voted on.⁵⁹⁹ In general, the Voulgaris administration, by trying to revise the constitution, sought to turn back the clock, limit the legislative jurisdiction of the Parliament and thus leave only one institution with the right to speak in the name of the nation—the King. It attempted to do this by exploiting the constitution which had tried to blend the jurisdictions of the powers but had left the relationship between the two main authorities (the Parliament and the crown) unclear.

⁵⁹⁶ See Nikos Alivizatos (2000), [The Cycles of Greek and European Parliamentarism: Coincidences and Disparities], in [150 Years of Greek Parliamentary Life 1844-1944], Athens: Sakkoulas, where it is noted that only five out of the 22 governmental crises between 1863 and 1875, were due to lack of parliamentary confidence, while the rest were due to discord between the King and the administration: pp. 165-169.

⁵⁹⁷ As Lord Clarenton and Petros Vrailas Armenis (the Greek Ambassador in London) argued in the discussion they had after the murder of English citizens by some brigands in Dilessi. See Domna Dontas (1966), *Greece and the Great Powers, 1863-1875*, Thessaloniki: Institute of Balkan studies, p. 168.

⁵⁹⁸ [Memorandum of Alexandros Koumoundouros to the King], 25 February 1874, in Gerozisis et al., [Constitutional Texts], pp. 461-463.

⁵⁹⁹ Kostis characterised this crisis as a crisis of 'adjustment': Kostis, [The spoiled children], pp. 362-364.

In June of the same year, Charilaos Trikoupis, a liberal and highly respected member of the parliament published anonymously an article in the newspaper, *Kairoi*, entitled, *'Tis Ptaiei ('Who is to blame?')*, which was going to make him the central political figure for years to come. This was followed by another article in the same newspaper in July.⁶⁰⁰ In these articles, Trikoupis wondered about the source of the unstable political situation and the stagnation of the country. 'Who was to blame?', Trikoupis asked. Was it the nation, its representatives, the constitution or something else? In responding to this question, Trikoupis argued that the administrations formed since 1868 represented the people's minority, lacked parliamentary confidence and owed their power to the wrong interpretation of the constitution and especially to the uncontrolled use of the prerogative power of the monarchy. For Trikoupis, it was the royal practice that violated the constitutional arrangement of 1864 and was the main reason for a malfunctioning political system. The answer to his question was thus a straightforward one: the only one responsible for this situation was the monarchy because of the way in which it was usurping its power.

Trikoupis was imprisoned and the newspaper was confiscated. The public prosecutor argued that although the offending article spoke of the monarchy, it incited public hatred and contempt for the King. The Judicial Council, however, ruled that there was no violation.⁶⁰¹ Its line of thinking was striking. The *ordinary* meaning of Trikoupis' language was irrelevant; what counted was the *legal* meaning. Trikoupis, in his arguments, had targeted the 'monarchy'. Based on the distinction between the person of the King and the institution of the monarchy and citing William Blackstone and his maxim that the King can do no wrong, the judges argued that it was 'too strained' an interpretation to identify the monarchy with the King! In that sense, 'monarchy' meant 'the ministers', who, according to the Constitution of 1864, were the sole bearers of political responsibility.⁶⁰² Just like Trikoupis himself,

⁶⁰⁰ ['Whose Fault is it?'], *Kairoi*, 29 June 1874, and ['Past and Present'], *Kairoi*, 9 July 1874, both reproduced in Gerozisis et al., [Constitutional Texts], pp. 466-471 and. 471-479.

⁶⁰¹ For the Judicial dictum on the case of Trikoupis see Gerozisis et al., [Constitutional Texts], pp. 479-486.

⁶⁰² Giorgos Tsokopoulos (1896), [Charilaos Trikoupis], Athens: Fexi, pp. 171-202.

who recalled the Revolution of 1862 and the Constituent Assembly, the judges reached their verdict by invoking and interpreting the constitutional tradition.

Following Trikoupis' release, the King appointed him as Prime Minister. In his following royal address, he accepted that henceforth he would appoint as Prime Minister only those who enjoyed 'Parliament's proclaimed confidence', or, in other words, the parliamentary majority. The requirement for dual confidence was thus dropped, and, for the first time, the vision of the delegates in 1862-1864 for a parliamentary system of government was consolidated, at least in principle. This was a landmark in the development of Greek constitutionalism which led to the formation of a bipartisan political system and to a higher rationalization of parliamentary life. As Nikos Alivizatos has argued, this combination of one chamber elected by universal suffrage with the principle of the 'Parliament's proclaimed confidence' for the appointment of the Prime Minister was rather exceptional in Europe at the time.⁶⁰³

Conclusion

This chapter sought to direct attention to the constitutional crisis of the long 1860s. It argued that it should be treated as one of those context-breaking moments when what was earlier taken for granted in the perception and the practice of basic political concepts was transformed. This moment was precipitated by the severe economic crisis of the 1850s which paved the way for challenging the existing 'system' of government. It was additionally argued, that if we want to understand this political transformation we need to understand the political claims and the language used by the protagonists. The jurists played a major role in the development of this language. The political claims of the revolutionaries were very much informed by legal and political ideas which were already circulating and debated and which the previous chapters mapped out. Calling initially for legal and administrative reforms and the consolidation of the rule of law, legal theorists turned gradually to raising criticisms against the King.

⁶⁰³ Alivizatos, [The cycles of Green Constitutionalism], p. 169.

In the critical juncture of the early 1860s, these ideas were radicalized and turned against the monarchical 'system' of government. These claims were not confined to making charges against the King but included claims which located sovereign power in the nation. It was the intimate relationship between the circumstances of nineteenth-century Greek social and political life and political ideas that turned discontent into a revolution and endowed the latter with its peculiar strength, making it a profoundly transforming event. From the very first documents published by the revolutionary Provisional Government, it became clear that the aim was to reconceptualize the basis of political legitimacy and re-form the structure of politics. Ultimately, the Second National Assembly was endowed with the authority to give institutional form to these claims. Its task was not to destroy the existing political order or the power of the monarchy as an institution but rather to put the polity on a new constitutional footing, limit monarchical power and rethink the source of legitimacy. By so doing, it transformed the idea of the constitution from a contract between the nation and the King into a contract among members of the same national political community. Power was delegated to the King but he was now an integral part of the nation.

How could the proceedings within the Assembly and their outcomes be summarized? Firstly, from very early on, it was established that the nation, acting as sovereign through its representatives, was to be the author of the constitution. Next, although the form of constitutional monarchy was retained, the constitution which was finally promulgated in 1864 transferred power to the nation, or, in the eyes of the delegates, put on a better constitutional footing the principle that power emanates from the nation. Accordingly, the King was denied outright any role in the constituent and revision process. But, although it was explicitly assumed that the nation was the absolute sovereign, the delegates recognised that this was not a sufficient condition to ensure that individual rights would be protected and that the power of the nation would not be usurped. They thus attempted to implement a system in which powers would be distinguished, mixed and therefore balanced. There was to be one parliamentary chamber, directly elected upon the basis of a universal male suffrage. At the same time, the King was granted extensive powers as possessor of the executive power and equal partner in the exercise of the legislative

power. A mistrust of executive power meant that the King found his power weakened and his legislative competences curtailed. But, essentially, the delegates constituted competing law-making powers which all drew their authority from the nation.

The role of the jurists during this constitutional crisis and especially in the National Assembly was crucial.⁶⁰⁴ Drawing on a number of sources, among which Benjamin Constant was most prominent, they combined a moderate liberal language with more radical claims. Some, like Pavlos Kalligas, Kyriakos Diomedis and Emmanouil Kokkinos, focused on the language of rights and the inculcation of manners and envisioned a political system and a state which would be based on the rule of law and governed by the 'best'. In addition, most of them agreed about the limitation of suffrage but without questioning that sovereignty stemmed from the nation. Nikolaos Saripolos was the most eclectic and probably the most radical in his views. His radicalism stemmed from his dissociation of sovereignty from ruling that he saw as a way of preventing any ruling authority from usurping the power of the nation. Fear of usurpation was indeed at the heart of his thinking about politics, and he tried to mitigate the effects of usurpation by putting into the political system multiple authorities with competing claims of speaking in the name of the nation.

Accordingly, this search for more contestation in politics made him argue that the revision of the constitution should be much more regular, that even the constitutional framework itself should at times change. But this also precluded a different conception of the state because his was a liberalism that required a state that was not only the protector of right and the rule of law but also a promoter of welfare and of contestation in politics. It was a state where rights would act both as guarantees against the political authority and as ways to enhance participation and promote progress, not just through voting but also through the establishment of intermediary bodies. Placed within the European landscape, as this had been formed after the revolutions of 1848, one could argue that the Greek jurists held a rather original position. At one level they were certainly conversant with moderate liberalism as this latter had been developed by liberals such as the *Doctrinaires* and

⁶⁰⁴ It deserves to be noted here that the discussions within the Assembly were at times astonishing in their use of intellectual authorities from several and diverse sources when supporting an argument.

which even after its political failure informed by and large the thought of the moderates. But at another level they held more radical views, as they insisted on a language of rights, national sovereignty and a more inclusive and widespread political participation (see also the conclusion).

What this all meant in the Greek context was that although in practice this political transformation did not constitute a sudden or radical break with the past, the Constituent Assembly created a new national system of power and reconfigured the structure of politics. At the same time, the new political configuration was not without ambiguities since the potential for conflicting jurisdictions had not been erased. It left many issues open, in particular the relationship between the executive power of the crown and the legislative power of the Parliament. This ambiguity, which was established in 1864, was partially dealt with in the following constitutional crisis of 1874-75. Nevertheless, this tension between crown and Parliament would preoccupy Greek political thought and practice well into the twentieth century until the abolition of the monarchy in 1974.

Conclusion

By focusing on the political thought of the most important Greek legal scholars of the nineteenth century this thesis attempted to illustrate the ideological breadth, creativity, and potency of nineteenth-century Greek liberalism. It put the emphasis on a wealth of different sources produced by the jurists — books, articles, pamphlets, public utterances, as well as their contributions in parliamentary proceedings — aiming at reconstructing the authentic voices of the intellectuals and at making sense of their discourse in the precise political and ideological contexts of the time. Contextualizing the thought of the Greek jurists was crucial in order not to distort their voices and to put some barriers against teleological readings of nineteenth-century political developments. In addition, the continuing allegiance of many liberal jurists to ideas of internationalism and cosmopolitanism shows that to regard liberals and other intellectuals of the nineteenth century exclusively through the prism of the ‘nation state’ is to miss out a great deal of the constitutive features of nineteenth-century political ideologies. What the case of the jurists thus indicates is that the significance of ‘nationalism’ in the political thought of Greek liberals should be qualified.

In addition the thesis focused on the ways in which these scholars put their ideas in practice and more generally on how ideas about law and politics resonated with the political context of the time. The result of this association of political theory with the ‘high’ political context of the time was to show that a significant ‘transformation of thought’ took place during these years which largely informed a new way of ‘doing’ politics. By so doing, the thesis asserted that jurisprudence provided the intellectual foundations upon which an important part of the edifice of the political transformations of the 1860s and 1870s were built. In other words, it argued that state building was as much an intellectual process as it was an institutional one. What is more, the thesis showed that this liberal edifice was built with a variety of intellectual ‘armour’ and not of uniform (and feeble) ‘material’ as many historians have claimed. This diversity was a product of the strong conviction among the jurists that culture was advanced by interaction and dialogue rather than by isolation and exclusion. And this was manifested first and foremost in one of the most striking

features of the political thought of the jurists: the eclectic and extremely wide selection—in range and time—of intellectual sources which shaped their thought.

Although Enlightenment thought loomed large on the jurists, it was ultimately the ideas of thinkers of the Restoration which were at the heart of their thought. Thus, behind Pavlos Kalligas lay not just Savigny, Windsheid and a number of German *Rechtsstaat* thinkers, but also Guizot, Montesquieu and an interest in ‘industrial’ virtues. Ioannis Soutsos was not just a disciple of Say and an adherent of ‘industrialism’ but also one of the latter’s critics drawing on Sismondi, while he was alert to the claims of socialists and other radicals from across the Channel. Nikolaos Saripolos was probably the most complex of all, in that he drew from a rich array of eighteenth- and nineteenth-century French thinkers before turning to Benjamin Constant, but even then with an eclectic eye. And it has to be additionally noted, that the Greek jurists were respectful of their ideological counterparts without being deferential. Indeed their esteem did not preclude criticism, which at times could go so far as the complete rejection of certain aspects of the thought of their interlocutors. But in overall terms they strove to have a fruitful conversation with other thinkers without losing their intellectual autonomy. In short, this was a period rich in ideas. But it was also rich in the institutional mechanisms through which these ideas could be acquired and maintained. Among the key ‘public’ means with which these ideas were ‘communicated’ to a wider public were the University, which brought the work of legal scholars into contact with the students and a rising reading public; the emerging professional and legal networks, which created and sustained close political links among them; the intellectual associations such as learned societies, journals and newspapers.

One of the contentions of this thesis has been that Greek legal thought and Greek liberalism were not backward, underdeveloped, or derivative of some ‘core’ liberalism (which in any case did not exist as such). On the contrary, Greek liberals read and used past and contemporary thinkers in an original way and for their own purposes trying to fit ideas and concepts into the context and needs of Greek politics. The thesis thus also showed that the conventional distinction between a rationalist, progressive, optimistic liberal nationalism of the era preceding the creation of the Greek state, and a conservative, nationalistic romantic anti-liberalism

as the dominant force in post-independence Greek political thought, as most accounts of the nineteenth century present it, is misleading.

That said, it would be equally simplistic to treat Greek jurisprudence or Greek liberal thought more generally as homogeneous. Within the same generation of jurists, as we saw, there were tensions, ideological differences and open-endedness. And this diversity was a source of strength, making liberalism a versatile force in nineteenth-century Greek politics. At the same time Greek liberals did hold to a range of central and common ideological concepts and values. What were then the points of convergence and divergence among Greek liberals? And to what extent were the discussions and the distinctions in Greek legal thought analogous to those which characterised other cases across Europe? Answering these questions has helped to determine the place of Greek liberalism within the European liberal landscape of the nineteenth century and the ways in which the Greek case can contribute to our understanding of nineteenth-century liberalism. In what follows an attempt is made to sum up the answers which were given throughout the thesis.

To begin with, Greek liberals equated progress with European civilization and adhered to the shared belief among European liberals of its superiority and of its right to rule over 'underdeveloped' or uncivilised peoples. This was, nevertheless, also a source of anxiety given that Greece was not considered a full member of the 'civilised' nations. That is why they put strong emphasis on gradual progress and on reforms and institutions as the devices which would facilitate moral improvement and the incorporation of Greece into the 'civilised European family'. Law was extremely important in this respect because it was seen as the science of free nations and the transition mechanism to attain the standard of civilisation and enter modernity. At the same time, Greek liberals were probably more attentive to the revolutionary tradition compared to their counterparts especially in France. If French liberals wished to preserve the principles of 1789, for the Greeks the very origins of their liberty lay in the Greek war of Independence. Two important political innovations had been introduced by the revolution, which the liberals never questioned: the nation as a collective actor and the state as the central authority which would define, elaborate and enhance the national interest.

What all these meant was that first, in what seemed to be a widely held feature of liberalism on the Continent, Greek liberalism was sensitive to social and historical conditions emphasizing the social situatedness of human beings and the importance of socializing processes. Second and more importantly, it meant that from the beginning Greek liberal thinking about politics, society, and the individual was coupled with thinking about institutions and in particular about the state. In other words, for Greek liberals, individual rights such as liberty, property and security originated *in* law and political institutions, not *against* them. Discussions therefore about the state held centre stage.

Thus, the key question which the Greek liberals had to answer, was very similar to that which French liberals had to face in the Restoration: how to reconcile the emancipation of society and the individual with the legitimacy of the state. It was in answering this question that the major divergences among Greek liberals occurred. To be sure the monarchy and a mixed system of government were considered by all as the best form of government that would bring social peace and order. In addition, the jurists were broadly united in their strong advocacy of the rule of law and in their dismissal of arbitrariness. They also advocated for liberal institutions that would delineate spheres of public and private life which the state could not encroach upon—for example, the press and private property. These were important means for the release of the talents and capacities of members of society and their self-realization. But their thinking about institutions and the reforms they held to be central entailed also divergent understandings of the sources of political power, the role of the monarchy and the relationship between the state and the individual.

As already mentioned in a previous chapter, in his study of nineteenth-century French liberalism Lucien Jaume has proposed a typology of three liberal currents. The first and dominant variant was an elitist or aristocratic form of liberalism which favoured the state (expressed especially by the *Doctrinaires*), the second was the constitutionalist and individualist variant advocated by liberals such as Madame de Staël, Benjamin Constant and Alexis de Toqueville and the third was liberal

Catholicism.⁶⁰⁵ The first two are relevant here and to a certain extent Greek liberalism seems to confirm the distinction between an elitist and a more constitutionalist variant. Nevertheless, due to the different political context, the ways in which the two liberal currents were articulated and ‘played out’ in the Greek context and the lines of demarcation between them were to a significant extent different.

The first and elitist current was the one defended mainly by the civil lawyers (or the Romanists), prominent among whom were jurists such as Pavlos Kalligas, Emmanouil Kokkinos and also Georgios Rallis and Kyriakos Diomidis, commercial and constitutional law scholars respectively. As we saw, this group, which was extremely influential politically, drew on the German historical school of jurisprudence, the *Doctrinaires* and the *Ideologues*. As in the cases of their French, German and Italian counterparts, these jurists sought to consolidate an administrative state while liberalizing its institutions. Indeed, their ‘law-based state’ (*Rechtsstaat*) had two traits. In the first place, it was an administrative mechanism which would enforce contracts, punish fraud, maintain order and safeguard peaceful economic activity. In the second place and more importantly for these scholars, and especially for the civil lawyers, the state represented the nation. It was, as Kalligas understood it, the protector and guarantor of the ‘general will [or interest]’. As such, it stood up to local and private interests which the Greek jurists associated with the old local elites.

The political vision that the Romanists thus projected was very close to Francois Guizot’s spirit of ‘generality’. As Pierre Rosavallon and Lucien Jaume have argued, this ‘culture of generality’ entailed a praise of politic unity and centralization and a rejection of federalism and of intermediary bodies and in particular of political parties.⁶⁰⁶ Most of the Romanists embraced these features completely (with the exception of Diomidis who being a sort of an *Ideologue*, had more reservations towards the state). Pavlos Kalligas in particular dismissed political parties as factions which jeopardized national unity, calling his fellow citizens to see to their own

⁶⁰⁵ Jaume, *L’individu efface*, and Jaume, ‘The unity, diversity and paradoxes’, in Geenens and Rosenblatt (eds), *French Liberalism*, pp. 36-56.

⁶⁰⁶ Pierre Rosavallon (2007), *The Demands for Liberty: Civil Society in France since the Revolution*, Harvard: Harvard University Press, pp. 127-146, and Jaume, ‘The unity, diversity and paradoxes’, pp. 37.

advancement by developing private virtues such as frugality and industriousness. In addition he defended the freedom of the press not as a means of controlling power, but as a channel of communication between the state and society which would enhance good government. In other words, this brand of liberalism was based on the belief that the state should limit itself without giving in to particular interests, or facilitating in any way their political articulation.

Yet three notes of caution are needed here. First, as evidenced by their legislative efforts where they sought to take into account popular customs and habits, the Romanists were not as distrustful of the masses as many other European liberals of the elitist variety. Second, compared to their German and French interlocutors, these liberals and especially Kalligas emphasized much more individual rights and especially private property as a prerequisite of liberty. This entailed, in other words a 'negative' idea of freedom—the absence of external interference— and an emphasis on a legal framework that was based on what belonged to each individual, on his rights and personal advancement. Compared thus to the French 'elitist' current, the individual was not 'erased' from the Greek version. Third, in the Greek context the Romanists' thought and political action had a strong anti-despotic overtone since their vision of the state ran counter to the one implemented by the Bavarians and which was based on the *Polizeistaat*. The same went for their advocacy of a society of property owners, because it entailed a criticism of the monarchical policies over the issue of the national lands.

That is not to say that the Romanists were in any way radical liberals. It means, however, to say that probably like the German *Rechtsstaat* thinkers of the 1840s and 1850s they stood to the left of the *Doctrinaires*. That said, it needs to be stressed that they saw the state as a protector and guarantor of individual rights and the national interest within a commercial society, but *not* as a promoter of welfare. Being pre-occupied with private and commercial reforms, the Romanists were rarely concerned with comprehensive constitutional reforms. When it came to discussions about society and the public good, they were either abstract or focused on normative ideals of a virtuous private life. This became clear even during the period of the Constituent Assembly of 1862-64, when they opposed efforts to expand political participation and representation and fell back to advocating very narrow

property qualifications in suffrage. Ultimately, they never put into question the sources of political legitimacy of the monarchical state nor did they seek to put checks on political power apart from those imposed on it by the rule of law.

Gradually, however, a constitutionalist liberal variant was formed which did question the sources of political power and of the monarchical state. It was scholars such Ioannis Soutsos and especially Nikolaos Saripolos who introduced a different perception of what the state and the public institutions are, what they should do and what their relationship with the individual should be. Lucien Jaume has argued that the analogous current in France wanted a constitutional order that would curtail the state's power over society by favouring decentralization and the rights of the individual.⁶⁰⁷ The last two and especially the emphasis on individual rights, such as liberty, property and security were concerns which the Greek constitutionalists did indeed share with their French counterparts. Both for example (and especially Soutsos) considered private property a major prerequisite of a sound economic development and a condition for liberty. And more generally, they developed a more 'positive' understanding of freedom—the ability of the agent to act.

