



Universiteit
Leiden
The Netherlands

Varieties of secularisation in English and Dutch public and international law

Somos, M.

Citation

Somos, M. (2014, May 27). *Varieties of secularisation in English and Dutch public and international law*. Retrieved from <https://hdl.handle.net/1887/25843>

Version: Corrected Publisher's Version

License: [Licence agreement concerning inclusion of doctoral thesis in the Institutional Repository of the University of Leiden](#)

Downloaded from: <https://hdl.handle.net/1887/25843>

Note: To cite this publication please use the final published version (if applicable).

Cover Page



Universiteit Leiden



The handle <http://hdl.handle.net/1887/25843> holds various files of this Leiden University dissertation

Author: Somos, Mark

Title: Varieties of secularisation in English and Dutch public and international law

Issue Date: 2014-05-27

CHAPTER ONE

INTRODUCTION

To be master of the sea is an abridgement of a monarchy.

Francis Bacon, "Of the True Greatness of Kingdoms and Estates" (1612)

I.1 *Exordium* and claim

This Thesis combines an historical examination of secularisation during and after the Reformation with an analysis of its implications for public and international law, seeking to provide a part of the legal historian's and reformer's answer to a crucial and seemingly simple question. Why do most post-Cold War conflicts, including interstate warfare and terrorism, have a religious component? The answering hypothesis is equally deceptive in simplicity: Westphalian secularism is neither universal nor rational, but the product of an historical process specific to the West. Conflicts with a religious dimension remain irresolvable partly because Western legal categories are not simply secular, but were *designed* to be blind to religious legitimacy claims. A recollection of their historical contingency and conceptual and pragmatic specificity is an essential prerequisite to overcoming some of the failures of modern politics. Failure is almost the norm, not the exception, when conflict prevention and resolution, and social integration policies are applied to problems with a religious dimension. Cases in point include armed violence in the Middle East and the Indian subcontinent, or the integration of Muslim immigrants in the West. It is an unusual claim, but I think legal history offers the most promising starting point for the analysis and resolution of this current and pressing problem.

A major, perhaps the chief, obstacle to preventing conflicts with a religious dimension is persistent, but rectifiable ignorance of history. Any attempt at improvement must begin by addressing this underlying failure. Misunderstandings and real-life disasters persist at least partly because ignorance of secularisation's history has become institutionally embodied and embedded. In the social sciences, presently there is no more important subject to address than the systemic cause of conflict: the forgotten contingency of secularisation.

From the fourth to the seventeenth century, Christian theology underpinned all aspects of thought, from the natural sciences to international law. As the Reformation eroded Catholic doctrinal monopoly, much of Europe's conceptual edifice thought broke down.

Secularisation is the process whereby Europe's *Weltanschauung* was rebuilt without theology. The consequent depth, range and urgency of doubts and debates help to explain the ferocious Wars of Religion, one of the greatest traumas in European history. The solution and settlement required new intellectual foundations. Numerous attempts were made, including the reassertion of doctrinal monopoly, the reduction of Christianity to a widely acceptable minimal set of tenets, the effective replacement of Christianity with alternative metaphysical systems like neoplatonism, Christian Kabbalah, or *priscae theologiae* variously labeled Egyptian, Orphic, Trojan, Druidic, and so on. A reaffirmation of the old orthodoxy, the victory of a new one, or the co-existence of several exclusivist political theologies, were unsustainable options. With historical hindsight we can see that secularisation, involving the radical disconnection of religion from politics, was the only solution that could have worked.

Colonialism spread secular norms around the world, often with stabilising effect. However, when the historical contingency of secularisation was forgotten, and its norms came to be mistaken for universal ones, conflicts with a religious dimension became irresolvable. The territorially defined sovereignty of states; third-party arbitration under international organisations (including mediation and adjudication between secular and religious claims); the assumption of the sufficiency of constitutional guarantees of religious and gender equality; the expansive judification of human rights; the notion that economic interdependence invariably engenders peace; and authorisation through the represented numerical majority, are examples of legal constructs that can be implemented uncritically, assuming that they express universal values, or with an historical self-awareness. The latter yields better outcomes, the former is more common.¹ The task of the legal historian and reformer is to explain the value and proper sphere of historical sensibility in improving the ways in which public and international law is made, applied, and revised. This task is fraught with considerable difficulties, the shifting signification of words over time and across languages, and finding valid ways to translate lessons from one context to another, being not the least among them. However, the alternative to trying to clear these high bars is a principled stance on the irrelevance of history to jurisprudence. While defensible, this stance is neither interesting nor mine.