But for the Greeks, the state still held centre stage. The reason for this state-centered perspective of Greek constitutionalism was of course the economic, political, social and even 'existential' problems which Greece was facing from the 1840s onwards. It was especially Saripolos who, through his constitutional legal thought and public contributions, articulated most consistently this constitutional liberal current. Apart from individual rights which he located in natural law, three important themes ran through his political thought: the first was that power stemmed from the nation (national sovereignty), the second was how to prevent the usurpation of this power and the third was his conception of the state as a moral being. All these made his liberalism a more radical language of statehood compared to the Romanists as manifested also by his turn to international law, where he addressed directly the curtailed sovereignty which the Great Powers had imposed on Greece. In essence Saripolos's political thought bears evidence to the ways in which constitutionalism in post-Napoleonic Europe attempted to strike a balance between

⁶⁰⁷ Jaume, 'The unity, diversity and paradoxes', p. 38.

monarchy and representative government. As was the case for most constitutionalists, the French prominent among them, their central concern was to give political expression to popular or national sovereignty eliminating, at the same time, the chance of the usurpation of this sovereign power.

Saripolos response to these concerns was threefold. First, by distinguishing between sovereignty and rule, he proposed (and partly devised) a complex political system in which powers were not separated but mixed and checking each other. There was nothing revolutionary or republican in that. As a radical moderate—probably the best definition for Saripolos but also for Soutsos—he tried, so to speak, to square the circle by seeing the monarchy and any other form of political institutions (parliament, senate, civil associations) as having competing claims of representing the nation. In short, for Saripolos the way out of the problem of usurpation was to instill more contestation in political power. His second response, which was very much influenced by Constant, was his advocacy of legitimate resistance to unjust laws especially when individual rights were violated and national sovereignty was usurped.

The third response, which he shared with Soutsos, was that in order to avoid such situations, it was important to enrich public life through the development of institutions of civil society and the articulation of different opinions. In other words, the Greek scholars were not naïve about individual autonomy or the ‘naturalness’ of the individual, but understood that individuals depend on collective institutions. So, they did not narrow down liberty to non-interference or to private advancement but enriched it by incorporating virtues which were collective, public-oriented or ‘communitarian’. In their emphasis on the importance of political participation, public action and the effects that a robust political life would have on the habits of the nation, the Greek scholars were again largely influenced by the French constitutionalists.

At the same time, they departed significantly from their French interlocutors (mainly Constant, the *Doctrinaires* and Toqueville), by being more attentive to the revolutionary tradition. This was evident, in the first place, in the ways in which they sought to expand political participation. The Greek scholars had come to the conclusion that it was only by virtue of political institutions that individuals perceive

themselves as citizens endowed with rights that can be claimed and ought to be respected. They thus argued that public institutions were political agents and sources of initiative in their own right rather than mere arrangements that complemented the exercise of political power. The state should thus have an enhanced role in promoting individual freedoms and seeing to the welfare of the citizens. In the second place, although they sought to give expression and institutionalise different opinions and partial interests, when it came to political representation, they were ardent supporters of national representation. And even though they supported census suffrage, they saw it as a temporary measure—indeed Saripolos went even further supporting the gradual inclusion of women in the electoral body. Thus, if for Constant the body politic was formed by partial and sectional interests, for both Saripolos and Soutsos it was formed by the nation, the interests of which stood in a higher but harmonious relationship with its component parts.

What was probably more important and radical in the short run, was that, as Saripolos in particular argued, the King was a part of the nation. Accordingly, royal power was part of the sovereign power of the nation, not external to it or neutral, as Constant had argued. In that sense, the Greek constitutionalists stood probably to the left of their French counterparts. This became evident in the ways in which these liberal formulations turned increasingly against the monarchical authorities and the King and the logic the underpinned his power. What all this meant was, as the thesis demonstrated, a transformation in ideas about government, which were gradually diffused in the public sphere and informed the emergence of opposition against King Otto. Several reforms from the 1840s onwards were affected by and large by the proposals and views of the jurists. Increasingly, towards the end of the 1850s, it was the more radical ideas of Saripolos which were gaining ground. The last chapter showed the extent to which the transformation of thought that the liberals instigated was related to the 'long' revolution of the 1860s, with which a new system of power was established.

Last but not least, the thesis asserted that the liberal synthesis which was devised in the 1860s and consolidated in the 1870s left a long legacy in Greek political culture. First, the underlying and possible tension between the two political authorities to which the power of the nation was delegated—the parliament and the

Crown—characterized Greek political life up to 1974 when the monarchy was finally abolished. Second, the two liberal ways of thinking about freedom and the state had an even longer life. Indeed, the distinction between freedom as a merely legal/formal quality and a more substantive version, close to the Kantian terms of autonomy, which was to be achieved through the public sphere and in particular political action, has remain at the heart of Greek political thought until today. What all of the above amount to is (to emphasize it once more) that ideas made a difference. They made a difference to individual thinkers, to the very actions of political elites and much more importantly to the founding moments of wider political communities.

Biographical Appendix

Besides the specific publications quoted at the end of each individual biography, the following works were consulted:

D. A. Dimitriadis (1916), *Apanthisma viorgaphikon ton ekleiponton kathigiton ex idryseos tou panepistimiou Athinon 1837-1916* [Biographical Collection of the Deceased Professors of the University of Athens 1837-1916], Athens: D. A. Dimitriadis

Megali Elliniki Egkyklopedia [Great Greek Encyclopaedia], 1926-1934, Pirsos/Drandakis/Foinix

Pagkosmio Viographiko Lexiko, Ekpaideftiki Elliniki Egkyklopaideia [Global Biographical Dictionary, Educational Greek Encyclopaedia], vol. 1-9b, 1983-1988, Athens: Ekdotiki Athinon

Argyropoulos, Periklis (Constantinople, 1801—Athens, 1860)

Argyropoulos was born in Constantinople into a renowned Phanariot family. His maternal grandfather was Alexandros Soutsos, Prince of Wallachia. His father, Iakovos Argyropoulos, held a number of significant offices in the Ottoman administration, including dragoman of the Navy. Iakovos Argyropoulos also represented the Porte in several diplomatic negotiations, and he would have done so in the negotiations between the Porte and the Great Powers which ended in the Treaty of Adrianople of 1829 had he not decided to flee with his family to Athens for fear of reprisals against the Greek population of the Ottoman Empire. After moving to Athens, Periklis went to Paris in order to study economic and political sciences. When he came back to Greece (1833), he became a lawyer and, later, a judge in Athens (deputy district attorney of Athens, 1834). In 1837, he was among the first (‘έκτακτος’) professors to be appointed to the University of Athens, where he taught administrative law. Three years later, he became a regular professor at the Chair of Administrative Law, a position which he held until the end of his life. Apart from administrative law, Argyropoulos, at times, also taught ‘Principles of Constitutional Law’. Between 1838 and 1841, he was elected dean of the Law School, and, during 1852-1853, rector of the University. Argyropoulos was heavily involved in politics. He was elected to the first National Assembly in 1843, representing Crete, and was generally affiliated with the political grouping of Alexandros Mavrokordatos and the English Party. His liberal beliefs were articulated more thoroughly during 1843 and 1844, when he published and edited the newspaper *Anamorphosis*. Between 1854 and 1855, Argyropoulos became minister of foreign affairs, of economics and of ecclesiastics in the Mavrokordatos

administration (called the 'Occupation Cabinet' because of the occupation of Piraeus by the allied forces of Britain and France at the time). In 1859, he was elected to the Greek Parliament, representing the University. He died one year later.

Diomidis, Kyriakos (Spetses, 1811—Naples, 1869)

Kyriakos Diomedis was born in Spetses into a powerful family of merchants and primates. He received his primary education at home, before he joined the Ionian Academy. After his studies in Corfu, he went to study philosophy, political science and law, first in Pisa and then in Paris. Diomidis returned to Greece in the early 1830s and was appointed (1835) district attorney in Nafplion. In the elections of 1840, he was elected to the Greek Parliament, thus inaugurating a long political career. He was later dismissed from his position in the Bench when, siding with the English Party and Alexandros Mavrokordatos, he turned down the offer to become a minister in the government of Ioannis Kolletis (leader of the French Party and main political rival of Mavrokordatos). In the National Assembly elections of 1843, he won a seat representing Spetses and played a crucial part in the drafting of the constitution of 1844. In the following years, he devoted himself mainly to his university career, becoming professor of constitutional and international law (replacing Nikolaos Saripolos) in 1851. In 1862, he was elected to the National Assembly, once more becoming a member of the Drafting Committee. In 1863, he served as minister of ecclesiastics and public education and then as prime minister. He held office for one month only, owing to the inability of his government to impose itself on the military leaders and to control the political strifes which were raging both in the Assembly and outside of it, and which led to open, armed confrontation in the streets of Athens less than two months later. He died a few years later, having spent the last years of his life writing his magnum opus, *An Interpretation of the Constitution*, which was published posthumously.

Economidis, Vasileios (Vytina, 1814—Athens, 1894)

Economidis received his primary and secondary education in Vytina, Aigina and then in Athens (1833-1837). He continued his studies in various German universities, and in 1843 he received his doctorate from the University of Munich. In the same year, he came back to Greece, becoming a *Privatdozent* (i.e. 'υφηγητής', an unsalaried university lecturer remunerated directly by students' fees) of Roman law at the Law School of the University of Athens, focusing on inheritance law. At the same time, Economidis entered the Judiciary and became a

judge in the First Instance Court in Athens. In 1846, he was elected associate professor of Roman law and, in 1847, regular or full-time professor (‘τακτικός καθηγητής’) in the Chair of Civil Procedure. He occupied the Chair for almost 30 years, resigning in 1874 because of his old age. During his tenure at the University, he was elected doyen of the Law School several times and once, during 1859-1860, rector of the University. He occupied several high positions in the Judiciary, becoming a member of the Supreme Court (Άρειος Πάγος) in 1851 and, in 1861, its vice president. In 1867, instead of becoming president of the court, he accepted the offer to fill the newly established position of the legal advisor to the Ministry of Economics (a position which he left in 1875). Economidis was an adherent of Roman law but did not strictly follow the dominant version of Romanist jurisprudence. He saw in Byzantine law a living tradition of Romanist jurisprudence which modern Greeks should revive and draw upon, and not a decayed corpus of laws and a corrupted version of the great Roman tradition, as other Romanists, such as Pavlos Kalligas, held.

Feder, Gottfried (Bavaria [unknown place and time of birth and of death])

Feder came to Greece with King Otto. He contributed to the establishment of the Audit Council (1834) and became one of its key members. From the foundation of the University up to 1843, he was also full-time professor of civil procedure.

Frearitis, Konstantinos (Constantinople, 1819 – Athens, 1902)

Konstantinos Frearitis was born into a family of merchants and bankers on his father’s side, and he was connected to the Phanariots on his mother’s side (Smaragda Kallimachi). After the outbreak of the Greek Revolution, the family moved to Zakynthos, where Konstantinos received his primary education. He continued his studies at the Ionian Academy, and when he finished he moved with his family to Greece, first to Poros (1833) and eventually to Athens (1836). In 1839, Frearites received a scholarship from the Greek government, which he used to study legal and political sciences in Bonn. After two years at the Law School there, Frearitis moved to Heidelberg, where he earned his doctorate in 1843. During the following year, he attended courses on law and political sciences at the Sorbonne and the College de France. Upon his return to Greece in 1844, he worked as a lawyer, and in 1845 he started teaching as *Privatdozent* of Roman law at the University of Athens. In 1847, he became associate professor of the history of Roman law. In 1868, along with his other teaching responsibilities, he began teaching ecclesiastical law. His university career was concluded in 1883 because of

old age, and he was elected professor emeritus. Along with his university career, from 1849 onwards he was also a judge at the Supreme Court. In addition, in 1866 he was appointed director of the National Library by the Greek government and, in 1869, royal commissioner at the National Bank of Greece (the NBG was a private bank which, owing to the lack of a central bank, had been given the exclusive right to print the national currency and thus control the money supply).

Herzog, Emile (Prussia [exact place and time of birth unknown]—Athens, 1852)

Herzog was a Prussian jurist who accompanied King Otto to Greece. When the University was established in 1837, Herzog was among the first to be appointed a professor at the Law School. He became associate professor of Roman law and, in 1839, full professor, a position he held until the political transformation of 1843. Following his dismissal from the University, he worked as a lawyer, and, during the last years of his life, he also became ambassador of Bavaria to Greece.

Kalligas, Pavlos (Smyrna, 1814 – Athens, 1896)

Pavlos Kalligas was born in Smyrna into a family of merchants from Cephalonia. He received his primary education in Trieste, where his family fled after the outbreak of the Greek Revolution. He continued studying in Geneva, Munich and Berlin (where he followed Savigny's lectures), before earning his doctorate from the University of Heidelberg. Upon the conclusion of his studies, Kalligas came to Greece, and shortly thereafter he made his first foray into Greek public affairs, on an issue of typical liberal sensitivity: freedom of the press. His motivation was a law published in November 1837, according to which it was prohibited to write anything against the king and the exercise of royal power. Kalligas saw the statute as a potential imposition of severe and dangerous censorship and made a harsh critique against it. In 1838, he was elected *Privatdozent* and taught natural law and the law of nations (1838-1843). He was subsequently elected associate professor, teaching the same subjects. Kalligas was involved with the English Party (since, according to his view, the genuine constitutionalism of the French kind was expressed by the English) and related politically to Alexandros Mavrokordatos. In the aftermath of the political transformation of 1844, and owing to his support of Mavrokordatos, he was dismissed from his teaching position by the Kolletis administration (Kolletis was the main political rival of Mavrokordatos). Free from his teaching duties, Kalligas devoted himself to writing and published the first volumes of his *System of Roman*

Law. His professional career, however, was not confined to academia. In 1851, Kalligas became deputy public prosecutor (‘αντιεισαγγελέας’) at the Supreme Court. Three years later, in 1854, he served for a short period as minister of justice in what was called the ‘Occupation Cabinet’ – a government headed by Alexandros Mavrokordatos and imposed by the Great Powers during the Crimean War. He was then elected regular professor of Roman law. Although he was not an active participant in the events that culminated in the Revolution of 1862 and the dethronement of King Otto, he was elected to the National Assembly in 1862 and was very active in its proceedings, contributing to most of the heated constitutional discussions. During this period when the country was administered from the National Assembly—and which has been called the period of the ‘Governing Assembly’—he also served as minister of foreign affairs (1863) and, later, of justice (1863-1864). After 1864, he continued teaching at the University until he was elected (1879) to the Greek Parliament with the party of Charilaos Trikoupis, representing the district of Attica. He twice became speaker of the Parliament (1883, 1885) and once minister of economics (1882). Last but not least, being for many years on the Board of the National Bank of Greece, he was elected deputy governor of the bank in 1885, and, upon the then governor’s death (Markos Renieris), he became governor of the bank, a position he retained until his death in 1896. (Marie Masson-Vincourt (2009), *O Pavlos Kalligas kai i Idrysi tou Ellinikou Kratous, 1814-1896* [Pavlos Kalligas and the Foundation of the Greek state 1814-1896], Athens: MIET)

Capodistrias, Count Ioannis (Corfu, 1776—Nafplion, 1831)

Capodistrias was the first governor of Greece (1828-1831). He was born in Corfu and studied medicine in Padua. He first held office when he became secretary of state of the Septinsular (Ionian) Republic during the Russian protectorate over the Ionians Islands, between 1800 and 1807. He subsequently entered the Russian diplomatic service as a member of the Russian delegation at the Congress of Vienna. In 1816, he became joint foreign minister to Tsar Alexander I, charged with matters relating to the Near East. Although he was twice offered the leadership of Philiki Etaireia, Capodistrias refused because he considered the plans wildly unrealistic. After the outbreak of the War of Independence in 1822, Capodistrias resigned and settled in Geneva and did what he could to promote the Greek cause. Owing to his known diplomatic- and political reputation and to the fact that he had not become directly involved in the revolutionary politics, it was not surprising that he was called on to become the first governor of Greece in 1828. Although at the time neither Greece’s independence nor the frontiers of state were formally established, Capodistrias

devoted all his energies to securing favourable, and thus large, frontiers and to building the infrastructure of the new state. Nevertheless, Capodistrias' paternalistic ruling methods and his dismissal of the local elites aroused resistance within Greek society. In October 1831, he was assassinated by the brother and son of Petrobeis Mavromichalis, one of the most powerful primates of Mani. (C.M. Woodhouse (1973), *Capodistria: the founder of Greek Independence*, Oxford: Oxford University Press)

Klonaris, Christodoulos (Abelakia, 1788—Athens, 1849)

Klonaris received his education at Abelakia. He then moved to Paris, where he became a disciple of Adamantios Korais. He made his appearance in jurisprudence when he wrote and published what was probably the first article in French on the legal state of contemporary Greeks under Ottoman rule. After 1826, he participated in the Greek War of Independence, and he was very active in the National Assembly of Troezina in 1827. He was a close collaborator of the first governor of Greece, Ioannis Capodistrias, and became public prosecutor in the newly formed Judicature. After the coming of the Bavarian authorities, Klonaris became president of the 'Legislative Committee' (which was appointed by the king), professor at the Law School and president of the Supreme Court. He died a few years later, leaving an important legacy in the administration of justice. (Dimitres Seremetis (1961), *Christodoulos Klonaris kai i symvoli tou stin Anagennisin tis Dikaiosynis 1788-1849* [Christodoulos Klonaris and his contribution on the Renewal of Justice, 1788-1849], Thessaloniki; Michalis Stasinopoulos (1961), *Tina peri tou Christodoulou Klonaroi, protou Proedrou tou Areiou Pagou* [Notes on Christodoulos Klonaris, first President of the Supreme Court], Athens)

Kokkinos, Emmanouil (Chios, 1812—Athens, 1879)

Kokkinos was born in Chios into a family related to that of Mavrokordatos. His father and brother were executed by the Ottomans during the massacre of Chios. Emmanouel and his mother managed to escape and arrive at Trieste. Supported financially and encouraged by Friedrich Wilhelm von Thiersch and Misael Apostolidis (priest and renowned teacher in Trieste), Emmanouel was educated at the school of the Greek community of Trieste (in which Apostolidis was the headmaster). He then attended courses at the Universities of Munich, Göttingen and Heidelberg, where he also earned his doctorate with an essay on *The Roman Twelve Tables* (1836). He arrived in Greece in 1839 and became both a lawyer and a *Privatdozent* of Roman law at the University of Athens. In 1861, he became

regular professor of criminal law and in 1864 took up the Chair of Administrative Law. He remained and taught in these two Chairs until his death, and, after 1875, he also taught constitutional and international law. In 1861, he was also elected to the Greek Parliament and represented the island of Chios (Greek speaking communities of the Diaspora were represented in the Greek Parliament). The same went in 1862, in the elections for the Second National Assembly, when he ran for the constituency of Syros. From the 1860s onwards, he served several times as counsellor of the Greek government on administrative and legislative issues.

Kolletis, Ioannis (Syrrako, 1774—Athens, 1847)

Ioannis Kolletis was one of the most influential politicians during the Greek Revolution and the early years of the independent state. He was born in Syrrako, Epirus, into a family of Vlach origins. When he came of age, he studied medicine in Pisa. Upon his return to Epirus, he became a physician in the entourage of Ali Pasha, the Muslim Albanian satrap of Ioannina who, at the time, not only controlled huge territories of Epirus but also directly questioned the Sultan's authority in the region. Kolletis was initiated into the *Philiki Etaireia* in 1819 and played a leading role in the political and military affairs of the War of Independence. With the arrival of the Bavarian regency in the Greek Kingdom, Kolletis initially held important offices. Subsequently, however, because of the Bavarians' concern about politicians with strong local ties, he was appointed ambassador to Paris. In France, he developed close ties with Francois Guizot and eventually came to be linked with French interests and, of course, with the French Party in Greece. Kolletis returned to Greece after the coup of 3 September 1843. After being elected to the National Assembly, he played a crucial part in the constitutional deliberations and thus to the drafting of the constitution promulgated in 1844. It was during the proceedings of the National Assembly and as part of his attempt to defend the claims of the *heterochton* Greeks—those born outside the frontiers of the Greek state—that Kolletis came to articulate the 'Great Idea' in the Greek Parliament. In the years following the constitutional transformation of 1844, Kolletis became the key political player in close collaboration with the Palace. As prime minister between 1844 and 1847, he undermined the liberal provisions of the new constitution by employing brigandage, bribes, threats and electoral manipulation in order to consolidate his power. Nevertheless, he remained a popular politician until the very end of his life, in 1847. Just like in the case of his long-time rival and interlocutor, Alexandros Mavrokordatos, a reassessment of his political action and thought has yet to be made. (Richard Clogg (1992), *A Concise History of Greece*, Cambridge: Cambridge University Press)

Korais, Adamantios (Smyrna, 1748—Paris, 1833)

Korais was the leading figure of the intellectual movement of the Modern Greek Enlightenment. Born in Smyrna, Adamantios was the son of a merchant from Chios. Between 1771 and 1778, he was a merchant in Amsterdam, but he then went to Montpellier to study medicine (1782-1786) at the local university. His interests, however, lay in classical philology, and Korais soon developed into one of the foremost classical scholars of the day. Korais accomplished this after moving to Paris in 1788, where he devoted himself to classical scholarship. At the same time, he sought to elevate the educational level of his fellow countrymen by instilling in them an awareness of a glorious past that was universally admired in civilised Europe. To this end, he conceived and implemented the idea of publishing a 'Hellenic Library' which would consist of editions of the ancient Greek authors. These editions were aimed specifically at a Greek audience and were thus prefaced with instructions for this audience. Korais was a fierce critic of Byzantium and the Orthodox Church, and he advocated a middle course in the heated debate as to the form of the Greek language; he recommended adopting the spoken language as the norm but 'purifying' it of foreign words. Although he thought the outbreak of the Greek Revolution was premature, he nonetheless supported the Greek struggle energetically. Being an ardent liberal, Korais was highly critical of Ioannis Capodistrias—the first governor of Greece—because of his authoritarian ruling methods. He died shortly after Greece was given a monarch but not a constitution. (Korais' autobiography in Richard Clogg (ed.) (1976), *The movement for Greek independence 1770-1821: a collection of documents*, London: Macmillan, pp. 119-131)

Mavrokordatos, Alexandros (Constantinople, 1791—Aigina, 1865)

Born in Constantinople into a Phanariot family, Alexandros Mavrokordatos was one of the most significant Greek statesmen (*heterochton*) during the revolutionary war and the early life of the Greek state (others being Ioannis Kolletis and Ioannis Capodistrias). When he was 20 years old, Mavrokordatos became a personal secretary to Ioannis Karatzas, who was then prince of Wallachia. In 1819, he went to Pisa. Upon the news of the Greek Revolution, Mavrokordatos set up a volunteering corps and left for Greece, bringing along the military material which he had managed to collect in Italy while propagating the Greek revolutionary cause. In the following years, he participated in military operations, but with rather limited success. He was much more successful in the field of politics. In fact, he played a key role in the revolutionary national assemblies and in the negotiations

with the Great Powers. He was constantly involved in the provisional governments set up during the War and in the drafting of the revolutionary constitutions. Naturally, Mavrokordatos became one of the leading figures of post-revolutionary politics. Even though during the governorship of Ioannis Capodistrias he was more of a spectator than a participant in politics, after the coming of King Otto his role was enhanced and he became the leader of the English Party (which favoured British-style constitutionalism and good relationships with Britain on a diplomatic level). In 1841, due to a severe political and diplomatic crisis, King Otto called Mavrokordatos back from London, where he was serving as ambassador, and asked him to head the government. Realising that this was a tactical move, whereby the king was trying to appease the pressures for political reforms, Mavrokordatos replied that he would comply on the condition that a number of moderate political reforms be implemented. Otto refused to comply and, as things escalated in 1843, Mavrokordatos became one of the leading figures of the rising opposition against King Otto. He was elected a plenipotentiary in the First National Assembly, in the proceedings of which he played a significant role, and became the major spokesman of liberal modern reforms. In 1850, King Otto appointed Mavrokordatos ambassador to Paris but was forced to recall him in 1853 amidst the crisis of the Crimean War, asking him (or rather, being forced by the Great Powers to ask him) to head the government. During his administration, which lasted until 1854 and came to be known as the 'Occupation Cabinet', a number of measures and reforms were taken with which governmental policies were rationalized. Notwithstanding his old age, he was elected to the National Assembly again in 1862 (having had the chance to see King Otto abdicate). He died a few years later. Mavrokordatos was a controversial figure during his lifetime, and his legacy in Greek historiography is equally controversial. Depending on the historian's standpoint, he is considered, at times, a genuine liberal modernizer, a demagogue and a ruthless politician, interested only in power. A reappraisal of his life, his politics and his political thought has yet to be made.

Mavrokordatos, Georgios (Constantinople, 1802—Athens, 1858)

Georgios Mavrokordatos was born into the renowned Phanariot family of Mavrokordatos. His father was Alexandros Mavrokordatos (a cousin of the above), who served in the administration of the Principality of Moldavia. Upon the news of the Greek Revolution, his father managed to escape from Constantinople. Although this is an obscure period in his life, Georgios spent around nine years in Prussia and Ankara, in a form of exile from Constantinople. In 1830, he went to Paris to study law. After earning his doctorate in 1834, he went to Greece, where he became a lawyer. In 1837, he was one of the first associate professors to be

elected at the new University of Athens. Two years later, he became a full-time professor in the Chair of French Law, a position he held until his death in 1858. Mavrokordatos was an expert on private and commercial law.

(von) Maurer, Georg Ludwig (Erpozheim, 1790—Munich, 1872)

Georg Maurer was a renowned German jurist and statesman. He was first educated at Heidelberg, before he went to Paris. Maurer earned his scholarly reputation for his systematic study of the ancient German legal institutions. Upon his return to Germany in 1814, and after an invitation by the Bavarian government, Maurer filled several important official positions. In 1824, he published his *Geschichte des altgermanischen und namentlich altbairischen oeffentlich-muendlichen Gerichtsverfahrens*. The work was awarded the first prize of the Academy of Munich and opened the way for the election of its author to a professorship at the University of Munich. In 1831, he was also appointed to the Bavarian *Reichsrat* (a hereditary legislative chamber) and awarded the (non-hereditary) title 'von Maurer' by the Bavarian royal authorities. In 1832, when Otto, son of Louis I, King of Bavaria, accepted the offer of the Great Powers to fill the throne of Greece, Maurer was called on to become a member of the Regency Council – the major governing body during the king's minority. Maurer took up his task with great energy. In his capacity as viceroy between 1833 and 1834 (when he was dismissed and recalled to Bavaria), he was in charge of the formation of the first Greek state institutions. His greatest legacy to Greece was in law and in the codification process that he put into effect. His time in office resulted in the publication of the Codes of Civil and Criminal Procedure, the Commercial Code and the Statute on the Organisation of Justice. Soon after his recall to Bavaria, he published *Das griechische Volk in öffentlicher, kirchlicher, und privatrechtlicher Beziehung vor und nach dem Freiheitskampf bis zum 31. Juli 1834* (Heidelberg, 1835–1836), an extremely useful source of information for the history of Greece, Greek customs and legal institutions before Otto ascended the throne, but also for the doings of the Regency Council. In 1847, back in Bavaria, Maurer became, briefly, chief minister and head of the Departments of Foreign Affairs and of Justice.

Melas, Leon (Constantinople, 1812—Athens, 1879)

Leon Melas was a Greek jurist, politician and author. He was born in Constantinople into a wealthy family of merchants who came from Epirus. His father, Georgios, was a member of the *Philiki Etaireia* (the secret society which was

founded in Odessa in 1814 and laid the groundwork for the War of Independence). After the outbreak of the Greek Revolution, Melas moved to Odessa and then to Corfu, where he studied at the Ionian Academy. Following that, Melas went to Pisa, where he studied law. In Pisa, he also came into contact with Greek intellectual circles. In 1833, upon the arrival of the Bavarian authorities in Greece, Melas moved to Athens and became a lawyer. Two years later, he entered the Judicature, first at the First Instance Court in Syros and then at the Supreme Court in Athens. In 1837, he was elected professor of criminal law at the Law School of the University of Athens. Although his courses were quite popular, he was dismissed from his position by the royal authorities, probably because of his strong constitutionalism. Melas was thus involved in politics from the very beginning of his professional career. In 1841, in the midst of the crisis which made the King call on Alexandros Mavrokordatos to form a government, Melas became minister of justice. His stay in the ministry was cut short after he was dismissed for drafting a bill on constitutional liberties. He became, however, minister of justice again in the provisional government which was set up after the *pronunciamento* of 1843. He held the same office again a little later, in the government headed by Konstantinos Kanaris, which organised the elections for the National Assembly. Melas was not only elected to this Assembly but also became the *rapporteur* of the constitutional draft. He continued his political involvement in the following years, being offered the Ministry of Ecclesiastics and Public Education along with the Ministry of Justice. Frustrated by the political situation, he resigned the same year. In the following years, Melas left for London, where he started writing journalistic articles propagating Greek expansion to the East. In addition, he devoted himself to writing short stories. He authored a number of educational volumes, the most famous of which was *Gerostathis* (1858) – a classic children's novel in which an elderly man tells stories to the young boys of his village. Written simply, yet evocatively, in *katharevousa* (the 'purified' form of Modern Greek), the book taught its young readers, without being condescending, about proper ways of living and the virtues of the Greek spirit. Because of its educational and nationalistic qualities, it became one of the first children's books to be instituted as a reader in Greek schools and was so used for almost a century. In 1859, he returned to Greece and became involved in several non-state attempts to foster youth education (*Filekpaideftiki Etaireia, Syllogos pros diadosin ton Ellinikon Grammaton*). In 1862, Melas was elected in the Second National Assembly, becoming a member of the Parliamentary Diplomatic Commission and charged with the task of finding a new king for the Kingdom. For the rest of his life, he concentrated on his literary career and on the integration of unredeemed territories into the Greek state (he was particularly actively involved in the Cretan question). (Konstantinos Malafantis (2006), *O Leon Melas (1812-1879) os logotechnis-paidagogos kai to ergo tou* [Leon

Melas (1812-1879) as a novelist-pedagogue and his oeuvre], *Parnassos*, vol. 48, pp. 359-406)

Paparrigopoulos, Konstantinos (Constantinople, 1815—Athens, 1891)

Paparrigopoulos is considered the ‘national historiographer of Greece’. Even if he was not the first to conceive the historical (temporal and spatial) continuity of the Greek nation, he was the first to systematize it and to put it on paper in a narrative form accessible to everyone. Paparrigopoulos was born in 1815 in Constantinople. His father, who came from Vytina (in the Peloponnese), was a banker and an important member of the Greek community of Constantinople. When the Greek Revolution broke out, the Ottoman authorities executed his father, along with other members of the family, and confiscated his property. The rest of the family (the mother and her eight children) fled to Odessa. Konstantinos, along with some of his siblings, started his primary education at the French school ‘Richelieu’ in the city. In 1830, the family moved to Greece, where Konstantinos continued his education at the school of Aigina. Although he never completed his studies, from 1833 to 1845 he was a civil servant at the Ministry of Justice. He was dismissed from this position because of a law voted by the National Assembly, according to which *heterochtons*—Greeks born outside Greece before the Greek Revolution—were prohibited from serving in the civil service. Konstantinos was later appointed professor of history at the Gymnasium of Athens. From this time onwards, he devoted his career to history and especially to writing the history of the Greek nation. Nevertheless, he lacked the necessary qualifications for a university career. With the help of Konstantinos Schinas—at the time, professor of history at the University of Athens—Paparrigopoulos managed to be awarded a doctorate *in absentia* from the University of Munich in 1850. Immediately after that, and upon the appointment of Schinas to the Greek Embassy in Bavaria (1851), Paparrigopoulos was elected associate professor of history at the University. Five years later, he became a full-time professor. He kept this position for 40 years. Paparrigopoulos began publishing his major works in the years following this appointment. His most famous work, and the one for which he is still remembered, is his ‘History of the Greek nation’. This was a long project. He initially published a small book under this title in 1853, with the aim that it would be read by young students. But its readership exceeded this age group. In 1860, he started working on his magnum opus, the first volume of which came out in 1862. It would take Paparrigopoulos 15 years to finally complete this work. In 1878, the epilogue and last volume of the work appeared in France, entitled *Histoire de la civilisation hellénique*. It almost goes without saying that Paparrigopoulos was one of the most energetic intellectuals of his time. He was involved in several collective journalistic

and scholarly projects, the aim of which was to diffuse in the public the romantic national narrative. In 1847, after recommendation from Kolletis—who had just formulated the ‘Great Idea’ in the Greek Parliament—Paparrigopoulos directed the newspaper *Ethniki* and in 1856, following Otto’s advice, the newspaper *Ellinas*. He was also heavily involved in the establishment of the literary journal *Pandora* and of the *Spectateur d’Orient* – the latter was published during the Crimean War, with the aim of informing European public opinion about the role of Greece and its interests in the ‘Eastern Question’ (the director of which was Markos Renieris). Paparrigopoulos also participated in several polemic public debates with fellow scholars including Pavlos Kalligas, Pavlos Karolidis and Konstantinos Sathas. What is more, during the closing decades of the nineteenth century, he developed an intense political action in close co-operation with the Greek government. He participated in the ‘Society for the Encouragement of Greek Letters’ (1869) and in the society of ‘National Defence’, and, during the Conference of Berlin (1878), with the approval of the Greek government, he travelled across Europe in defence of the Greek diplomatic claims. (Constantinos Th. Dimaras (1986), *Konstantinos Paparrigopoulos: H epochi tou – I zoi tou – to ergo tou* [Konstantinos Paparrigopoulos: His age – his life – his work], Athens, Ermis)

Paparrigopoulos, Petros (Constantinople, 1817—Athens, 1891)

Petros Paparrigopoulos was a civil lawyer and professor of law at the University of Athens. He was Konstantinos’ brother. The early years of his life and his primary education were similar to that of his brother. Nevertheless, when Petros was 17, with the strong financial help of the Russian Czar Alexander he went to study law in Munich and then in Heidelberg, where he earned his doctorate. Upon his return to Greece in 1841, he was elected *Privatdozent* of Roman law at the University of Athens. At the same time, he was appointed judge in First Instance Courts, first in Nafplion and then in Ermoupoli, Syros. That was the beginning of a long career in the Bench. In 1843, he was appointed judge at the First Instance Court in Athens. He became president of the First Instance Courts, judge in the Court of Appeal and, finally, judge at the Supreme Court (1847), a position he held for 12 years before being elected district attorney at the Court of Appeal. Meanwhile, in 1845, he was elected associate professor of civil law and, in 1862, full professor. Paparrigopoulos was among those professors who participated almost constantly in the several committees that were set up in order to produce and publish a civil code and was, in fact, instrumental in the publication of the *Civil Law* of 1855 – a corpus of laws that was designed as a temporary measure to solve the most pressing problems of civil law. After 1860, and for the rest of his life, he devoted himself entirely to his university career, contributing

systematically to legal scholarship and being one of the most consistent advocates of Romanist jurisprudence. Petros Paparrigopoulos was rector of the University between 1862 and 1863 and between 1888 and 1889. He died in the same year as his brother Konstantinos.

Potlis, Michael (Vienna, 1812—Vienna, 1863)

Michael Potlis was born, raised and educated in Vienna. He went to Greece in 1837 and was immediately appointed judge in the Court of Appeal in Athens. After taking up several positions in the Judicature, he was appointed to the Council of State (which, until 1844, complemented the legislative work of the king and his Court), where he was involved in the drafting of several legislative acts. After the political transformation of 1844, which eliminated the Council of State, Potlis became a lawyer. In 1855, he entered the University of Athens as a full-time professor of ecclesiastical (canon) law. Potlis also taught commercial law for a number of years, the reason being the inability of Georgios Rallis—the holder of the Chair and a close friend and collaborator of Potlis—to accomplish his teaching responsibilities because of his appointment in the Ministry of Justice and, later, his ill-health. Being a sturdy monarchist and supporter of King Otto, Potlis was dismissed from the University of Athens a few days after the October Revolution of 1862.

Polyzoidis, Anastasios (Meleniko, 1802—Athens, 1873)

Polyzoidis was a journalist, scholar, judge and politician who left his imprint on the formation of the Greek state in a number of ways. He was born in Meleniko (nowadays in Bulgaria). In 1818 he left the Ottoman Empire and went to study law, history and social studies in Vienna, Göttingen and Berlin. At the outbreak of the Greek war of Independence, he interrupted his studies and went to Greece. Arriving in Messolonghi he cooperated with Alexandros Mavrokordatos and was set in several gubernatorial positions (secretary of executive) in the Provisional Administration of Greece. He was of course leading member in National Assemblies. In fact in his capacity as a plenipotentiary in the First National Assembly, in Epidavros, he played a large role in drafting the new state's constitution and the declaration of independence of 15 January 1822, which sought to justify the Greek revolution before the public and the European powers. In 1823 he was also in charge of the committee, which was sent in London for the negotiation of a public loan. During these years he was also very active in translating works on jurisprudence and in drafting policies and laws for the political

organization of the revolutionaries. Later on, in 1827, he was elected representative in the national Convention at Troezena. By the end of the year and the completion of the proceedings, Polyzoidis left for Paris, in order to continue his studies. Upon his return, Polyzoidis found himself pitted against the autocratic government of Governor Ioannis Capodistrias, and soon passed into the opposition, editing the newspaper *Apollon* in Ydra. In 1832 he was nominated by the Bavarian regency as president of a five-member court of Nafplion, which had to judge Theodoros Kolokotronis, Dimitrios Plapoutas and other former military chieftains of the War of Independence on charges of treason. Polyzoidis, together with fellow judge Georgios Tertsetis refused to countersign the decision of condemnation. The minister of justice, K. Schinas, intervened with the aim to force Polyzoidis to append his signature to the document "in the name of the King". Polyzoidis' denial to comply caused his imprisonment and maltreatment. It also resulted in his conventional depiction in Greek historiography as one of the very few men of letters who stood up to the Bavarian royal authorities in their political attack against the heroes of the war of independence. But in fact his career did not end there. After the coming of age of the king, Polyzoidis was rehabilitated and nominated vice-president of the Supreme Court (*Areios Pagos*) and counselor of state. What is more in 1837, he was named minister of education and of internal affairs. In the former capacity, he was instrumental in the establishment of University of Athens, while from his latter post he fought against censorship. Following the overthrow of Otto in 1862, he was appointed prefect of the Attica and Voiotia Prefecture. He died in 1873.

Renieris, Markos (Trieste, 1815—Athens, 1897)

Markos Renieris was the son of a Cretan diplomat and civil servant of the Ottoman Empire. His mother came from Italy, and Markos was born in Trieste. After the outbreak of the Greek Revolution, his family moved to Italy, first going to Ancona and then to Venice. It was there that Markos received his initial education (at the Greek school of the city). His education was complemented and supervised, so to speak, by Emilios Typaldos, a poet and jurist who came from Cephalonia. In the house of Typaldos, Renieris met a number of Italian, Greek and other European intellectuals with whom he established long-term friendships and continuous communication (the most intense of which was with Niccolo Tommaseo). Markos continued his studies at the University of Padova, studying law. After receiving his degree in 1835, he left for Greece, encouraged by his uncle Nikolaos Renieris (a doctor by profession and, at the time, a senator who had participated in the Greek revolutionary war and served in the provisional administrations during the 1820s). Markos immediately became a lawyer, participating in several infamous cases

including that of Theofilos Kairis. In 1837, he entered the Judicature, from which he would be dismissed in 1844 owing to the vote by the National Assembly on the law on the *heterochtones*, which prohibited Greeks born outside Greece before the Revolution to serve in the civil service. At the same time, Renieris began publishing scholarly and literary works. Apart from his translation (with Georgios Rallis) of Mackeldey's book on Roman law, in 1842 he published his treatise *Philosophy of History*, which he used to introduce the thoughts of Giambattista Vico to the Greek public. He was also involved in the publication of the literary journal *Eranistis*. It was in the early 1850s and in particular during the Crimean War that Renieris would leave his mark on the Greek public sphere, by establishing and directing the *Spectateur de L'Orient* – a French language journal which he published along with other important Greek intellectuals such as Konstantinos Paparrigopoulos, Alexandros Ragavis and Ion Dragoumis. Without being in any way anti-European, Renieris was extremely critical of the international politics of the Great Powers. From then onwards, Renieris devoted himself to the propagation of the Greek interests in the 'Eastern Question' (i.e. the fate of the disintegrating Ottoman Empire). His attempts at asserting a strong role for Greece in solving this question (by replacing the Ottoman Empire and thus uniting the West with the East) were complemented by secret political action which brought him closer to King Otto and his entourage. This relationship was first manifested in 1857 when Renieris was appointed *Privatdozent* at the Law School, teaching French law and comparative legislation. The second and most important manifestation of the relationship between Renieris and the Palace was his appointment in 1861 as an ambassador of Greece to Constantinople. Yet, he served there for a brief period only. He was forced to resign when the plans of a military expedition of Garibaldi to Epirus were revealed – plans in whose conception Renieris seemed to play a significant role. From then onwards, Renieris abandoned his direct entanglement with politics and was involved in institutions which mediated between society and the state. These included, first and foremost, the National Bank of Greece. From 1850, Renieris was legal counsellor of the bank and, a little later, became a member of the Board. In 1861, he was elected vice governor and, from 1869 to 1890, governor (to be replaced by Pavlos Kalligas). In 1877, he also played a key role in the establishment of the Greek Red Star, which he presided over for 20 years (up to 1897). Last but not least, loyal to his irredentist visions against the Ottoman Empire, Renieris was president of the Commission of the Cretans, which was established in 1866 to help the Cretans in their rising against the Ottomans and their claims for the Island's integration with Greece.