My working hypothesis models secularisation as a cumulative and incomplete historical process, contingent to the West, and often the unintended consequence of limited *politique* designs for stability and peace. It is best examined through a double focus, on broad historical advances and intense episodes. On the one hand, secularisation describes a generic set of

¹ A case of historical sensibility in public law: *Mabo 2* (1992). In international law: British White Paper of 1939. While flawed in many ways, these cases show greater historical self-awareness than others.

solutions to the generic problem of ongoing or repeatedly renewed religious-political conflict, including some advances in doctrinal ecumenism and minimalism, and the reprioritisation of natural over divine law. On the other hand, some Italian humanists and neoskeptics, the French ‘New Historians,’ the Leiden Circle, and some seventeenth-century English thinkers represent intense periods when the urgency of secularisation prompted game-changing works with long-term influence.² These groups spearheaded efforts to systematically and cumulatively remove religion from politics, while secularisation’s components continued to play out in several broader, diffuse discourses around Europe. The ecumenism and irenicism of those who strove to reunite Christianity, for instance, increasingly turned toward a Christian minimalism that reduced the religion to barely more than a code of ethics, or even mere behaviour. Regardless of the intention and religiosity of the agent, the cost of saving Christianity proved to be its removal from politics.³ Secularisation arose from irenicism, patriotism, ecumenism, and even the various projects to revive Christianity by re-emphasising its mystical, irrational and irreducibly individualistic elements. It was tangentially to these large intellectual movements that small bands of self-conscious secularisers prioritised political stability and worked systematically, often according to an agreed division of labour, to reform the European world view.

Yet – how to draw a credible, robust, and informative trajectory from the medieval epistemic and disciplinary supremacy of theology, through the secularisation of the sixteenth to eighteenth centuries, to the aforementioned twenty-first-century problems? The task is daunting and probably impossible. One can trace the process in the natural sciences, comparative mythography, drama and pedagogic theory, even theology, with equal validity and an equally improbable aim at comprehensiveness. The best trade-off between analytical paralysis and a still-responsible portrayal of the contingencies, ebbs and flows, trends, counter-trends, and assorted vagaries of the complex historical process of secularisation seems to depend on an accumulation of cases of secularisation, each taken on its own terms, subjected to the same questions of context, close textual analysis and impact, and compared, connected and contrasted with patience and alertness to exceptions and idiosyncracies. Therefore the contribution of this Thesis to our understanding of the historical process and implications of secularisation are meant to be serviceably delimited, and continue the inquiry began in my first book. To extend the same focus, secularisation is traced here through biblical exegesis in seventeenth-century Dutch and English political and legal theory, with opening chapters on

² Mark Somos, *Secularisation and the Leiden Circle* (Leiden: Brill, 2011).

³ For a discussion of these terms, choices and mechanisms, see Somos, *Secularisation*, Chapter I.

Rome and the Renaissance and a final chapter on the American Founding, to indicate the intended but impracticable sweep. Given the risk of source selection bias and the consequent onus of proof on the illustrative method, the principle behind the selection of texts treated here will be explained separately below.

I.2 Definition

The broad framing question of this Thesis, which followed from the recognition of religion's role in conflict, presented itself readily: when, how, why, and to what extent did religious justifications fade out from mainstream legal, political, and scientific arguments in the West? That they largely did is a fact, historical and stubborn. However, not only the causes and mechanisms of this significant change are unclear – even its label is contested.

The term 'secularisation' has a bad press today. There are good and bad reasons for this. They range from a healthy suspicion of sweeping generalisations and of ideology-driven models of progress to increasing overspecialisation and thickening walls between the disciplines, including legal history, political science, anthropology, and sociology.

In addition, there is an inability and unwillingness to use 'secularisation' in the historiography of ideas that emerged in reaction to simplistic genealogies of modernity. In the second half of the twentieth century historians, sociologists and philosophers developed increasingly restricted and disconnected meanings, ranging from early modern prescriptions of church land, through rational individualism, to the decline in church attendance. Such specialised usages resisted chronological, geographical, or disciplinary broadening. Admonitions against 'premature secularisation' multiplied, and attempts to revisit the term met sometimes automatic resistance. Arguments, trends and events that were readily called 'secularisation' previously were redescribed as desacralisation, demystification, irreligiosity, irenicist patriotism, moderation, deconfessionalisation, anti-confessionalisation, *politique* and reason of state arguments, casuistry, a-confessionalisation, and so forth, and occasionally misdescribed just to avoid using 'secularisation' as a term. The term became taboo, and the initially salutary reaction against oversimplification turned into superstition.