Rallis, Georgios (Constantinople, 1804—Vienna, 1883)

Rallis was born in Constantinople into a Phanariot family. His father, Alexandros, was a diplomat in the Ottoman administration (among other positions, he was ambassador to France between 1800 and 1802) and was hanged when the news of the Greek Revolution reached the Ottoman capital. The family fled immediately and went to Vienna. Georgios started his university studies in the capital of the Austrian Empire, before going to Paris, where he would eventually earn his doctorate and where he would begin his teaching career in a French Lyceum. In 1829, Georgios went to Greece, where he developed a long academic and political career. Upon his arrival, he became a judge and district attorney in Argos. In subsequent years, he reached the higher echelons of the Judiciary, becoming president of the Supreme Court (*Areios Pagos*) in 1849, succeeding Christodoulos Klonaris. He retained this position for 12 years. At the same time, Rallis played a crucial part not just in the development of the Law School but in its very establishment, being the first dean of the School in 1837 and rector of the University in 1838-1841. In fact, Rallis was one of the few who remained active in the University until the end of his life, in 1883. The only intervals in this long career were due to his involvement in politics and in government. This started in 1841 when he accepted the king's proposal to head the Ministry of Justice and later on, in the critical year of 1843, the Ministry of Economics. Rallis headed the Ministry of Justice on two more occasions, during 1848-1849 (when he was also minister of foreign affairs) and in 1857. During his time in office, especially in the Ministry of Justice, a number of important laws and decrees were put into effect. In fact, Rallis was responsible for the corpus of laws which regulated the internal organisation both of the civil service and of the system of justice. In addition, he was a key figure in the establishment of laws that had a broader effect such as the organisation of the customs of the Greek state, the elimination of domestic customs (among different administrative districts of the Greek state) and many others. In terms of his scholarly publications, his magnum opus was his three volume treatise, *Interpretation of Greek Commercial Law*. Nevertheless, probably his most important works were the ones which he published with Michail Potlis: *Ellinikoi Kodikes* [Greek Codes], vol. I-II, Athens, 1844, second edition vol. I-IV in 1875, and *Syntagma ton theion kai ieron kanonon tis Orthodoxou Anatolikis Ekklesias* [Constitution of the holy and sacred rules of the Orthodox Eastern Church], 1852-56, Athens. These were multi-volume critical editions which systematized the codes, laws and decrees for civil and commercial law (the former) and for canon law (the latter).

Saripolos, Nikolaos (Larnaka, 1817—Athens, 1887)

Nikolaos Saripolos was born in Cyprus into a family of merchants. With the outbreak of the Greek Revolution, the family left Cyprus in fear of Ottoman reprisals and went to Trieste. Nikolaos received his primary education at the school of the Greek community of the city. In the early 1830s, the family moved back to Cyprus, and in 1836 Nikolaos left for Paris to study medicine. After his father died and following the strong advice of Ioannis Kolletis—at the time, ambassador of Greece to Paris, leader of the French Party and personal friend of Francois Guizot—Saripolos turned to law, abandoning his studies in medicine. In 1844, he received his doctorate from the University of Paris and then went immediately to Greece. The motivation again lay in an invitation from Ioannis Kolletis, who had become, in the meantime, prime minister in the first Greek government to be formed after the transformation of Greece into a constitutional monarchy. As Kolletis had predicted, constitutional law would be a much needed university subject in the new political conditions. Saripolos was elected associate professor in the newly established Chair of Constitutional Law in 1846. In 1848, he also started teaching international law. Saripolos stayed in these two chairs until 1852 when, after a clash with the Palace about the right of succession, he was dismissed from his position. From then onwards, his professional career was split between the Bench and being a legal advisor to the Ministry of the Interior (1854-1860). The former earned him some reputation and prestige, the reason being his role in a number of renowned cases which drew public attention (like the cases of Theofilos Kairis in 1853 and that of Argyrokastritis in 1858). Saripolos played a key role both in the rising opposition against King Otto during the early 1860s and in the Revolution of 1862. Upon the dethronement of the king, he was appointed, once again, professor of constitutional and international law. At the same time, he started teaching criminal law. He was dismissed from the University in 1875 for the second and final time. The reason was his support for the king in the long political- and, later, constitutional crisis that took place during 1874-1875. This has remained, in a way, a black spot in the otherwise liberal image of his in Greek historiography, but more study is needed on the issue. (Nikolaos Saripolos (1889), *Aftoviografika Apomnimonevmata Nikolaou I. Saripolou, epim. Ariadni Saripolou* [Autobiographical Reminiscences of Nikolaos I. Saripolos, ed. by Ariadni Saripolou], Athens).

Soutsos, Ioannis (Constantinople, 1804—Athens, 1890)

Ioannis Soutsos was born in Constantinople into a renowned Phanariot family. His father, Alexandros, was prince in Wallachia and Moldavia. Soutsos was educated in Constantinople and in Bucharest. Upon his father's death, Ioannis

went to Constanta with his mother. His older brother remained in Bucharest, where, under the name Nikolae Sutu, he became a major liberal scholar of political economy (and a governor in 1848). In 1829, Ioannis went to Geneva to study political sciences. There, he followed Pellegrino Rossi's lectures before moving to Paris to continue his studies. In the French capital, Soutsos turned to political economy under the influence of Say, whose lectures he attended at the College de France. His stay and studies in Paris were supported financially by another renowned Phanariot family with the same name – that of Michail Soutsos. Ioannis would subsequently marry the latter's daughter, Eleni Soutsou. The family moved to Greece in 1837, and Ioannis was offered a position at the Council of State and the Chair of Public Economy at the Law School of the University of Athens. In 1842, he was elected full-time professor in the renamed Chair of Political Economy. Soutsos taught at the Law School until 1859 when he became professor emeritus because of his appointment as director of the Bureau of Public Economy at the Ministry of the Interior. Upon the completion of his work at the Bureau in 1862, Soutsos again became a full-time professor, until 1864. His university duties were suspended once more between 1864 and 1867, when he was appointed as a member of the Council of State. From 1867 until just before his death, Soutsos continued teaching political economy, and in doing so defined the discipline. Soutsos was elected rector of the University during 1847-1848 and, three times, doyen of the Law School. It has to be mentioned that Soutsos was one of the most respected and publicly acclaimed professors of the University, as was manifested in the celebrations that took place upon his fiftieth year of teaching, in 1887.

Trikoupis, Charilaos (Nafplion, 1832—Cannes, 1896)

During the period 1875-1895, Trikoupi was prime minister of Greece seven times. In fact, he and his main rival, Theodoros Deliyiannis, dominate the political scene in the last three decades of the nineteenth century. Considered the foremost modernizing politician of his generation, Trikoupi was born in Nafplion, the son of Spyridon Trikoupi, Greek Minister in London and historian of the War of Independence. Charilaos was elected to the second National Assembly (representing the Greek community of London). Later on, he entered Parliament as a deputy of Messolonghi and soon became foreign minister in one of the Alexandros Koumoundouros administrations. He was thus responsible for the negotiation and signing of the Treaty of Alliance between Greece and Serbia, the first ever to be signed by Greece with another country. Trikoupi gained a wild reputation during the constitutional crisis of 1874-1875 when he published two articles wherein he blamed King George and the fact that governments lacked parliamentary support for the political stagnation of the country. After his

imprisonment and release, Trikoupis was given the mandate to form a government by the king. True to his principles, he went straight to elections. It was not until 1882 that he gained a clear majority in Parliament, which enabled him to embark on his modernizing programme. This programme ranged from putting order on public finances, to incorporating Greece into international capital markets, building infrastructure, passing political and electoral reforms and other no-less-significant new policies. His efforts were not always successful. It was during one of his administrations, in 1893, that Greece defaulted on its external debt and was forced to accept the imposition of an international financial control and an era of austerity measures. He died a few years later. (Richard Clogg (1992), *A Concise History of Greece*, Cambridge: Cambridge University Press)

Key dates

1774	Treaty of Kucuk-Kaynarca ends the Russian-Turkish war of 1768-74. Russia claims protectorate over the Orthodox Christians of the Ottoman empire
1783	Russo-Turkish commercial convention permits Greek ships to sail and trade in the Black sea under the Russian flag
1797	Ionian islands ceded to revolutionary France by the treaty of Campo Formio
1798	Execution of Rhigas Velestinlis (Pheraios) in Belgrade following his abortive attempt to inspire a revolt against the Ottoman Turks
1800	Establishment of the Septinsular (Ionian) Republic
1806	Publication of the <i>Helliniki Nomarchia</i> ('Hellenic Nomarchy'), one of the most polemical radical texts of the Greek Enlightenment
1814	The secret society <i>Philiki Etaireia</i> ('Friendly Society') is founded in Odessa by Emmanouel Ksanthos, Nikolaos Skouphas and Athanasios Tsakaloff with the aim to lay the ground for an insurrection in Greece; Septinsular Republic under British protection
1800	Alexandros Ypsilantis becomes leader of the <i>Philiki etaireia</i>
1821	February: invasion of Moldavia by Greek army commanded by General Alexandros Ypsilantis; March (by tradition 25 March): outbreak of revolt in the Peloponnese; April: execution of the Ecumenical Patriarch Grigorios V in Constantinople; the first philhellenic commissions are set up in Germany and Switzerland; Convocation of the First Greek National Assembly in Epidavros
1822	Declaration of Greek Independence, Proclamation of the first constitution of Greece; Massacre of Chios; Ottoman counterattack is

defeated

1823	Greek Government in Nafplion; Second National Assembly convened in Astros; Civil war in Greece; British Foreign Secretary, George Canning, recognises the insurgents as belligerents
1825	Canning rejects Act of Submission by the Greek insurgents which sought to place Greece under British protection; Second siege of Messolonghi
1827	April/May: Third National Assembly in Troizina. Count Ioannis Capodistrias is elected president of Greece. The third constitution of the revolutionary period is promulgated; July: Treaty of London, with which Britain, Russia and France agree on a policy of 'peaceful' interference to secure Greek autonomy; October: combined British, Russian and French fleet destroys Ottoman Fleet at Navarino
1828	Ioannis Capodistrias becomes Governor of Greece holding extensive powers; The constitution is suspended
1829	Fourth National Assembly
1830	Treaty of London signed by Britain, Russia, France - recognizes Greece as an independent state
1831	Assassination of Governor Capodistrias
1832	Convention of London offers the 'hereditary sovereignty' of Greece to Otto, 17 year old second son of Ludwig of Bavaria and places 'monarchical and independent' state of Greece under British, Russian and French 'guarantee'
1833	King Otto arrives in Nafplion, provisional capital of Greece. A Regency council is established with the task to govern the country during Otto's minority

1834	Athens replaces Nafplion as capital of Greece
1835	End of Bavarian Regency. The Council of State (<i>Symvoulion tis Epikrateias</i>) is established
1837	University of Athens is established
1843	September: Army-backed coup (<i>pronunciamento</i>) forced Otto to concede a constitution; Convocation of the First (Constituent) National Assembly
1844	Greece becomes a Constitutional monarchy after the promulgation of its First Constitution; The Greek statesman Ioannis Kolletis articulated in one his parliamentary speeches the <i>Megali Idea</i> ('Great Idea'), e.g. the idea of Greek irredentism; Elections and first government headed by Kolletis
1850	Naval blockade of Greece by Great Britain; The Ecumenical Patriarchate recognizes the <i>autokephalon</i> of the Church of Greece
1853	Crimean War begins
1854-57	1854: Insurrections in Thessaly, Epirus, Macedonia against the Ottomans; 1854-57: Anglo-French occupation of Piraeus, the port of Athens, to enforce Greek neutrality during the war. 1854-1855: government of Mavrokordatos ('Occupation Cabinet')
1862	September: revolution in the countryside; October: revolution spreads to Athens; A Provisional government is established and King Otto is forced to abandon his throne and to leave the country; November: General elections; December: convocation of the Second (Constituent) National Assembly
1863	Strong opposition in the National Assembly between the <i>Oreinoi</i> and <i>Pedinoi</i> ; The Assembly exercises at the same time executive power; Prince Christian William Ferdinand Adolphus George of the Danish

Holstein-Sonderburg-Glueckburg dynasty ascends the throne as George I, King of the Hellenes; Clashes in the streets of Athens between supporters of *Oreinoi* and *Pedinoi* with a high death toll

1864	March: Ionian islands ceded to Greece by Great Britain October: promulgation and enactment of new constitution
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1866	Outbreak of revolt in Crete
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1871	First grand-scale distribution of the 'national lands'
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1874	Eruption of Political and constitutional crisis
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1875	<i>Stilitika</i> : newspapers of Athens put in their first pages the name of the deputies in parliament who accepted the violation of parliamentary control of the budget by the Voulgaris administration. King George accepts principle of <i>dedilomeni</i> (i.e. the obligation of the head of state to call upon the party leader with the 'declared' support of a majority in parliament to form a government)
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1878	At Congress of Berlin the Great Powers 'invite' the Ottoman Porte to modify the frontiers in favour of Greece. Great Britain acquires administration of Cyprus
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1881	Thessaly and the Arta region of Epirus ceded to Greece by Ottoman empire
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1885/86	Prime minister Theodoros Deliyannis mobilizes army to take advantage of Serb-Bulgarian hostilities, leading to Great powers to impose a naval blockade to Greece
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1893	Greece defaults on its external debt
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1897	Thirty-day Greek-Turkish war arising from revolt in Crete results in a humiliating defeat for the Greek forces. Establishment of International
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Financial control commission to oversee state finances

Sources:

Academy of Athens (1974), *Istoria tou Ellinikou Ethnous*, [History of the Greek Nation], vol. XI-XIV, Athens: Akadimia Athinon

Clogg, Richard (1992), *A Concise History of Greece*, Cambridge: Cambridge University Press

Dertilis, Georges (2009,[1st edition 2005]), *Istoria tou Ellinikou Kratous 1830-1920* [History of the Greek State, 1830-1920], Athens: Estia

Panagiotopoulos, Vassilis (ed) (2003), *Istoria tou Neou Ellinismou, 1770-2000* [History of Modern Hellenism, 1770-2000], vol. I-IV, Athens: Ellinika Grammata

Bibliography

PRIMARY SOURCES

Archival Material

Genika Archeia tou Kratous [Greek State Archives], Athens, Greece
 - *Othonika, K-Politiki Dikaiosyni, a. Astiki Nomothesia etc. 1.-1834-1836* [Ottonian period, K-Civil Justice, a. Civil Legislation etc., 1.1834-1836]
 - Ypourgeio Esoterikon, [Ministry of the Interior], folder 176

EK: Ephimeris tis Kyverniseos [Greek Government Gazette]
 1834, 1835, 1837, 1844, 1856, 1861, 1862-64,

EES: Episimi Efimeris tis Synelefseos [Official Gazette of the National Assembly]:
 1863-1864

Foreign Office: 1863

Gerozisis, Triantafyllos, Antonis Pantelis and Stefanos Koutsoumpinas (eds) (1993), *Keimena Syntagmatikis Istorias: 1821-1923*, [Texts of Constitutional History: 1821-1923], vol. 1, Athens: Sakkoulas

Newspapers and periodicalsPublished in Greek or in Greece:

Themis

Nomiki Melissa

Pandora

Karteria

Spectateur d'Orient

Anamorphosis

Elpis

Ephimeris Nomiki

Evropaikos Eranistis,

Eranistis

Ermis o Logios

Ilios

Epochi

Aion

Athina

Kairoi

Other:

Thémis ou Bibliothèque du Jurisconsulte

La Thémis

Annales de législation et de jurisprudence

Revue Foelix
Revue Wolowski
Revue de Législation et de Jurisprudence
Revue de Droit français et étranger
Le Moniteur
Journal des économistes

Published sources in Greek⁶⁰⁸:

Treatises, Articles, Memoirs and other publications of the Jurists⁶⁰⁹:

Angelopoulos, Georgios (1879), *Peri topikis dioikiseos en Elladi en sygkrisei pros tin en Gallia kai Agglia* [On local Administration in Greece, compared with that of France and England], Athens

Argyropoulos, Periklis (1846), *I Dimotiki Dioikisi En Elladi*, [Public Administration in Greece], vol. I-II, Athens

Diomidis, Kyriakos (1860), *Peri Diethnous Dikaiou* [On International Law], Athens

——— (1864), *Paratiriseis epi tou suntachthentou ypo tis epitropis tis Synelefseos schediou tou Syntagmatos* [Observations on the constitutional draft of the committee of the Assembly], Athens

——— (1866), *Peri dikastikis efthynis ton ypourgon* [On the juridical responsibility of Ministers], Athens

——— (1904), *Ermineia tou Syntagmatos ekdidomeno ypo tou Alexandrou Diomidi* [An Interpretation of the Constitution, edited by Alexandros Diomedes, Athens

Economidis, Vasileios (1855-57), *Egcheiridio Politikis Dikonomias* [Manual of Civil Procedure], Athens

——— (1876), *Peri tis scheseon tis dikastikis exousias pros tin nomothetikin* [On the relationship between Judicial and Legislative power], Athens

——— (1877-1886), *Stoicheia Astikou Dikaiou* [Elements of Civil Law], Athens

Feder, Gottfried (1847), *Ai peri Politiki Dikonomias paradoseis, proin epitimou kathigiti para to Panepistimio Othonos kai proin eisaggeleos* [Lectures on Civil Procedure by the emeritus professor at the University of Otto and ex public prosecutor at the Court of Appeal], vol. I, Athens

⁶⁰⁸ Some Greek sources contain only the initial of the first name of the author or editor. In cases where I have failed to uncover the full name I have left only the initial. In publications where the publisher is unknown, I have left it blank. In addition, in case the name of the author is unknown, in its place there is an X.

⁶⁰⁹ I have chosen to include in this section even those works of the jurists which were not referenced in the main body of the thesis. The reason is that this list (which is not completed) was a significant part of my research. Since a reference work with the jurists' works is lacking, I hope this to be a small contribution to the collection of sources for the history of nineteenth-century Greek legal and political thought and a motivation for further research.

Frearitis, Konstrantinos (1854), *Politiki Romaiki Nomothesia, epeksergastheisa epi ti vasei tou egxeiridiou tou Marezol, meta pollon tropopoiiseon pleiston de prosthikon, simeioseon kai paratheseon dysevreton keimenon* [Civil Roman Legislation, elaborated according to the teachings of Marezol, with a number of amendments, additions, notes, comments, and quotations from rare texts], Athens

Kalligas Pavlos (1837), *I Neara, peri exyvriseos en genei kai peri typou* [On the law regarding Insults and the Press], Athens: A. Koromelas

——— (1839), *Peri Syntaxeos Politikou Kodika eis tin Ellada* [On drafting the Civil Code in Greece], Athens

——— (1842), *I Exantlisi ton Kommaton, itoi ta lthika gegonota tis epochis mas* [The end of the Parties, or the Moral Events of our Era], Athens

——— (1842), 'I Venetiki Exousia stin Peloponniso' ['The Venetian Dominion in the Peloponnese (1685-1715)'], *Pandora*, v. XII, n.287

——— (1844), *Peri nomikis didaskalias en Romi* [On legal teaching in Rome], lecture in the reading society *Athinaios*, Athens

——— (1845), 'Periigisis eis Syron, Smyrni, Kon/li klp' ['Tour in Syros, Smurna, Constantinople etc'], *Anamorphosis*, n. 88ff

——— (1845), 'Peri tis staseos tou Nika', ['On the 'stasis' of Nika'], *Themis*, vol. I.

——— (1846), 'Peri Paragrafis' ['On Prescription'], *Themis*, vol. I, Athens

——— (1846), *Agorefsi sti diki tou k. Iona King enopoion tou Areiou Pagou* [Address before the Supreme court for the defense of Jonas King], Athens

——— (1847), 'Peri Ethimon' ['On Customs'], *Themis*, supplement of 1847, p. 273ff, Athens

——— (1847a), 'Peri Politikou Thanatou' ['On civil death'], *Themis*, vol. III, Athens

——— (1848-1866), *Systima Romaikou Dikaiou kata tin'en Elladi ischin tou plin ton Ionion Nison* [System of Roman law as it applies in Greece], vol. I-III, Athens: Sgoutas

——— (1852), 'Peri Katoikias' ['On Residence'], *Themis (supplement)*, vol. IX, p.14ff, Athens

——— (1858), 'Istoriographikes Skepseis', [Historiographical thoughts], *Pandora*, vol. IX, n. 206, 207, 208, Athens

——— (1861), 'Peri Tokou' ['On Interest'], *Nomiki Melissa*, vol. XV, Athens

——— (1870), 'Apantisi ston K. Saripolo' ['Answer to Mr. Saripolos'] in *Pandora*, vol. XXI, p. 489

——— (1882), *Meletai kai Logoi* [Studies and Adresses], Athens: Koromilas

——— (1899), *Meletai Nomikai, klp.* [Studies, legal, etc.], collected and edited by G. Kalligas, vols I-II, Athens: A. Konstantinidou

Klonaris, Christodoulos (1819), 'Coup d'oeil sur la legislation qui gouverne aujourd'hui les Grecs sujets de l'empire ottoman', *Themis ou Bibliotheque du Jurisconsulte*, v. 1, Paris

——— (1829), *Egklimatiki Diadikasia* [Criminal Proceeding], Nafplion

Kokkinos, Emmanouil (1836), *Dokimion akadimaikis diatrivis epi tis Romaikis Dodekalektou* [Doctoral Essay on the Roman Twelve Tables], Heidelberg

Mavrokordatos, Georgios (1836), *Egcheiridion tis Ellinikis Emporikis Nomothesias* [Manual of Greek Commercial Legislation], Athens

——— (1845) 'Istoria tou Dikaiou' [History of Law], *Themis*, vol. I, pp. 295-300

——— (1846), *Diatrivi peri gamou, peri diazygiou kai peri liksiarchikon vivlion* [Discourse on marriage, on divorce and on the civil status registers], Athens

——— (1848), 'Peri tis proodou tis nomothesias kai tis epistimis tou dikaiou kata ton 19o aiona' ['On the progress of legislation and legal science in the 19th century'], *Themis*, vol. 4

——— (1856), *De la reforme and de la fusion des races en Orient*, Athens

——— (1852), *Peri tis Ekklesias tis Ellados* [On the Church of Greece], Athens

Paparrigopoulos, Petros (1839), *Dokimion peri tis epirois tis tychis eis ta synallagmata kata to Romaikon kai Byzantinon Dikaion* [Essay on the influence of interest on transactions according to Roman and Byzantine Law], Athens

——— (1840), *Eisagogikos logos eis to mathima 'Peri tis spoudis tis istorias tou Romaikou Dikaiou* [Inaugural lecture: 'On the study of the history of Roman Law'], Athens

——— (1845) 'Istoria tou Romaikou Dikaiou' ['History of Roman law'], *Themis*, vol. I, pp. 295-200

——— (1854), 'Peri tis kata to 1852 etos diacheiriseos tis politikis dikaiosynis en Elladi kai peri tou Astikou aftis Dikaiou' ['On the administration of civil justice in Greece and on its civil law in 1852'], *Nea Pandora*, vol. 4, n. 92, pp.532-542

——— (1854), *Astikon Dikaion ton Romaion kath'oson ischyei en Elladi* [Civil law of the Romans at the extent of its application in Greece], Athens

Renieris, Markos (1841), *Philosophia tis Istorias. Dokimion* [Philosophy of History. Essay] Athens

——— (1837), 'Peri tou Romaikou Dikaiou' ['On Roman Law'], *Ephimeris Nomiki*, vol. VI, 13 November, pp. 49-50

——— (1840), 'Peri tou nomou tis Anthropotitas' ['On the law of Humanity'], *Evropaikos Eranistis*, vol. II, pp. 317-327

——— (1842a) 'Ti einai i Ellas? Anatoli I Dysi?' ['What is Greece? Orient or Occident?'], *Eranistis*, vol. XV, 20 May, pp. 187-213

——— (1842b), 'Peri tis scheseos Logou kai Pisteos' ['On the relationship between Reason and Faith'], *Eranistis*, vol. XVI, 23 August, pp. 693-704.

——— (1853a), 'Le dualisme grec', *Spectateur d'Orient*, vol. II, (10 Septembre).

——— (1853b-1854), 'De la Société grecque', *Spectateur d'Orient*, vol. V (25 Juillet 1853), VI (10 Novembre 1853) VIII (10 Decembre 1853), XI (25 Janvier 1854)

——— (1874), *Gallia kai Ellas* [France and Greece], Athens: Attikon Imerologion

Rallis, Georgios (1842), *Diatrivi ypo G. Ralli, Prytani tou Panepistimiou Athinon, kata tin analipsi ton kathikonton tou* [Lecture delivered on the 9th November 1841 by G. Rallis, Rector of the University of Athens'], Athens: Vasiliko Typografeio

——— (1848-1851), *Ermineia tou Ellinikou Emporikou Dikaiou* [Interpretation of Greek Commerical Law], v.1 (1848), v. 2(1849), v. 3 (1851), Athens

——— (1856) 'O en Elladi Astykos Nomos' ['The Civil Law in Greece'], *Nea Pandora*, vol. XI, n. 140, pp. 520-525

Saripolos, Nikolaos (1846), *I Idea tis Eleftherias, logos ekphonitheis tin 14i Oktovriou 1846 kata tin enarksin tis didaskalias tou Syntagmatikou Dikaiou ypo Nikolaou Saripolou* [Inaugural lecture on Constitutional Law, delivered on the 14th of October 1846], Athens

——— (1848), *Logos Ekphonitheis tin 22a Ianouariou 1848 kata tin enarksin tis didaskalias tou Dikaiou ton Ethnon* [Inaugural Lecture on the Law of Nations, delivered on the 22 January of 1848], Athens

——— (1851), *Pragmateia tou Syntagmatikou Dikaiou* [Treatise of Constitutional Law], vol. I-II, Athens

——— (1853), *Pro Graecia*, Athens

——— (1858), *Dyo Agorefseis enopoion tou defterou tmimatos ton en Athinai Epheton, pros ypostirixsin tis epheseos tou Athan. Argyrokastritou* [Two addresses before the second division of the Court of Appeal of Athens for the defence of Athanasios Argyrokastritis], Athens

——— (1860) *Ta ton Ethnon en Eirini kai en Polemo Nomima* [On the Law of Nations during Peace and War], Athens

——— (1862), 'Vivliokrisia Nikolaou Saripolou : Meleti peri Girondinon kai epi tou exys syggramatos ypo Gaudet ['Review of the book *Les Girondins, leur vie privee, leur vie publique, leur prescription et leur mort par J. Gaudet, neveu du représentant, vol I-II, Paris*'], *Pandora*, vol. XIII, n. 296, pp. 236-248

——— (1866), *Le passé, le present et l'avenir de la Grece*, Athens

——— (1874-75, 2nd amended edition), *Pragmateia tou Syntagmatikou Dikaiou* [Treatise on Constitutional law], vol. I-V, Athens.

——— (1889), *Aftoviographika Apomnimonevmata Nikolaou I. Saripolou, epim. Ariadni Saripolou* [Autobiographical Reminiscences of Nikolaos I. Saripolos, ed. by Ariadni Saripolou], Athens

——— (1963, ed. by Michail D. Stasinopoulos), *Prosopikon archeion Nikolaou Ioannou Saripolou* [Personal archive of Nikolaos Ioannis Saripolos], Athens: Panteios

Soutsos, Ioannis (1843), *Schedion Politikou Syntagmatos tis Ellados* [Draft for a Political Constitution for Greece], Athens: Mantsarakis

——— (1847), *Logoi ekphonithentes tin 5i Oktovriou 1847 ypo tou proin prytaneos k. A. Venizelou, taktikou kathigitou tis Chimeias, paradidontos eis to diadochon aftou tin Prytaneian tou Othoneiou Panepistimiou, kai ypo tou taktikou kathigitou tis Politikis Oikonomias k. I. Soutsou, epi tis anadochis tis Prytaneias tou Panepistimiou*, [Lectures delivered on the occasion of the succession in the Rectorate of the University of Athens, by A. Venizelos and Ioannis Soutsos], Athens

——— (1848), *Logos tou Prytani tou Panepistimiou Athinon* [Lecture of the Rector of the University of Athens], Athens

- (1851), *Pragmateia peri Paragogis kai Dianomis tou Ploutou* [A Treatise on the Production and Distribution of Wealth], Athens: Koromilas
- (1853a), 'Eisagogiki omilia eis to mathima tis "Koinonikis Oikonomias"' ['Inaugural Lecture for the course of "'Social Economy'"], *Pandora*, vol. VI, n.86, pp. 346–349
- (1853b), 'Peri tis dimosias paidefseos, schetikos pros tas paragogikas dynameis ton ethnon' ['On Public Education, related to the productive forces of nations'], *Pandora*, 1 November, v.I, n. 87, pp. 375-383
- (1855), 'Notice sur les Finances de la Grèce de 1833 à 1843', *Spectateur d'orient*, 10/22 Fevrier 1855, Athens, pp. 371- 383
- (1855a), 'Etudes économiques sur l'Orient' (first part), *Spectateur d'Orient*, livre 38, 25 Mars, pp. 54-71 ; second part: livre 39 et 40, 10 Avril, pp. 91-112
- (1855b), 'Sur la question et sur la population de la Turquie' (first part), *Spectateur d'Orient*, livre 42 et 43, 25 Mai (6 June), pp. 165-187; second part: 15 Juillet, livre 44 and livre 45, 25 Juin, pp. 257-273
- (1858), *Peri Politeias Athinaion: Logos ekphonitheis en to Panepistimio Othonos kata tin 20i Maiou 1858 epeteion ton genethlion tou M. Vasileos kai tis idryseos tou Panepistimiou* [On the Athenian Republic: Lecture at the University of Athens in the 20th of 1858, anniversary of King's birthday], Athens
- (1861), 'Faits économiques qui se sont produits en Grèce de 1833 à 1860', *Journal des économistes* vol. 29, n.3, pp. 373–386
- (1863), *Dokimio Oikonomikon Metarrythmiseon*, [An Essay on Economic Reforms] Athens: Passaris & Kanariotis
- (1864), *Egcheiridio Dimosiologias: I Theoria tou Proypologismou*, [Manual of Public Finance: The Theory of the Budget], Athens: Passaris & Kanariotis
- (1868-69), *Ploutologia* [Ploutology] vol. 1-2, Athens: Passaris
- (1874), *Ploutologikes Spoudes* [*Ploutological Studies*], Athens: Passaris
- (1876), 'O Proypologismos tou 1876 kai oi phorologikoi nomoi' [The 1876 Budget and the tax Bills], *Oikonomiki Epitheorisi* [Economic Review], Athens: Passaris
- (1879), *To Oikonomiko Zitima* [*The Economic Issue*], Athens: Passaris

Translations:

Antikinsor, Theophilos (1836), *Ta Institouta meta ton ousiodesteron poikilon graphon ton diaphoron heirographon, kai tinon allon simeioseon, ek tis ekdoseos tou Reitziou, ois prosetethi kai pinax analytikos ton emperiechomenon (6os aionas m.ch.) metaphrasthen ypo G. A. Rhalli* [The Institutes, including the most essential miscellaneous manuscripts and other notes from the publication of Reitzio, with an additional detailed table of contents, 6th century AC, translated by G. A. Rallis], Athens: K.Rallis.

Beccaria, Cessare (1802), *Peri amartimaton kai poinon: Politikos theoroumeno syggramma/Kaisaros Vekkariou; metaphrasthen ek tis italikis glossas kai dia simeioseon eksigithen ypo Ad. Korai* [On Crimes and Punishment: Political Essay by Cessare Beccaria, translated and with notes by Ad. Korais], Paris

Bentham, Jeremy (1834-1842), *Peri Idiotikis kai Poinikis Nomothesias: Syggramma en glossan gallikin syntaxthen ek ton cheirografon tou K. Ieremiou Venthamou para tou k. Dymontou*, metaphrasthen ypo K. G. Athanasiou [On Civil and Penal legislation: Essay written in the French language and published according to the manuscript of J. Bentham edited by E. Dumont, translated by G. Athanasiou], Athens

Burlamaqui, Jean-Jacques (1839), *Stoicheia Fysikou Dikaiou /metaphrasmena ek tou gallikou kata tin teleftaian ekdosin tou Kotellou ypo G.A. Metaxa* [Elements of Natural Law, translated for the French according to the last edition by Cotel by G. A. Metaxas], Ermoypolis

Busch, J. G. (1817), *Systimatiko egcheiridio tis olis epistimis tou emporiou* [Complete systematic textbook of the entire science of trade], Jassy

Droz, Jacques (1833), *Politiki Oikonomia metafrastheisa ypo A. Polyzoiidi* [Political Economy translated by A. Polyzoidis], Naphlion

Du Caurroy de la Croix, Adolphe Marie (1858), *Eisigiseis tou Ioustinianou, meleti metaphrastheisa ypo Kalogeropoulo* [Institutes of Justinian, study translated by Kalogeropoulos], Athens

Eschbach, Louis Auguste (1858), *Stoicheiodis pragmateia peri tou Dikaiou ton Ethnon metaphrastheisa ek tou gallikou apo tis Nomikis Egkyklopaideias tou K. Eshbachou ypo tou L. A. Klotsiari* [Elements of the Law of Nations translated from the French and the Legal Encyclopedia of Mr. Eschbach by L. A. Klotsiaris], Athens

Feuerbach, Ludwig (1857), *Theoria tou Poinikou Dikaiou kata tis Romaikin kai Germanikin Nomothesian meta pollon prosthikon kai paratiriseon epafximeni ypo kathigitou Mittermaier* [Theory of Criminal Law according to Roman and German legislation with a lot of notes and amendments, edited and amended in German by professor Mittermaier], Athens

Franklin, Benjamin (1823), *H epistimi tou kalou Richardou [The Science of Good Richard]*, Paris

Franklin, Benjamin (1831), *Tropoi tou ploutistai [Ways to Wealth]*, Trieste

Fritot, Albert (1836), *Didaskalia peri tou physikou Dikaiou, tou dimosiou, tou to politeion, tou koinou kai tou syntagmatikou: ponima syntachthen gallisti metaglottisthen de kai ekdothen meta simeioseon kai prolegomenon ypo Ioannou P. Kokkoni* [Course on Natural Law: Public, International, Constitutional, written in French and translated and published with notes and footnotes by I. P. Kokkoni.], Athens

Gibbon, Edward (1840), *Istoria tis Parakmis kai tis ptosis tou Romaikou kratous. Metafrasin tou 44ou kefalaiou ypo ton E. Herzog kai ton P. Paparrigopoulo* [History of the Decline and Fall of the Roman state, 44th chapter translated by E. Herzog and P. Paparrigopoulos], Athens

Gluck, Frederik (1853), *Syllogi topikon tis Ellados synitheion ex episimon pros tin Ellinikin Kyvernisin ton topikon archon apantiseon kai apospasma tis peri sinitheion pragmateias kata to romaikon dikaion, metaphrasthen ek tou germanikou ypo L. Chrysanthakopoulou*, [Collection of local habits in Greece, taken from the official replies of local authorities to the Greek government and an excerpt of a treatise on the habits according to Roman law], Athens

Hauranne, Duvergier de (1848), *To peri vouleptikis kai eklogikis metarrythmiseos sygramma, metaphrasthen ek tou gallikou ypo N. Chatsopoulou kai Emmanouil Kokkinou* [Treatise on parliamentary and electoral reform, translated from the French by N. Hatsopoulos and Emmaouil Kokkinos,], first part, Athens

Heffter, Guillaume (1860), *Alloethnes tis evropis Dikaion, eksellinisthen kai aphxithen dia simeioseon kai paratheseos ton archaion ellinikon synthikon kai allon eggrafon ypo Kyriakou Diomidi* [European Law of Nations, translated into Greek and complemented by notes and quotes from ancient Greek treaties and other documents from Kyriakos Diomidis], Athens

Jefferson, Thomas (1824), *Diakiryxis tis Anexartias ypo ton antiprosopon ton Inomenon Epikrateion tis Amerikis, synigmenon en synedrio tin 4i Iouliou 1776, metaphrasthen ypo A. Polyzoidou*, 1824 [Declaration of Independence by the delegates/representatives of the United States of America, redacted in the Congress of 4th July 1776, translated by A. Polyzoides, 1824], Messolonghi

——— (1848), *Egxeiridion peri tou vouleptikou dikaiou: I epitomi ton kanonon ton en chrisei en tais aggliais voulais kai to synedrio ton inomenon eparchion, metaphrasi ek tis aggliais eis tin gallikin ypo tou L. A. Pitonos, metenechthen eis tin ellinikin ypo Aleksandrou Th. Edipidou* [A Manual of Parliamentary Practice, translated in French from English by L. A. Piton and in Greek by Alexandros Th. Edipidis], Athens

Jhering, (von) Rudolph (1880), *I Nomiki Epistimi tou kathimerinou viou ek tou germanikou ypo Nikolaou Dimara* (Legal Science of Everyday life, translated from German by Nikolaos Dimaras], Athens: Typografeion I. Aggelopoulou

Koppe, F. (1862), *Peri ton politikon ton Romaion* [On the politics of the Romans], Athens

Landremont, M.F. (1848), *Syntomos istoria tis teleftaias gallikis epanastaseos* [Concise history of the recent French Revolution], Athens

Lagrange, Eugene (1865), *Synopsis tis istorias tou Romaikou Dikaiou* [A concise history of Roman law] Athens: Passaris

Mackeldey, Ferdinand (1838), *Egxeiridio tou Romaikou Dikaiou, metaphrasthen ek tou Germanikou ypo M. Renieri kai G.A. Ralli* [Handbook of Roman Law translated from the German by M. Renieris and G.A. Rhallis], Athens: K. Rhallis

Makarel, K. (1836), *Stoicheia Dimosiou Dikaiou, metafrasthen ypo M. kai P. Argyropoulon* [Elements of Public Law, translated by M. and P. Argyropoulos], Athens: K. Rallis.

Molitor, Jean P. (1861), *I peri nomis kai ton kat'aftin agogon kata to Romaikon Dikaion, metfrastheisa ek tou Gallikou kai meta prosthikon kai simeioseon i prosetethisan ton Vasilikon ta keimena kai symplirosis tis ypo tou Molitorou pragmateias peri tis par'imin ekdikaseos ton peri katochis agogon* [On Possession and the legal actions upon it, according to the Roman law, translated from the French along with notes and amendments and complemented by the parts of the Basilica and actions taken from the Greek state], Athens

Novawk, J. (1808), *Istoria tou Emporiou, metaphrasi ypo Kokkinaki* [History of Commerce translated by Kokkinakis], Vienna

Pothier, Robert J. (1845), *O Dodekaldeltos Nomos* [The Law of the Twelve Tables], Athens

Pardessus Jean Marie (1848), *Pragmateia peri Emporikou Dikaiou* [Treatise on Commercial Law], Athens

Rousseau, Jean-Jacques (1818), *Logos peri archis kai vaseos tis anisotitas ton anthropon pros allilous, Ioannou Iakovou Rousseau tou ek Genevis; metaphrastheis ek tis gallikis glossas ypo Dim. Aristomenous* [Discourse on the Origin and Basis of Inequality among Men, by J.J. Rousseau, translated from the French language by Dim. Aristomenous], Paris

——— (1828), *Peri tis koinonikis synthikis, i, arhai tou politikou dikaiomatos/ek tis gallikis ypo Grig. Georgiadou Zalykou; kai ekdothen meta prolegomenon ypo Kon. Nikolopoulou* [Of the Social Contract, Or Principles of Political Right translated from the French by Grig. Georgiadou Zalykou and published with an introduction by Kon. Nikolopoulou], Paris

Say, Jean-Baptiste (1828), *Politikis Oikonomias Kathichisis, metafrasis ypo G. Chryssiidi* [Catéchisme of Political Economy, translated by G. Chrysiidis], Aigina

Sismondi, Simonde de (1846), *Meletai peri ton syntagmaton ton elephtheron laon ypo Chr. Christopoulou* [Studies on the constitutions of free people, translated from Chr. Christopoulos], 1st Part, Athens.

Suzanne, P.H. (1849), *Genikai Archai tis dimosias kai viomichanikis oikonomias, metaphrasi ypo M.Vernardou* [General Principles of Public and Industrial Economy, translated by M. Vernardo], Athens

Thiers, Adolphe (1848), *Peri Idioktiasias* [On Property], Athens

Tocqueville, Alexis de (1849), *Peri tis Dimokratias en Ameriki ypo Alexiou Tokvilou, dikigorou para en Parisiois Epheteiou, ypo K. Irakleidou* [Democracy in America, by Alexis de Tocqueville, lawyer in the Court of Appeal in Paris, translated by K. Irakleidis], Athens: Gorpola

Tracy, Destutt de (1823), *Scholion eis ton Pnevma ton Nomon tou Monteskiou* [Commentary on Montesquieu's Spirit of the Law], Messolonghi

Troplong, Raymond Theodore (1858), *Pragmateia peri tis energeias kai ton apotelesmaton tou Christianismou epi tou astikou ton Romaion dikαιο* [On the influence of Christianity on the civil law of the Romans], Athens

Vattel, Ernest de (1825), *Apospasmata ek Vattelou, Peri Dikaiou ton Ethnon, metaphrasthenta eis tin kathomiloumenin aploellinikin dialekton ypo S.S.* [Fragments of Vattel's On the Law of the Nations, translated in popular simple Greek dialect by S.S.], Messolongi: Tipografeio tis Dioikiseos

——— (1831), *To Dikaion ton Ethnon, I archi tou Fysikou Nomou/ Ek Vatelou, metaphrasthen ypo G. Ralli* [The Law of Nations, Or the Principles of Natural Law Applied to the Conduct and to the Affairs of Nations and of Sovereigns, translated by G. Rallis], v. I-II, Nafplion: K. Rallis

Werner, Alfred Frederick (1860), *Egcheiridion tou Germanikou Poinikou Dikaiou* [Manual of German Criminal Law], Athens: Sgoutas

Unknown authors:

——— (1839), *Vioi tou V. Franklinou kai tou A. Korai kai i epistimi tou kalou Richardou. Gia tous ellinikous paidas* [Lives of V. Franklinou and A. Korai: For the Greek youth], Ermoypoli

——— (1845), *Seira Politikis Dikonomias ypo Semprixou Veriatou* ('Σεμπρίξου Βεριάτου') [Civil Procedure by..], Athens

——— (1853), *Sygkrisis tou Napoleontiou Kodikos pros tous Romaikous nomous, periechousa tas archas tis Romaikis nomothesias, tas spoudaiotera peri tin ermineian ton Romaikon Nomon zitimata kai tas para tin nomologian paradedgmenas theorias ton nomistoron, metaphrastheisa ypo N. Flogaiti, meta prosthikis ton arithmon ton schetikon chorion ton Pandekton ypo ton I. Voetiou* [Comparison of the Napoleonic code with Roman law, including the principles of Roman legislation, the most important issues regarding the interpretation of Roman law and the theories of the jurists, translated by N. Flogaitis], Athens

——— (1855), *Istoria tou Romaikou Dikaiou* [History of Roman law], Athens

Other primary sources:

Aravantinos, Georgios (1897), *Elliniko Syntagmatiko Dikaio* [Greek Constitutional Law], vol. I-II, Athens

Blanqui, Adolphe (1842), *Histoire de l'Economie Politique*, Brussels: Société typographique belge

Clogg, Richard (ed) (1976), *The movement for Greek independence 1770-1821: a collection of documents*, London: Macmillan

Constant, Benjamin (1814), 'The spirit of Conquest and Usurpation', in Benjamin Constant (1988), *Political Writings* (ed. Biancamaria Fontana), Cambridge: Cambridge University Press

——— (1988), *Political Writings* (ed. Biancamaria Fontana), Cambridge: Cambridge University Press

——— (1980), *De la liberté chez les Modernes. Ecrits Politiques*, ed. Marcel Gauchet, Paris: Livres de Poche

Darvaris, D. (1796), *Alithis Odos pros tin Evdaimonian* [True Path to Good Life], Vienna

Deligiorgis, Epameinondas (1896), *Politika imerologia. Politikai simeioseis. Politikai epistolai* [Political diaries. Political notes. Political correspondence], vol. I, Athens

Finlay, George, (1844), 'The Actual Condition of the Greek state', *Blackwood's Edinburgh Magazine*, vol. 55, pp. 785-796

——— (1861), 'The Euthanasia of the Ottoman Empire', *Blackwood's Edinburgh Magazine*, vol. 89, May 1861, pp.571-594

——— (1863), 'The Fall of King Otho' *Blackwood's Edinburgh Magazine* vol. 94, n. 577, pp. 586–609.