A fitful change began a few years ago. From furtive phrases to major monographs, secularisation began to reappear in the English literature. By contrast its original, common-sensical usage, referring to a process that clearly separates the middle ages from our times, never disappeared from German intellectual history. From Adalbert Klempt in 1960, through Michael Stolleis in 1993, to a dozen works by Martin Heckel and Hartmut Lehmann, usages of the term remained pluralistic and unrestrained by disciplinary dogmatism.

One of this Thesis's ambitions is to reconsider the revival, meaning, significance, limits, and future usage of 'secularisation.' Do recent uses have anything in common, or contribute to a future common sense? Is the term's revival likely to prompt a return to over-ambitious system-fabrication and oversimplify intellectual change as a process, glossing over its non-linear, incremental, asynchronous and polygenetic features, or its heavy dose of unintended consequences? Can the term become inter- and multi-disciplinary without self-deconstruction or renewed over-simplifications? That is, has secularisation one cogent history, or is it at best a collection of micro-histories? Can it help to explain the success of early modern colonialism? How about the reprioritisation of natural over divine law, and the new options to replace Christian with alternative metaphysics, or with civic and commercial morality? How persistent was, and is, this reordering? Can and should the presently emerging usage of the term be guided toward current concerns, from the autonomy of the religious experience to the viability of the disenchanted political? Or has secularism, the norm and end-point of secularisation as a process, now become so closely associated with rationalism and modernity that it cannot be contested without appearing retrograde?

Or are such questions mis-posed, because the historical range of the current revival is too limited to the Reformation and the Enlightenment? Are Bentham, Burke, and other critics of post-Kantian moral philosophy relevant here too, and has political theology returned in the nineteenth century under protean guises of nationalism, cosmopolitanism, a culturally partisan human rights discourse, metaphysically founded national exceptionalisms and self-positionings of "friends of man" states like Britain, the US, France and Prussia, or the shift in international law from the sufficiency of self-declared sovereignty to a status bestowed by a self-appointed club of 'civilised' states?⁴ Were secularised norms spread around the world by early modern imperialists, or was the process critically uneven in both depth and breadth? If so, do the histories and abiding implications of post-Enlightenment exceptionalisms and globalisation render early modern secularisation effectively irrelevant to current affairs? Or are these better understood as temporary lapses, or even normal corrections from and to a process with a much longer span? Can any conceivable history of secularisation contribute to understanding the modern state's and international community's inability to prevent and resolve conflicts that have a religious dimension, from home-grown terrorism, through the regular failure of

⁴ A note on *ius gentium* and 'international law': I agree with Janis, Toyoda and others that there are contexts, including this Thesis, in which it is better to use the modern term than to overemphasise the importance of Bentham's terminological innovation. M.W. Janis, "Jeremy Bentham and the Fashioning of 'International Law,'" *American Journal of International Law* 78 (1984), 405-18. Tetsuya Toyoda, *Theory and Politics of the Law of Nations: Political Bias in International Law Discourse of Seven German Court Councilors in the Seventeenth and Eighteenth Centuries* (Nijhoff, 2011).

territorial nation-states, majority rule, international arbitration and other techniques of post-conflict state-building, to the integration of Muslim immigrants in the West?