——— (1864-1877), *A History of Greece from its conquest by the Romans to the Present Time, B.C. 146 – A.D., vol. I-IV (1864) , vol. V-VII (1877)*, edited by H.F. Tozer, Oxford

Goudas, Anastasios (1875), *Vioi Paralliloi* [Parallel Lives], vol. VII, Athens

Guizot, Francois (1820) *Du Gouvernement de la France depuis la Restauration et du ministère actuel*, Paris: Ladvoat

——— (1846), *Histoire de la Civilisation en Europe: Depuis la Chute de l'Empire Romain jusqu'a la Révolution Française; suivie de Philosophie Politique: De la Souveraineté*, Paris: Pichon et Didier

Ioannidis, Nikolaos (1846), *Evretirion tis Ellinikis Nomoligias, itoi periliptiki kai analytiki kata alphaviton syllogi ton apophaseon tis tou Areiou Pagou kai ton en Athinai kai en Naflpion dikastirion ton Epheton* [Index of Greek laws, or

summarized and analytical alphabetical collection of rulings by Areios Pagos, and the courts of Appeal of Athens and Nafplion], Athens

Kalognomos Georgios (1841), *Egcheiridion peri synallagmatikon kai diataktikon grammation, I anaptyxis ton peri afta archon, nomon kai kanonon kai erantisthenta apo diaphorous nomologous kai dikografous Gallous me prosthikas kai simeioseis, aphieromenou pros to dikigoron politin Alerinou Palma* [Manual on Bills of Exchange and Order: the development of their principles, laws and rules with comments by several French jurists with supplements and remarks, dedicated to the citizen lawyer Alerino Palma], Athens

Kokkonis, Ioannis (1828-29), *Peri Politeion. Peri ton eis syntaksin kai sintirisin afton, kai peri politikis kyverniseos* [On Politics. On their constitution and preservation and on political (or civil) government], Paris

Korais, Adamantios (1830, [1933]), *Simeioseis eis to Prosorino Politevma tis Ellados tou 1822* [Notes on the Provisional Constitution of Greece of 1822], edited by Th. Volidis, Athens

Laboulaye, Edouard (1839), *Histoire du droit foncière en occident*, Paris: A. Durant

Lenormant, Fr. (1862), *La révolution en Grèce, ses causes et ses conséquences*, Paris

Maurer, Georg (1834), *O Ellinikos Laos. Dimosio, Idiotiko kai Ekklisiastiko Dikaio apo tin enarksi tou agona gia tin aneksartisia eos tin 31i Iouliou 1834* [The Greek People. Public, private and Canon Law from the beginning of the war of Independence until the 31st July of 1834], translated in 1976 by O. Rompaki, ed. by T. Vournas, Athens: Tolidis

Michelet, Jules (1846), *The People* (trans. G. H. Smith), New York: Appleton

Mpfounis, G. (ed.) (1862, [1991]), *Statistiki tis Ellados. Plythismos tou etous 1861* [Statistics of Greece. Population in 1861], Athens

Mohl, (von) Robert (1832-34), *Die Polizeiwissenschaft nach den Grundsätzen des Rechtsstaat*, vol.I-III, Tübingen

Niebuhr, Barthold Georg (1811-12), *Römische Geschichte*, Berlin: Realschulbuchhandlung

Palma, Alerino (1825/26?), *Syllogi ton archon tou prototypou kai ek tou sinthikis tis Evropis dikaiomatos ton ethnon peri ton thalassion leion kai tis oudeterotitas* [Collection of the Principles of the Original Right of Nations Deriving from the European Treaty Regarding Sea-booties and Neutrality], Hydra

Pappadoukas, Nikolaos (1847), *Ippodamos, i Archai tou Suntagmatikou Dikaiou i to ellinikon Syntagma scholiasmenon* [Hippodamos, the principles of Constitutional Law, or comments on the Greek constitution], Athens

Paparrigopoulos, Konstantinos (1846), 'Istoria Dikaiou. Romaion pros Ellada Politevma' ['History of Law. Roman politics in Greece'], *Themis*, vol. II, pp. 339-355.

——— (1860), 'Vivliographia tou 'Ta kata tin Anagennein tis Ellados, itoi Syllogi ton peri tin anagenomenin Ellada syntacthenton politevmaton, nomon kai episimon prakseon, apo tou 1821 mexri telous tou 1832, ekdidontos ypo A.Z. Mamouka' [Review of 'On the Renaissance of Greece, or Collection of the "constituted polities", laws and official acts from 1821 to 1832, published by A.Z. Mamouka], *Pandora*, v. XXI, pp. 284-288.

Polymeris, G. (1849), *Vios tou V. Franklinou kai i epistimi tou kalou Richardou* [*The life of B. Franklin and the Science of Good Richard*], Ermoupoli

Polyzoidis, Anastasios (1824), *Prosorinon Politevma tis Ellados. Kai schedion organismou ton eparchion aftis amphotera epidiorthomena kai epikyromena ypo tis defteras Ethnikis Synelefseos en Astrei ois epontai to Politikon Syntagma tis Vretanias kai to ton Inomenon Epikrateion tis Amerikis. Meta tis diatyposeos tou Synedriou aftou, ex Agglikon kai Gallikon Syggrammaton metafrasthenta ypo A. Polyzoidou* [Provisional Polity of Greece. And a plan of an the organisation of its provinces, revised and ratified by the second National Assembly in Astros, accompanied by the Political Constitution of Britain and that of the United States of America. With the proceedings of their congresses according to English and French treatises, translated by Anastasios Polyzoides], Messolonghi

Ricardo, David (1953), *The Works and Correspondence of David Ricardo* (edit. by P. Sraffa with the collaboration of M. Dobb), vol. IX, Cambridge : Cambridge University Press

Rizo, P. (1899), *Mémoires du Prince Nicolas Soutzo Grand-Logothète de Moldavie, 1798–1871*, Vienne: Gerold & Cie

Rossi, Pellegrino (1836-7,1840-51), *Cours d'économie politique*. Brussels: Société Typographique Belge

Rousseau, Jean-Jacques (1755), 'Discourse on Political Economy', in Jean-Jacques Rousseau (1997), *The Social Contract and Other Later Political Writings*, edited by V. Gourevitch, Cambridge: Cambridge University Press, pp. 3-38

Savigny, (von) Friedrich Carl (1814), 'Vom Beruf unserer Zeit fur Gesetzgebung und Rechtswissenschaft', in Hans Hattenhauer (ed.) (2002), *Thibaut und Savigny: Ihre programmatischen Schriften*, Munich: Franz Vahlen, pp. 95-192

Say, Jean-Baptiste [(1803) 2006], *Traité d'économie politique ou simple exposition de la manière dont se forment, se distribuent et se consomment les richesses*, I-II vols, Variorum (ed. by Claude Mouchot), *Économica*: Paris, 2006

——— (1824) 'Notions sur la Grèce, pour l'intelligence des événements qui se préparent dans cette portion de l'Europe', *Revue Encyclopédique*, vol. XXIV, pp. 257-274

——— (ed. in 1996), *Cours d'économie politique et autres essais*, Paris: Flammarion

Sismondi, Simonde de (1819-1827), *Nouveaux principes d'économie politique; ou De la richesse dans ses rapports avec la population*, vol.I, vol.II, Paris: Delaunay

Spanopoulos, Pavlos (1803), *Emporiki Arithmitiki* [Commercial arithmetic], Trieste: Katzatis Printing Press

Soutsos, Alexandros (1844), *I metavoli tis Tritis Septemvriou* [The transformation of the 3rd of September], Athens

Spiliotakis, S. (1864), *Statistiki tis Georgias* [Agricultural Statistics], Athens

Stahl, Friedrich J. (1830-37), *Philosophie des Rechts*, vol. I-II, Heidelberg

Trikoupis, Charilaos (1874), 'Tis Ptaiei?' [Whose Fault is it?], *Kairoi*, 29 June 1874

——— (1874) 'Parelthon kai Enestos' [Past and Present], *Kairoi*, 9 July 1874

Tsokopoulos, Giorgos (1896), *Charilaos Trikoupis* [Charilaos Trikoupis], Athens: Fexi

Vattel, Emer de (1758, [2008]), *The Law of Nations or the Principles of Natural Law applied to the Conduct and to the Affairs of Nations and Sovereigns*, vol. I-III, (edited by Bela Kapossy, Richard Whatmore and Knud Haakonssen), Liberty Fund

Viki, Georgios (ed) (1838), *Lexikon procheiron tis ellinikis nomothesias* [Provisional Dictionary of Greek laws], Athens

Zachariae, Karl S. (1846), 'Peri Vyzantinou Dikaiou' ['On Byzantine Law'], *Themis*, vol. I, pp. 186-224

Reference works:

Dimitriadis, D.A (1916), *Apanthisma viorgaphikon ton ekleiponton kathigiton ex idryseos tou panepistimiou Athinon 1837-1916* [Biographical Collection of the Deceased professors of the University of Athens 1837-1916], Athens: D. A. Dimitriadis

Megali Elliniki Egkyklopedia [Great Greek Encyclopedia], Pyrsos/Drandakis/Foinix, 1926-1934

Pagkosmio Viografiko Lexiko, Ekpaideftiki Elliniki Egkyklopaideia [Global Biographical dictionary in Educational Greek Encyclopaedia], vol. 1-9b, Athens: Ekdotiki Athinon, 1983-1988

PUBLISHED SECONDARY SOURCES

Agriantoni, Christina (2007), 'O Sainsimonismos stin Ellada' [Saintsimonianism in Greece], in Antoine Picon, *Oi Sainsimonistes [The Saintsimonianists]*, Athens: PIOP

——— (1986), *Oi Aparches tis Ekviomichanisis stin Ellada to 19o aiona [The Origins of Industrialisation in Greece in the 19th century]*, Athens: Commercial Bank of Greece

Alexandrowicz, Charles H. (1961), 'Doctrinal Aspects of the Universality of the Law of Nations', *British Yearbook of International Law*, vol. 37, pp. 506-515

Alivizatos, Nikos (1981), *Eisagogi stin Syntagmatiki Istoría [Introduction to Constitutional History]*, Athens: Sakkoulas

——— (2000), 'Oi Kykloi tou Ellinikou kai tou Evropaikou Koinovouleftismou: Symptoseis kai Asymptota' [The Cycles of Greek and European Parliamentarism: Coincidences and Disparities], in *150 Chronia Ellinikou Koinovouleftikou Viou, 1844-1944 [150 Years of Greek Parliamentary Life 1844-1944]*, Athens: Sakkoulas, pp. 165-169

——— (2003), 'What, if any, is the contribution of modern Greece to today's European identity?', *The MGSA Bulletin*, vol. XXXV, pp. 19-24

——— (2011), *To Syntagma kai oi Echthroí tou sti Neoelliniki Istoría, 1800-2010 [The Constitution and its enemies in Modern Greek History, 1800-2010]*, Athens: Polis

Anastasiadis, Giorgos (1997), *I Proti en Athinaís Ethniki Synelefsi [The First National Assembly in Athens]*, University Studio Press

Anderson, Matthew S. (1979), *Historians and Eighteenth-Century Europe, 1715-1789*, Oxford: Oxford University Press

Andreadis, Andreas (1927), 'Griechenland', in Hans Mayer et al. (eds), *Die Wirtschaftstheorie der Gegenwart*, vol. 1, pp. 236–246, Vienna: Springer

Anghie, Antony (2005), *Imperialism, Sovereignty and the Making of International Law*, Cambridge: Cambridge University Press

Argyriadis-Kervegan, Caroula (1998), 'Byzantine Law as Practice and as History, in David Ricks and Paul Magdalino (eds), *Byzantium and the Modern Greek Identity*, Aldershot: Ashgate, pp. 35-47

Argyropoulos, Pavlos (1935), 'O Alexandros Mavrokordatos ka i syntagmatiki prospatheia tou 1841' [Alexandros Mavrokordatos and the Constitutional attempt of 1841], *Ellinika*, vol. 8, pp. 247-267

Armitage, David (2013), *Foundations of Modern International Thought*, Cambridge: Cambridge University Press

Armitage, David and Sanjay Subrahmanyam (eds) (2010), *The Age of Revolutions in Global Context, 1760–1840*, London: Palgrave.

Aroni-Tsichli, Kaiti (1989), *Agrotikes Exegerseis stin Palia Ellada, 1833-1881* [Rural revolts in 'Old' Greece, 1833-1881], Athens: Papazisis

Baloglou, Christos P. (2008), 'The Diffusion and Reception of the ideas of Economic Liberalism in Greece during the period 1828-1837', *Spoudai*, vol. 51, n. 3-4,, pp. 16-35

Bayly, Christopher (2004), *The Birth of the Modern World 1780-1914*, Oxford: Blackwell

——— (2007), 'Rammohan Roy and the advent of Constitutional Liberalism in India, 1800-30', *Modern Intellectual History*, vol. 4, n. 1, pp. 25-41

——— (2012), *Recovering Liberties. Indian Thought in the Age of Liberalism and Empire*, Cambridge: Cambridge University Press

Beales, Derek (2005), *Enlightenment and Reform in Eighteenth-Century Europe*, London and New York: I.B. Tauris

Bell, Duncan (2007), *The Idea of Greater Britain: Empire and the future World Order, 1860-1900*, Princeton: Princeton University Press

Berg, Peter (2007), *The politics of European Codification: a history of the Unification of Law in France, Prussia, the Austrian Monarchy and the Netherlands*, Groningen: Europa La Publishing

Biagini, Eugenio (2003), 'Neo-Roman Liberalism: "Republican Values and British Liberalism, ca. 1860-1875', *History of European Ideas*, vol. 29, pp. 55-72

Bochotis Vasilis (2003), *I Rizospastiki Dexia: Antikoinovouleftismos, Syntiritismos, kai anoloklirotos fasismos stin Ellada, 1864-1911* [The Radical Right: Antiparliamentarism, conservatism and unfulfilled fascism in Greece, 1863-1911], Athens: Vivliorama

Bower, L. and G. Bolitho (1939), *Otto, King of Greece: A Biography*, London: Selwyn and Blount

Brena, Roberto (2006), *El primer liberalismo español y los procesos de emancipación de América, 1808-1824*, Mexico: El Colegio de México

Caenegem, Raoul van (1992), *An historical introduction in private law*, Cambridge: Cambridge University Press

——— (1995), *An Historical Introduction to Western Constitutional Law*, Cambridge: Cambridge University Press

——— (2002), *European Law in the Past and the Present: Unity and diversity over two Millennia*, Cambridge: Cambridge University Press

Castells, Irene (2004), 'Le libéralisme insurrectionnel espagnol (1814–1830)', *Annales historiques de la Révolution Française*, vol. 76, pp. 221–223

Charle, Christophe (1990), *Naissance des Intellectuels*, Paris: Les éditions de Minuit

——— (1994), *La République des universitaires*, Paris: Éditions du Seuil

——— (2004), 'Introduction to Part II', in Christophe Charle, Jürgen Schriewer and Peter Wagner (eds), *Transnational Intellectual Networks: Forms of Academic Knowledge and the search for Cultural Identities*, Frankfurt: Campus Verlag, pp. 197-204

Chatziioannou, Maria Christina (2013), 'War, Crisis and Sovereign Loans: The Greek War of Independence and British Economic Expansion in the 1820s', *The Historical Review / La Revue Historique Section of Neohellenic Research / Institute of Historical Research*, vol. x, pp. 33-55

Chouliarakis, M. (1972) *Statistikai Meletai 1821-1871* [Statistical Observations], Athens

Clogg, Richard (1992), *A Concise History of Greece*, Cambridge: Cambridge University Press

Collini, Stefan (1991), *Public Moralists: Political Thought and Intellectual Life in Britain, 1850-1930*, Oxford: Oxford University Press

——— (2005), *Absent Minds: Intellectuals in Britain*, Oxford: Oxford University Press

Collini, Stefan, Donald Winch and John Burrow (eds) (1983), *That Noble Science of Politics: A Study in Nineteenth-Century Intellectual History*, Cambridge: Cambridge University Press

Craiutu, Aurelian (2003), *Liberalism under Siege: The Political Thought of the French Doctrinaires*, Lanham: Lexington Books

——— (2012), *A Virtue of Courageous Minds: Moderation in French Political Thought, 1748-1830*, Princeton: Princeton University Press

Couderc, Anne (2005), 'Structuration du territoire et formation des élites municipales en Grèce (1833-1843), in P. Aubert, G. Chastagnaret, O. Raveux (eds), *Construire des mondes. Elites et espaces en Méditerranée, XVI-XX siècle*, Aix-en-Provence: Presses universitaires de Provence, pp. 163-184

Coulombis, Thodoris, John A. Petropoulos and Harry J. Psomiades (eds) (1976), *Foreign Interference in Greek Politics: A Historical Perspective*, New York: Pella Publishing Company

Dakin, Douglas (1972), *The Unification of Greece, 1770-1922*, London: Benn

Daskalakis, Georgios (1952), *Syntagmatiki Istoría tis Ellados, 1821-1935* [*Constitutional History of Greece, 1821-1935*], Athens,

Daum, Andreas (2004), 'Wissenschaft and Knowledge', in Jonathan Sperber, *German History, 1800-1870*, Oxford University Press: Oxford, pp. 137-161

Dertilis, Georges B. (2005, [2009]), *Istoria tou Ellinikou Kratous, 1830-1920* [*History of the Greek State, 1830-1920*], Athens: Estia

Dertilis, Georges B. and Kostis, Kostas (eds) (1991), *Themata Neoellinikis Istorias* [*Themes of Modern Greek history*], Athens: Ant. Sakkoulas

Diamandouros, Nikiforos (2000), *Politistikos dyismos kai politiki allagi stin Ellada tis metapolitefsis* [*Cultural dualism and political change in Post-authoritarian Greece*], Athens: Alexandria

——— (2002), *Oi Aparches Sygkrotisis Sygchronou Kratous stin Ellada: 1821-1828* [*The Formation of a Modern State in Greece. The Origins: 1821-1828*] Athens: MIET

Dijn, Annelien de (2008), *French Political Thought from Montesquieu to Tocqueville: Liberty in a Levelled Society?*, Cambridge: Cambridge University Press

Dimakopoulos, Chr. G. (1993), 'I Nomiki Epitropi tou 1835: Systasis, apostoli, ergo' [*The legislative Committee of 1835: Composition, mission, outcome*], *Mnimosyni* vol. 12, 1991-93, pp. 125-144

Dimaras, Constantinos (1969), *La Grèce au temps des Lumières*, Geneve: Droz

——— (1998) *Neoellinikos Diaphotismos* [*Modern Greek Enlightenment*], Athens: Ermes

——— (1986), *Constantinos Paparrigopoulos: I Epochi tou, i Zoi tou, to Ergo tou* [*Constantine Paparrigopoulos: His era, his life, his work*], Athens: Ermis

——— (1987), *En Athinais tin 1i Maiou* [*In Athens on the 1st of May*], Athens

Dimoulis, Dimitris (2001), 'Laos, Ethnos kai Politis stin Elliniki Syntagmatiki Istoría' [People, Nation and Citizens in Greek Constitutional History], in Dimitris Dimoulis, *To Dikaio tis Politikis: Meletes Syntagmatikis Theorias kai Ermineias* [The Law of Politics: Studies of Constitutional History and Interpretation], Athens: Ellinika Grammata, pp. 410-473

Di Rienzo, Eugenio (2002) 'Decadenza e caduta del cosmopolitismo: Francia/Europa, 1792-1848. Note per una ricerca', in Lorenzo Bianchi (ed.), *L'idei di cosmopolitismo: circolazioni e metamorfosi*, Naples: Liguori, pp. 419-155

Dontas, Domna (1966), *Greece and the Great Powers, 1863-1875*, Thessaloniki: Institute of Balkan studies

Driault, Edouard and Michel Lheritier (1925), *Histoire diplomatique de la Grèce de 1821 à nos jours*, vol. II, Paris: PUF

Drosos, Ioannis (1995), *Dokimio Ellinikis Syntagmatikis Theorias* [Essay on Greek Constitutional Theory], Athens: Sakkoulas

Eisenstadt, Shmuel N. (ed.) (2005), *Multiple Modernities*, New Brunswick and London: Transaction Publishers

Fenwick, Charles (1913), 'The Authority of Vattel', *American Political Science Review*, vol. 7, issue 3, pp. 395-410

Andrew Fitzmaurice (2012), 'Liberalism and Empire in nineteenth-century International law', AHR Forum, *The American Historical Review*, vol. 117, n. 1, pp. 122-140

Fitzpatrick, Matthew (ed.) (2012), *Liberal Imperialism in Europe*, New York: Palgrave

Fontana, Biancamaria (1991), *Benjamin Constant and the Post-Revolutionary Mind*, New Haven

Michel Foucault (2008), *The Birth of Biopolitics: Lectures at the College de France, 1978-79*, Palgrave: New York

——— (2009), *Security, Territory, Population, Lectures at the College de France 1977-78*, Palgrave: New York

Frangiadis, Alexis (2007), *Elliniki Oikonomia, 19os-21os aionas: Apo ton Agona tis Anexartias stin Oikonomiki kai Nomismatiki Enosi tis Evropis* [Greek Economy 19th-21st century: From the War of Independence to the Economic and Monetary unification of Europe], Athens: Nefeli

Furet, Francois (1981), *Interpreting the French Revolution*, Cambridge: Cambridge University Press

Gallant, Thomas (2002), *Modern Greece*, Hodder Headline: London

Garsten, Bryan (2010), 'Representative government and popular sovereignty', in Ian Shapiro, Susan C Stokes, Elisabeth Jean Wood and Alexander S. Kirshner (eds), *Political Representation*, Cambridge: Cambridge University Press, pp. 90-110

——— (forthcoming, 2015), *The Heart of a Heartless World: Liberal religion and modern liberty*, Cambridge, Mass.: Harvard University Press

Geenens, Raf and Helena Rosenblatt (2012), 'French liberalism: an overlooked tradition?', in Rag Geenens and Helena Rosenblatt (eds), *French Liberalism from Montesquieu to the Present Day*, Cambridge: Cambridge University Press, pp. 1-14

Gekas, Sakis (2013), 'The Crisis of the long 1850s and Regime Change in the Ionian state and the Kingdom of Greece', *The Historical Review/La Revue Historique*, Section of Neohellenic Research/Institute of Historical Research, vol. X, pp. 57-84.

Geuss, Raymond (2001), *History and Illusion in Politics*, Cambridge: Cambridge University Press

Wilhelm Grewe (2000), *The Epochs of International Law*, De Gruyter: Berlin

Gourgouris, Stathis (1996), *Dream Nation: Enlightenment, Colonization and the Institution of Modern Greece*, Stanford: Stanford University Press

Guidi, Marco, Terenzio Maccabelli and Erica Morato (2004), 'Neo-Smithian Political Economy in Italy (1777–1848)', *Economies et sociétés*, Serie Oeconomia, 'Histoire de la pensée économique', vol. 2, pp. 217-265

Hatzis, Aristides (2002), 'The short-lived influence of the Napoleonic Civil Code in 19th century Greece', *European Journal of Law and Economics*, vol. 14, pp. 253-263

Hazareesingh, Sudhir (2001), *Intellectual Founders of the Republic: Five studies in nineteenth-century French Political Thought*, Oxford: Oxford University Press

Head, Brian W. (ed.)(1985), *Ideology and Social Science: Destutt de Tracy and French Liberalism*, Dordrecht: Kluwer

Hilton, Boyd (1988), *The Age of Atonement: The Influence of Evangelicalism on Social and Economic Thought*, Oxford: Oxford University Press

Hionidis, Pandeimon (2006), 'Greek Responses to Cobden', in Anthony Howe and Simon Morgan (eds), *Rethinking 19th century Liberalism: Richard Cobden Bicentenary Essays*, Aldershot: Ashgate, pp. 161-173

Hoeflich, Michael F. (1989), 'Savigny and his Anglo-American disciples', *The American Journal of Comparative Law*, vol. 37, n. 1, pp. 17-37

Hont, Istvan and Michael Ignatieff (eds) (1983), *Wealth and Virtue: The shaping of political economy in the Scottish Enlightenment*, Cambridge: Cambridge University Press

Hutchison, Terence (1988), *Before Adam Smith*, Oxford: Oxford University Press

Ithakissios, Demetrios D. (1992), 'J.I. Soutsos: Greece's First Academic Economist', *Quaderni di storia dell'economia politica*, vol. 2, pp. 136-148

Isabella Maurizio (2009), *Risorgimento in exile: Italian Émigrés and the Liberal International in the Post-Napoleonic era*, Oxford: Oxford University Press

——— (2012), 'Liberalism and Empires in the Mediterranean: The View-Point of the Risorgimento', in Sylvana Patriarca and Lucy Riall (eds), *The Risorgimento Revisited: Nationalism and Culture in Nineteenth-Century Italy*, UK: Palgrave Macmillan, pp. 232-254

——— (2013), 'Aristocratic Liberalism and Risorgimento: Cesare Balbo and Piedmontese Political Thought after 1848', *History of European Ideas*, (DOI:10.1080/01916599.2012.762621)

Jainchill, Andre (2012), 'The importance of republican liberty in French liberalism', in Rag Geenens and Helena Rosenblatt (eds), *French Liberalism from Montesquieu to the Present Day*, Cambridge: Cambridge University Press, pp. 73-89

Jaume, Lucien (1997), *L'individu efface' ou le paradoxe du libéralisme français*, Paris: Fayard

——— (2012), 'The unity, diversity and paradoxes of French liberalism', in Rag Geenens and Helena Rosenblatt (eds), *French Liberalism from Montesquieu to the Present Day*, Cambridge: Cambridge University Press, pp. 36-56

Jennings, Jeremy (2011), 'Constitutional liberalism in France: From Benjamin Constant to Alexis de Tocqueville', in Gareth Stedman Jones and Gregory Claeys (eds), *The Cambridge History of nineteenth-century Political Thought*, Cambridge: Cambridge University Press, pp. 349-373

——— (2011a), *Revolution and the Republic: A History of Political Thought in France since the 18th century*, Oxford: Oxford University Press

John, Michael (1989), *Politics and the Law in Late Nineteenth-century Germany: the origins of the Civil Code*, Oxford: Clarendon Press

Jones, Hugh Stuart (1993) *The French State in question: Public law and political argument in the Third Republic*, Cambridge: Cambridge University Press

Kaiser, Thomas E. (1980), 'Politics and Political Economy in the Thought of the Ideologues', *History of the Political Economy*, vol.12, pp. 141-160

Kaldis, William P. (1963), *John Capodistrias and the modern Greek state*, Ann Arbor, Michigan: Edwards Bros

Kallivretakis, Leonidas (1990), I dynamiki tou Agrotikou Eksynchronismou ton 19o aiona [The Dynamism of Agricultural Modernisation in 19th century Greece], Athens: MIATE

Kaltchas, Nikolaos (1942), *Introduction to the Constitutional History of Modern Greece*, Columbia Universtiy Press: New York

Kalyvas, Andreas and Ira Katznelson (2008), *Liberal Beginnings: Making a Republic for the Moderns*, Cambridge: Cambridge University Press

Karouzou, Evi (1989), 'Zitimata Katochis Ethnikon Gaion (1883-1871)' [Issues of tenure of national lands 1833-1871], *Mnimon*, vol. XII, pp. 149-161

——— (2006), 'Thesmiko plaisio kai agrotiki oikonomia' [Institutional framework and rural economy], in: Kostas Kostis and Socrates Petmezas (eds), I Anaptyksi tis Ellinikis Oikonomias ton 19o aiona [The development of the Greek Economy in the 19th century], Athens: Alexandria, pp. 179-195

Katz, Stanley (ed.) (2009), *The Oxford International Encyclopedia of Legal History*, vol. 5, Oxford: Oxford University Press

Kelley, Donald (1984), *Historians and the Law in Post-revolutionary France*, Princeton: Princeton University Press

——— (2011) 'Historians and Lawyers', in Gareth-Stedman Jones and Gregory Clayes (eds), *The Cambridge History of Nineteenth-century Political Thought*, Cambridge: Cambridge University Press, pp. 147-170

Kelley, Donald and Bonnie G. Smith (1984), 'What was Property? Legal Dimensions of the Social Question in France (1789-1948)', *Proceedings of the American Philosophical Society*, vol. 128, n. 3, pp. 200-230

Kimourtzis, Panagiotis (2003), 'Ta Evropaika Panepistimia os montela: I periptosi tis Ellados 1837' [The European Universities as Models: The case of Greece 1837], *Nefsis*, vol.12, Athens: Nefeli, pp. 146-149

Kitromilides, Paschalis (1979), *Tradition, Enlightenment and Revolution: Ideological change in 18th and 19th century Greece*, Cambridge Massachusetts: Harvard University

——— (1981), 'Historiographical interpretations of Modern Greek reality: An exploratory essay' in Lily Makrakis and Nikiforos Diamantouros (eds) (1981), *New trends in Modern Greek Historiography*, New Haven, pp. 7-11.

- (1988), 'European political thought in the making of Greek liberalism: the Second National Assembly of 1862-1964 and the reception of John Stuart Mill's ideas in Greece', *Parliaments, Estates and Representation* 8, n° 1, vol. 8, no. 1, pp. 11-21
- (1990), *I Galliki Epanastasi kai I Notioanatoliki Evropi* [The French Revolution and South-eastern Europe], Athens: Diatton
- (1995), 'Europe and the Dilemmas of Greek Conscience', in Philip Carabott (ed.), *Greece and Europe in the Modern Period: Aspects of a Troubled Relationship*, Centre for Hellenic Studies, King's College: London, pp. 1-15
- (1998), 'On the intellectual content of Greek nationalism: Paparrigopoulos, Byzantium and the Great Idea', in David Ricks and Paul Magdalino (eds), *Byzantium and the Modern Greek Identity*, Aldershot: Ashgate, pp. 25-33
- (2000), *Neolellinikos Diaphotismos: Oi politikes kai koinonikes ideas* [Modern Greek Enlightenment: The political and social ideas], 3rd edition, Athens: MIET
- (2004), 'Introduction', in Paschalis Kitromilides and Triantafyllos Sklavenitis (eds), *Istoriographia tis Neoteris kai Sygchronis Elladas, 1833-2002* [Historiography of Modern and Contemporary Greece: 1833-2002], Athens: EIE, vol. I-II, pp. 40-55
- (2009), 'Paradigm nation: the study of nationalism and the "canonization" of Greece', in Roderick Beaton and David Ricks (eds) (2009) *The Making of Modern Greece: Nationalism, Romanticism and the Uses of the Past (1797-1896)*, London: Ashgate, pp. 21-31.
- (2010), 'The Enlightenment and the Greek Cultural Tradition', *History of European Ideas*, vol. 36, pp. 39-46
- (2013), *Enlightenment and Revolution: The Making of Modern Greece*, Cambridge, Ma: Harvard University Press

Kitromilides, Paschalis et al. (ed.), (2011), *Nikolaos Ioannou Saripolos* [Nikolaos Ioannou Saripolos], Athens: Idryma tis Voulis ton Ellinon

Kofas, Jon (1980), *International and Domestic Politics in Greece during the Crimean War*, New York: East European Monographs

——— (1981), *Financial Relations of Greece and the Great Powers, 1832-1862*, New York: Columbia University Press.

Kokkinos, Giorgos (1996), *Politikos Anorthologismos stin Ellada: To ergo kai I skepsi tou Neokli Kazazi, 1849-1936* [Political Irrationalism in Greece: the work and thought of Neocles Kazazes, 1849-1936], Athens: Trochalia

Koliopoulos, Ioannis (1996), *I Listeia stin Ellada (19os aionas)* [Brigandage in Greece (19th century)], Athens: Paratiritis

Konidaris, Ioannis (1994) 'O Thanos Vlekas tou Pavlou Kalliga. Mia istorikonomiki theorisi' ['Thanos Vlekas of Pavlos Kalligas. A legal-historical approach'], in

Aphieroma ston Andrea A. Gazi [Essays in Honour of Andrea Gazi], Athens-Komotini, pp. 291-312

Koskenniemi, Martti (2001), *The Gentle Civilizer of Nations: The Rise and Fall of International Law, 1870–1960*, Cambridge: Cambridge University Press

Korasidou, Maria (1995), *Oi Athlioi ton Athinon kai oi therapeftes tous. Phtocheia kai philanthropia stin elliniki protevousa to 19o aiona* [The miserables of Athens and their healers: poverty and philanthropy in the Greek capital in the 19th century], Athens: Centre for Neohellenic Research/NHRF

Kostis, Kostas (2013), *Ta Kakomathimena paidia tis istorias: I diamorphosi tou ellinikou kratous, 19-21os aionas* [The spoiled children of history: The development of the Greek state, 18th-21st century], Athens: Polis

——— (2006), [‘Public Economics’], in Kostas Kostis and Socrates Petmezas (eds), *I Anaptyxi tis Ellinikis Oikonomias* [The Development of the Greek Economy in the 19th century], pp. 293-335, Athens: Alexandraia

Kostis, Kostas and Socrates Petmezas (eds) (2006), *I Anaptyxi tis Ellinikis Oikonomias* [The Development of Greek Economy during the 19th Century], Athens: Alexandraia

——— (2006), ‘Eisagogi’, [‘Introduction’], in Kostis, Kostas and Socrates Petmezas (eds), *I Anaptyxi tis Ellinikis Oikonomias* [The Development of Greek Economy during the 19th Century], Athens: Alexandraia, pp. 21-37

Kremmydas, Vasilis (2012), *Syntomi Istoría tou Ellinikou Kratous* [Concise history of the modern Greek state], Athens: Kalligrafos

Krieger, Leonard (1957), *The German Idea of Freedom. History of a political tradition*, Boston: Beacon Press

Kyriakidis, Epameinondas (1972, [1892-94]), *Istoria tou Sygchronou Ellinismou* [History of Contemporary Hellenism], vol. II, Athens

Kyriakopoulos, Ioannis (1932), *Syntagmatiko Dikaio tis Ellados* [Constitutional law of Greece], v. I, Thessaloniki

Laborde, Cecile (2000), ‘The concept of the State in British and French Political Thought’, *Political Studies*, vol. 48, pp. 540-557

Lappas, Kostas (2003), ‘To Panepistimio Athinon: Thesmos, Organosi kai Ideologiki Leitourgia’ [‘The University of Athens: Institution, Organization and Ideological Function’] in Vasilis Panagiotopoulos (ed.), *Istoria tou Neou Ellinismou, 1770-2000* [History of Modern Hellenism, 1770-2000], vol. IV, Athens: Ellinika Grammata, pp. 145-155

——— (1985), 'O Sainsimonismos stin Ellada' ['Saint-simonianism in Greece'], in Athena – Protevousa Poli [Athens – Capital city], Ministry of Culture: Athens, pp. 44-55

Lessafer, Randal (2009), *European legal history: a cultural and political perspective*, Cambridge: Cambridge University Press

Liakos, Antonis (1985), *I Italiki Enopoiisi kai I Megali Idea, 1859-1862* [Italian Unification and the Great Idea, 1859-1862], Athens: Themelio

Lobban, Michael (2012), 'The Varieties of Legal History', *Clio@Themis: Revue électronique d'histoire du droit*, pp. 1-29

Lorca, Arnulf Becker (2010), 'Universal International Law: Nineteenth-century histories of Imposition and Appropriation', *Harvard International Law Journal*, vol. 51, n. 2, pp. 476-552

Makridimitris, Antonis (2001), 'La structuration du mécanisme gouvernant pendant la période de l'autocratie d'Othon 1833-1843', *Revue de Science administrative*, 7/2001 pp. 45-75

Malafantis, Konstantinos (2006), 'O Leon Melas (1812-1879) os logotechnis-paidagogos kai to ergo tou' ['Leon Melas (1812-1879) as a novelist-pedagogue and his œuvre'], *Parnassos*, vol. 48, pp. 359-406

Manitakis, Antonis (2008), 'I exsartimeni apo diplomatikes symphonies metavasi apo to 'palaio, venetiko kathestos' tis dioikitikis aftonomias stin ethniki kai dimokratiki ensomatosi' ['The diplomatically dependent transition from the 'ancien, venetian regime' of administrative autonomy to national and democratic integration'], in Aliki Nikiforou (ed.), *Syntagmatika keimena ton Ionion Nison* [Constitutional texts of the Ionian Islands], pp. 23-28, Athens: Idryma tis Voulis ton Ellinon.

Mannesis Aristovoulos (1959), *Deux Etats nés en 1830. Ressemblances et dissemblances constitutionnelles entre la Belgique et la Grèce*, F. Larcier: Brussels

Masson-Vincourt, Marie (2009), *O Pavlos Kalligas ka i Idrysi tou Ellinikou Kratous, 1814-1896* [Pavlos Kalligas and the Foundation of the Greek state 1814-1896], Athens: MIET

Mehta, Uday Singh (1999), *Liberalism and Empire: A study in Nineteenth-century British Political Thought*, Chicago: Chicago University Press

Mavris, Michalis (1997), 'To systima aponomis tis poinikis dikaiosynis stin Ellada ton 19o aiona' ['The administration of criminal justice in Greece in the 19th century'], *Ta Istorika*, t. 14, vol. 26, Athens: Melissa Athens: Melissa, pp. 53-76

Mavromoustakou, Ivi (1994), 'To aitima "Syntagma" kai o typos tis apolytarchias' ['The claim for a 'Constitution' and the press of absolutism'], vol. 20, *To Syntagma*, pp. 25-45

——— (2003), 'To Elliniko kratos, 1833-1871: Politikoi Thesmoi kai Dioikitiki Organosi' ['The Greek state 1833-1871: Political institutions and administrative organisation'], In Vasillis Panagiotopoulos (ed.), *Istoria tou Neou Ellinismou 1770-2000* [History of Modern Hellenism, 1770-2000], vol. III, pp. 27-50, Athens: Ellinika Grammata

——— (2011), 'O N.I Saripolos os epistimonas tou Dikaiou' ['N.I Saripolos as a scientist of law'], in Kitromilides et al. (eds), *Nikolaos Ioannou Saripolos* [Nikolaos Ioannou Saripolos], pp. 129-138, Athens: Idryma tis Voulis ton Ellinon

Mazower, Mark (2006), 'An International Civilization? Empire, internationalism and the crisis of the mid-twentieth century', *International Affairs*, vol. 82, n.3, pp. 553-566

——— (2012) *Governing the World: The transformation of an Idea*, London: Penguin

McGrew, William (1985), *Land and Revolution in Modern Greece, 1800-1881: the transition in the tenure and exploitation of land from Ottoman rule to Independence*, Kent: Kent State University Press

Meadowcroft, James (1995), *Conceptualizing the State*, Oxford: Oxford University Press

Michalopoulos, Dimitrios (1981), *Vie politique en Grèce pendant les années 1862-1869*, PhD thesis, University of Athens

Morsy, Magaly (ed.) (1989), *Les saint-simoniens et l'Orient. Vers la modernité*, Aix en Provence: Edisud

Mouzelis, Nikos (1978), *Modern Greece: Facets of underdevelopment*, New York: Holmes and Meier

——— (1986), *Politics in the Semi-Periphery: Early Parliamentarism and Late Industrialization in the Balkans and Latin America*. London: Macmillan

Napoli, Paolo (2003), *Naissance de la police moderne. Pouvoir, normes, société*, Paris: La Decouverte

Nussbaum, Martha and Amartya Sen (1993), *The Quality of life*, Oxford: Oxford University Press

O'Brien, Patrick D. (2004), *The Classical Economists Revisited*, Princeton: Princeton University Press

Onuf, Nicholas G. (1998), *The Republican Legacy in International Thought*, Cambridge/New York: Cambridge University Press

Orphanoudakis, Sarantis (2008), 'Syntagmatika keimena ton Ionion Nison: Meletima' ['Constitutional texts of the Ionian islands: A study'], in Aliko Nikiforou (ed.), *Syntagmatika keimena ton Ionion Nison* [Constitutional texts of Ionian Islands], Athens: Idryma tis Voulis ton Ellinon, pp. 29-60

Otten, Sandra den (2007), 'A legislating empire': Victorian political theorists, codes of law, and empire', in Duncan Bell (ed.), *Victorian Visions of Global Order: Empire and International Relations in Nineteenth-Century Political Thought*, Cambridge: Cambridge University Press, pp. 89-112

Palmer, Robert R. (1959), *The Age of Democratic Revolution: A Political History of Europe and America, 1760–1800*, vol I-II, Princeton, NJ: Princeton University Press

Pantazopoulos, Nikolaos (1947), 'Apo tis 'logias' paradoseos eis ston Astikon Kodika: mia syneisphora stin istoria ton pion ton tou ellinikou dikaiou' ['From the 'intellectual' tradition to the Civil Code: a contribution to the history of the sources of modern Greek law'], in *Symvolai eis tin erevnan tou ellinikou kai romaikou dikaiou os kai ton allon dikaion tis archaiotitas* [Contributions to the study of Greek and Roman law, including other laws of Antiquity], Athens

——— (1968), 'Georg Ludwig von Maurer: I pros evropaika protypa oloklirotiki strophis tis Neoellinikis Nomothesias' ['Georg Ludwig von Maurer: The definitive turn of modern Greek legislation towards European models'], in Nikolaos Pantazopoulos (1998), *Neoelliniko Kratos kai Evropaiki Taftotita: o katalytikos rolos ton Vavaron* [Modern Greek state and European Identity: the crucial role of the Bavarians], Athens: Parousia, pp. 93-240

——— (1986), 'I entaxi tis Elladas stin Evropaiki koinotita: H symvoli tis antivasileias kai tou Othona, 1833-1843' ['The incorporation of Greece in the European community: the contribution of the Regency and Otto (1833-43)'], in Nikolaos Pantazopoulos (1998), *Neoelliniko Kratos kai Evropaiki Taftotita: o katalytikos rolos ton Vavaron* [Modern Greek state and European Identity: the crucial role of the Bavarians], Athens: Parousia, pp. 53-91

Papachristou, Th. K. (1991), 'O Gallikos Astikos Kodikas stin Ellada' [The French Civil Code in Greece], *Nomos*, vol. 3, n. 2, pp. 133-140

Paquette, Gabriel (ed.) (2009), *Enlightened Reforms in Southern Europe and its Atlantic colonies, c. 1750-1830*, London: Ashgate

——— (2013), *Imperial Portugal in the Age of Atlantic Revolutions: The Luso-Brazilian World, c. 1770-1850*, Cambridge: Cambridge University Press

——— (2014), 'Introduction: Liberalism in the Early Nineteenth-century Iberian World', *History of European Ideas*,
<http://dx.doi.org/10.1080/01916599.2014.914312>

Petmezas, Socrates (2003), *I Elliniki Agrotiki Oikonomia to 19o aiona: I periferiaki diastasi* [The Greek Rural Economy in the 19th century: the peripheral dimension], Irakleion: Panepistimiakes Ekdoseis Kritis

——— (2007), 'La "commune grecque": une tentative d'histoire des fictions historiographiques', in Socrates Petmezas and Gilles Grivaud, *Byzantina et Moderna: Mélanges en l'honneur d'Helene Antoniadis-Bibicou*, Alexandria: Athens, pp. 205-230

——— (2009), 'From Privileged Outcasts to Power Players: the "Romantic" redefinition of the Hellenic nation in the mid-19th century', in Roderick Beaton and David Ricks (eds), *The Making of Modern Greece: Nationalism, Romanticism and the Uses of the Past (1797-1896)*, London: Ashgate, pp. 126-139

——— (2011), 'Foreign Trade and Capital Flows in Nineteenth-Century Greece', in Edhem Eldem and Socrates Petmezas (eds), *The Economic Development of Southeastern Europe in the 19th Century*, Athens: Alpha Bank Historical Archives, pp. 447-491

Petrakakos, Dimitrios (1946), *Koinovouleftiki Istoría tis Ellados: I Othonios periodos (1833-1862)* [Parliamentary History of Greece: the Ottonian period (1833-1862), vol. IIa, Athens: Ethniko Typografeio

Petrakis, P. E. (1985), 'The Borrowing Requirements of the Greek Public Sector, 1844-1869', *Journal of the Hellenic Diaspora*, vol. 12, pp. 35-46

Petridis, Pavlos (1981), *Neoelliniki Politiki Istoría, 1828-1943* [Modern Greek Political History, 1828-1843], Paratiritis: Thessaloniki

——— (1992), *Ioannis Capodistrias 1776–1831: O koryfaïos Ellinas Evropaios* [Ioannis Capodistrias 1776-1831: the foremost Greek European], Athens: Govostis

——— (1994), *Sygxroni Elliniki Politiki Istoría, 1821-1862: Apo ta dimokratika politevmata stin katalysi tis othonikis monarchias* [Contemporary Greek Political History 1821-1862: From democratic regimes to the abolition of Ottonian monarchy], vol. I, Athens: Govostis

Petridis, Pavlos and Evaggelos Prontzas (eds) (2000), *Dikaio, Istoría kai Thesmoi: Timitikos tomos apheromenos ston Nikolao Pantazopoulo* [Law, History and Institutions: Essays in honour of Nikolaos Pantazopoulos], Thessaloniki: University Studio Press

Petropoulos, Giorgos (1964), *Meletes Romaïkou Dikaïou: Istoría kai Eisigiseis sto Romaïko Dikaïo* [Studies on Roman law: History and Lectures on Roman law], Athens

Petropoulos, John A. (1968, [1997]), *Politiki kai Sygkrotisi kratous ston Elliniko Vasileio, 1833- 1843* [Politics and Statecraft in the Kingdom of Greece, 1833-1843], Athens: MIET

Petropoulos, Ioannis and Aikaterini Koumarianou (1982), *I themeliosi tou Ellinikou kratous, 1833-1843* [The foundation of the Greek state, 1833-1843, Athens: Papazisis

Picon, Antoine (1999), 'L'Orient saint-simonien un imaginaire géopolitique, anthropologique et technique', in M.-N. Bourguet, D. Nordman, V. Panayotopoulos and M. Synarellis (eds), *Enquêtes en Méditerranée. Les expéditions françaises d'Égypte, de Moree et d'Algérie*, Athens:EIE, pp. 227-238

Pipinelis, Panagiotis (1932), *I Monarchia stn Ellada 1833-1843*, [The Monarchy in Greece, 1833-1843], Athens: Vartsos

Pitsakis, Konstantinos (1997), 'Kalligas kai Armenopoulos: mia schesi erota kai misous' [Kalligas and Armenopoulos: a Love/hate relationship], *Ta Istorika*, vol. 27, pp. 259-297

Pitts, Jennifer (2005), *A turn to Empire: the rise of Imperial Liberalism in Britain and France*, Princeton: Princeton University Press

——— (2007) 'Boundaries of Victorian International law', in Duncan Bell (ed.), *Victorian Visions of Global Order: Empire and International Relations in Nineteenth-century Political Thought*, Cambridge: Cambridge University Press, pp. 67-80

Politis, Alexis (1980), *Ta Romantika Chronia, 1830-1880* [The Romantic years, 1830-1880], Mnimon, Athens

Posada, Eduardo and Ivan Jaksic (eds) (2011), *Liberalismo y Poder: Latinoamerica en el siglo XIX*, Mexico: Fondo de Cultura Economica

Praet, Patrick (2010), 'Prolegomena to the post-sovereign Rechtsstaat', in Hent Kalmo and Quentin Skinner (eds), *Sovereignty in Fragments: the Past, Present and Future of a Contested Concept*, Cambridge: Cambridge University Press, pp. 169-185

Psalidopoulos, Michalis (1996), 'Aristides Economos and the "Oikonomiki Epitheorissis": the rise and fall of an economic journal in 19th century Greece', *History of Economic Ideas*, vol. IV, n. 3, pp. 149–167

——— (1999), 'Metaphraseis Vivlion Oikonomikis epistimis sta Ellinika' ['Translations of Books of Economic science in Greek (1808-1948)'], in Michalis Psalidopoulos [Political Economy and Greek Intellectuals: Studies on the history of economic thought in Greece], Athina: Typothito, pp. 11-38

——— (2005), 'The Greek Society for Freedoms of Trade (1865–67): Rise, Activities, Decline', *Journal of the History of Economic Thought*, vol. 27, n. 4, pp. 383–398

——— (2006), 'Oikonomiki Skepsi kai Politiki' ['Economic Thought and Policy'], in Kostas Kostis and Socrates Petmezas (eds), *I Anaptyxi tis Ellinikis Oikonomias ton 19o aiona* [The Development of the Greek Economy in the 19th century], Athens: Alexandria, pp. 337-377

Psalidopoulos, Michalis and Maria E. Mata (eds) (2002), *Economic Thought and Policy in Less Developed Europe*. London: Routledge

Psalidopoulos, Michalis and Nikolaos Theocharakis (2011), 'The diffusion of Economic Ideas in Southeastern Europe in the 19th century', in Heinz D. Kurz, Tamotsu Nishizawa and Keith Tribe (eds)(2011), *The Dissemination of Economic Ideas*, Cheltenham, UK: EE, pp. 161-191

Psalidopoulos, Michalis and Yiorgos Stasinopoulos (2009), 'A Liberal Economist and Economic Policy Reform in Nineteenth-Century Greece : The Case of Ioannes Soutsos', *History of Political Economy*, vol. 41, n. 3, pp. 491-517

Reimann, Mathias (1990), 'Nineteenth-century German Legal Science', *Boston College Law Review*, v. 31, issue 4, n. 4, pp. 837-897

Riall, Lucy and David Laven (2000), *The Napoleonic Legacy: Problems of Government in Restoration Europe*, London: Berg Publishers

Robertson, John (2005), *The Case for the Enlightenment: Scotland and Naples, 1680–1760*, Cambridge: Cambridge University Press

Robinson, O. F., T. D. Fergus and W. M. Gordon (eds) (1994), *European Legal History: Sources and Institutions*, London: Butterworth & Co

Romani, Roberto (1994), *L'economia politica del risorgimento*, Turin: Bollati Boringhieri

——— (2002), 'Political Economy and Other Idioms: French views on English Development, 1815-48', *European Journal of the History of Economic Thought*, vol. 9, pp. 384-401

——— (2002a), *National Character and Public Spirit in Britain and France 1750-1914*, Cambridge: Cambridge University Press

——— (2005), 'The Republican Foundations of Sismondi's *Nouveaux principes d'économie politique*', *History of European Ideas*, vol. 21, pp. 17-33

——— (2006), 'The Cobdenian moment in the Italian Risorgimento', in Anthony Howe (ed.), *Rethinking Nineteenth-century Liberalism, Richard Cobden Bicentenary Essays*, Ashgate: London, pp. 117-140

——— (2012), 'Reluctant Revolutionaries: Moderate liberalism in the Kingdom of Sardinia, 1849-1859', *The Historical Journal*, vol. 55, issue 01, pp. 45-73

Rosanvallon, Pierre (1985), *Le moment Guizot*, Paris: Gallimard

——— (1990) *L'Etat en France de 1789 à nos jours*, Paris: Seuil

——— (2007), *The Demands of Liberty: Civil Society in France since the Revolution*, Cambridge, Mass.: Harvard University Press

Rosen, Frederick (1992), *Bentham, Byron and Greece: Constitutionalism, Nationalism and Early Liberal Political Thought*, Oxford: Clarendon Press

Rosenblatt, Helena (2004), 'Re-evaluating Benjamin Constant's Liberalism: Industrialism, Saint-Simonianism and the Restoration Years', *History of European Ideas*, vol. 30, pp. 23-37

Rothschild, Emma (2011), 'Political Economy', in Gareth Stedman Jones and Gregory Claeys (eds), *The Cambridge History of Nineteenth-Century Political Thought*, Cambridge: Cambridge University Press, pp. 748-779

Ryan Alan (2012), *The Making of Modern Liberalism*, Princeton: Princeton University Press

Sakellariou, Michail V. (1948), 'L'Hellenisme et 1848', in Fr. Fejto (ed.), *1848 dans le monde. Le Printemps des Peuples*, vol. II, Paris: Minuit, pp. 319-354

Sakellariopoulos, Theodoros (1994), *Oi kriseis stin Ellada: Oikonomikes, koinonikes kai politikes opseis* [The crises in Greece: economic, social and political aspects], vols I-II, Athens: Kritiki

Scmitt, Carl (1944), 'The Plight of European Jurisprudence', *Telos*, vol. 83, pp. 35-70

Scott, Hamish M. (ed.) (1990), *Enlightened absolutism: Reform and Reformers in Late Eighteenth-Century Europe*, Ann Arbor: University of Michigan Press

Sen, Amartya (1987), *Ethics and Economics*, Oxford: Blackwell

Seremetis Dimitris (1961), *Christodoulos Klonaris kai I symvoli tou stin Anagennisin tis Dikaiosynis 1788-1849* [Christodoulos Klonares and his contribution on the Renewal of Justice, 1788-1849], Epistimoniki epeitiris sxolis Nomikon kai Oikonomikkon epistimon, Thessaloniki

Sheehan, James (1989), *German History, 1770-1866*, Oxford: Oxford University Press

——— (2006), 'The Problem of Sovereignty in European History', *American Historical Review*, v. 111, issue 1, pp. 1-15

Simal, Juan Luis (2012), *Emigrados: España y el exilio internacional (1814–1834)*, Madrid: Centro de Estudios Políticos y Constitucionales

Skandamis, Antreas (1951), *I triakontaetia tis Vasileias tou Othonos, 1832-1862* [The thirty years of Otho's rule, 1832-1862], Athens

Skinner, Quentin (1998 [2012]), *Liberty before Liberalism*, Cambridge: Cambridge University Press

——— (2002), *Visions of Politics: Regarding Method*, vol. I, Cambridge: Cambridge University Press.

Sklavenitis, Triantafyllos (1994), 'Ο Spyridon Valetas kai I metafrasi tis Politikis Oikonomias tou J.B.Say' ['Spyridon Valetas and the translation of J.B. Say's Political Economy'], in I Epanastasi tou 1821. Meletes stin mnimi tis Despoinas Katiphori [The Revolution of 1821. Studies in the memory of Despoinas-Katiphori], Athens: Etaireia Meletis tou Neou Ellinismou, pp. 107-156

——— (1990), *Emporika Egcheiridia kata ti diarkeia tis Venetikis kai Othomanikis Exousias kai I Emporiki Egkyklopaideia tou Nikolaou Papadopoulou* [Commercial Manuals during Venetian and Ottoman rule and the Commercial Encyclopedia of Nikolaos Papadopoulos], Athens: Etaireia Meletis Neou Ellinismou

Skopetea, Elli (1988), *To Protypo Vasileio kai i Megali Idea* [The Model Kingdom an the Great Idea], Athens: Polytypon

Small, Albion W. (1909), *The Cameralists: the Pioneers of German social polity*, Franklin: New York

Sotirelis, Giorgos (1991), *Syntagma kai Ekloges stin Ellada: 1864-1909*, [Constitution and Elections in Greece: 1864-1909], Athens: Themelio

Starobinski, Jean (1997), 'La chaire, la tribune, le barreau', in Nora Pierre (ed.), *Les Lieux de mémoire*, Quarto 2, Paris : Éditions Gallimard, pp. 2009-2062

Stasinopoulos, Michalis (1961), *Tina peri tou Christodoulou Klonari, protou Proedrou tou Areiou Pagou* [Notes on Christodoulos Klonaris, first President of the Supreme Court], Athens

Stasinopoulos, Yiorgos (2002), 'Economic thought and monetary policy in nineteenth-century Greece', in Michalis Psalidopoulos and Maria E. Mata (eds), *Economic Thought and Policy in Less Developed Europe*, London: Routledge, pp. 172-186

Stathopoulos, Michalis P. (1992), 'Ta Ethima, o Maurer kai h Nomothetiki politiki sto tomea tou Astikou Dikaiou to 10o aiona' ['Customs, Maurer and the Legislative Policy in the Civil Law Domain during the 19th Century'], in *Aphieromaton Andrea A. Gazi* [Essays in Honour of Andrea Gazi], Athens-Komotini, pp. 670-695.

Stedman Jones, Gareth (2004), *An End to Poverty? A historical debate*, London: Profile Books

Stein, Peter (1999), *Roman Law in European history*, Cambridge: Cambridge University Press

Steiner, Philippe (1996), 'L'économie politique comme science de la modernité', Introduction in Jean-Baptiste Say, *Cours d'économie politique et autres essais*, Paris: Flammarion

——— (2012), 'Competition and knowledge: French political economy as a science of government', in Raf Geenens and Helena Rosenblatt (eds), *French Liberalism from Montesquieu to the Present Day*, Cambridge: Cambridge University Press, pp. 192-207

Stolleis, Michael (1998), *Histoire du droit public en Allemagne, 1600-1800*, Paris: PUF

Stone, Lawrence (ed.) (1974), *The University in Society: Europe, Scotland, and the United States from the 16th to the 20th century*, vol. II, Princeton: Princeton University Press

Svolopoulos, Konstantinos (2012), 'Koinovoulftismos kai "Megali Idea" ['Parliamentarism and the "Great Idea"'], in Evanthis Hatzivasiliou (ed.), *Politikoi Prosanatolismoi tou Neou Ellinismou* [Political Orientations of Modern Hellenism], Athens: Idryma tis Voulis ton Ellinon, pp. 65-74

Svolos, Alexander (1936), 'L'influence des idées de la Révolution française sur les constitutions helléniques de la Guerre d'Indépendance', extrait de la *Revue de la Révolution française*, no. 4, 4 trimestre, Paris

——— (1937), 'L'assemblée de 1843 et l'institution du Sénat', *Revue d'histoire politique et constitutionnelle*, vol I, n. 4, pp. 738-755

Svoronos, Nikos (1999), *Episkopisi Neoellinikis Istorias* [Overview of Modern Greek history], Athens: Themelio

Thompson, Edward P. (1975), *Whigs and Hunters: Origin of the Black Act*, New York: Pantheon Books

Triantafyllidou Anna, Ruby Gropas and Hara Kouki (eds) (2013), *The Greek Crisis and European Modernity*, London: Palgrave

Triantafyllopoulos, K.D. (1937), 'I istoria ton schedion tou ellinikou astikou kodikos' [History of the drafts of the Greek Civil Code], *AID*, 4, pp. 433-449

Tribe, Keith (1988), *Governing Economy: The Reformation of German Economic Discourse 1750-1840*, Cambridge: Cambridge University Press

——— (1995), *Strategies of Economic Order: German Economic Discourse, 1750-1950*, Cambridge: Cambridge University Press

——— (2003), 'Continental Political Economy: From the Physiocrats to the Marginal Revolution', in Theodore M. Porter and Dorothy Ross (eds), *The Cambridge History of Science: The Modern social sciences*, Vol. 7, Cambridge: Cambridge University Press, pp. 154-170

Troianos, Spyros and Ioulia Velissaropoulou-Karakosta (1997), *Istoria Dikaiou : Apo tin Archaia stin Neoteri Ellada* [History of Law: From Ancient to Modern Greece], Athens: Sakkoulas

Tsaousis, Dimitris (ed.) (1983), *Ellinismos – Ellinikotita* [Hellenism-Greekness] Athens: Hestia

Tsapogas, Michalis, (2003), 'I Ananeosi tou Dikaiou. Episimo Dikaio kai topika ethima, 1833-1871' ['The Renewal of law. Official law and local customs 1833-1871'], in Vasilis Panagiotopoulos (ed.), *Istoria tou Neou Ellinismou 1770-2000* [History of Modern Hellenism, 1770-2000], vol. IV, Athens: Ellinika Grammata, pp. 52-63

Tsoukalas, Constantinos (1981), *Koiniki Anaptyxi kai Kratos: I sygkrotisi tou Dimosiou chorou stin Ellada* [Social development and state. The construction of public space in Greece. Athens: Themelio

Tuck, Richard (1979), *Natural Rights Theories: Their origin and development*, Cambridge: Cambridge University Press
Hier

Uribe-Uran, Victor M. (2000), 'The Birth of a Public Sphere in Latin America during the Age of Revolution', *Comparative Studies in Society and History*, vol. 42, pp. 425–457

Varouxakis, Georgios (1995), 'The idea of Europe in 19th century Greek Political Thought', in Philip Carabott (ed.), *Greece and Europe in the Modern Period: Aspects of a Troubled Relationship*, Centre for Hellenic Studies, King's College: London, pp. 16-37

Vogenauner, Stephen (2005), 'An Empire of Light? Learning and Lawmaking in the History of German Law', *Cambridge Law Journal*, 64, (2), July 2005, pp. 481-500

Weaver, John C. (2003), *The Great Land Rush and the Making of the Modern World*, Quebec: McGill-Queen's University Press

Welch, Cheryl B. (1984), *Liberty and Utility: the French Ideologues and the Transformation of Liberalism*, New York: Columbia University Press

Whatmore, Richard (1998b), 'The Political Economy of Jean-Baptiste Say's Republicanism', *History of Political Thought*, vol. XIX, n. 3, pp. 439-456

——— (2012), 'War, trade and empire: the dilemmas of French liberal political economy, 1780-1816', in Raf Geenens and Helena Rosenblatt (eds), *French Liberalism from Montesquieu to the Present Day*, Cambridge: Cambridge University Press, pp. 169-191

——— (2000), *Republicanism and the French Revolution: An Intellectual History of Jean-Baptiste Say's Political Economy*, Oxford: Oxford University Press

Whitman, James Q. (1990), *The Legacy of Roman Law in the German Romantic Era*, Princeton: Princeton University Press

——— (1996), 'The Moral Menace of Roman Law and the Making of Commerce: Some Dutch Evidence', Yale Law School, *Faculty Scholarship Series*, Paper 654, pp. 1841-1889
(http://digitalcommons.law.yale.edu/fss_papers/65)

Wieacker, Franz (1995), *A history of Private law in Europe*, Oxford: Oxford University Press

Winch, Donald (1978), *Adam Smith's politics: an essay in historiographic revision*, Cambridge: Cambridge University Press

——— (1996), *Riches and Poverty: an intellectual history of political economy in Britain, 1750-1834*, Cambridge: Cambridge University Press

——— (1999), *Wealth and life: essays on the intellectual history of political economy in Britain, 1848-1914*, Cambridge: Cambridge University Press

Wood, Gordon S. (1997), 'Dusting of the Declaration: review of American Scripture: Making the Declaration of Independence by Pauline Maier', *The New York Review of Books*, 14 August 1997

——— (2006), 'The American Revolution', in Mark Goldie and Robert Wokler (eds), *The Cambridge History of Eighteenth-century Political Thought*, Cambridge: Cambridge University Press, pp. 599-625

Woodhouse, Chris M. (1973), *Capodistria: the founder of Greek Independence*, Oxford: Oxford University Press

Zepos, Panagiotis (1949), *Modern Greek Law: three lectures delivered at Cambridge and Oxford in 1946*, Athens

Zimmermann, Reinhard (1990), *The Law of Obligations: Roman Foundations of the Civilian Tradition*, Oxford: Oxford University Press

——— (2001), *Roman Law, Contemporary Law, European Law: the Civilian tradition today*, Clarendon Law Lectures, Oxford: Oxford University Press

Zolotas, Xenophon (1944), *Theoritika Oikonomika [Theoretical Economics]*, Athens: Papazisis

Zurbuchen, Simone (2009), 'Vattel's law of nations and just war theory', *History of European Ideas*, vol. 35, n. 4, December 2009, pp. 408-417