These questions, and others that rephrase them into a different vocabulary, are what brings together these forays into seventeenth-century English and Dutch secularisation. Ambitions include discussing early modern English and Dutch historiography as a discourse allied with secularisation (by reducing, for instance, sacred history to an history of church institutions). Another *leitmotiv* throughout these chapters is the state, touching on the macro-level strengths and micro-level weaknesses of rationalisation models of modern state development, the tangled relation between churches and states, the rise and rival forms of juridified toleration, secularisation and state-led processes for the differentiation and systematisation of the criteria of and marks for inclusion and exclusion, educational reforms and institutionalisation, and the role of secularisation in European self-definitions of state sovereignty, illustrated by the contrast between non-*politique* Gallicanism and the Erastian offshoots of Anglicanism. The third motif, focusing on what secularisation does outside the state, will consider seventeenth-century Dutch and English works on colonialism and the law of nations, and their relationship to political developments, with particular attention to secularisation's competitive advantage for seventeenth-century soft imperialism, its utility in defining and distinguishing 'moments' in the history of international law (Machiavellian, Vitorian, Grotian, Seldenian or Kantian), building a foundation for possible eighteenth- and nineteenth-century retheologisation, secularisation's and retheologisation's paradoxically joined role in historical and enduring national exceptionalisms, and the globalisation of secular legal norms and procedures. The hope is to zoom in on specific texts through these prisms (history, law, state and empire) in order to assess the general utility of secularisation as a technical term in legal historiography. The Conclusion will review, sharpen and evaluate the agreements and disagreements that emerge from these studies. It will return to the opening questions concerning secularisation's meanings, boundaries, utilities, and consider the feasibility and desirability of formulating definitions, marking its perimeters, raising its theoretical sophistication – for instance by distinguishing between didactic and irenicist registers of secularisation – and putting it to practical use.

I.3 Method

Once we assume, as given the persistent failures we must, that a better history of secularisation as the outcome of a contingent, cumulative, incomplete and at best partly intended historical process has the potential to improve our self-understanding, and help

reduce violence in which religion is a motive or a pretext, the next thing we face is a range of quite daunting methodological problems. Despite the power and validity of illustrations, analogies, metaphors, and other devices, it is good form to make one's conclusions roughly commensurate with the evidence presented. A compelling historiography of secularisation will be probably long. On the one hand, it is therefore important to note that this study focuses on a few texts published between 1617 and 1657. On the other hand, the principles of selection were designed to broaden the analysis' power and significance as much as possible. Most texts discussed here had a tremendous and enduring impact. Most of them departed from mainstream themes and solutions, discussed in the treatment below. They were chosen to illustrate distinct but dove-tailing aspects of public and international law, including property, war, sovereignty, ideological mission and duty, colonial expansion and trade, that make it relatively easy to recognise their contemporary relevance despite the enormous changes that have taken place since then.⁵ Most readers, for instance, will be able to situate this Thesis in the lively literature on early modern colonialism, or the rise of nation states, the early Enlightenment, or other debatable but convenient broad orientational concepts. The texts were also selected with a view to addressing specialists in fields most relevant to the larger task of producing useful legal historiography. Thus, *De veritate* was chosen for the Grotius chapter because it allows me to complement, but not repeat, the existing literature on secularisation and colonialism in Grotius; the chapter on Selden speaks to international historians and postcolonial legal theorists; the chapters on Cunaeus and Harrington invite connections to the literature on the Hebrew Republic; and the themes discussed in the Harrington and Hamilton chapters will be immediately recognisable, and hopefully useful, to those interested in discussions of commercial morality and the international order during the long eighteenth century.

These and allied literatures in turn inform the theory of secularisation that this Thesis is built on. The last few decades' invaluable reassessment of the place of religion in early modern political theory, developed in reaction to the "Marxist and Whiggist visions" of an unstoppable linear march toward a questionably rationalised modernity, has made it both possible and necessary to refine our understanding of secularisation.⁶ That religious justifications faded out from mainstream political, legal, and scientific argumentation is a stubborn historical fact.

⁵ This is why church-state relations, more contested in the seventeenth than in the twenty-first century, are discussed only in passing.

⁶ The quotation is from Justin Champion, *The Pillars of Priestcraft Shaken: The Church of England and its Enemies, 1660-1730* (Cambridge, 1992), 23-4.

Reclaiming 'secularisation' as a term in a more sophisticated framework seems preferable to disavowing even its commonsensical meaning due to its specialised misuses in the past.

I.4 Structure

This is, however, not an easy task. Previous ideology-driven, functionalist models and oversimplifications, and reactions against them, have underlined the importance of careful historical analysis, as well as the futility of self-referential antiquarianism. A new balance between detail and relevance should be sought. Accordingly, this book continues and builds on existing work to probe the history and implications of secularisation for public and international law.

My book on Dutch secularisation, *Secularisation and the Leiden Circle* (Brill, 2011), shows how a group of early-seventeenth-century writers excluded theologically grounded argument from a wide range of disciplines, from the natural sciences to international relations. Facing severe conflict, the Leiden Circle realised that rival claims that staked their truth-content and validity on religious belief were ultimately irreconcilable. Gradually they removed such claims from acceptable discourse, contributing to the comprehensive secularisation that defines modernity as a norm. The 1618-19 Calvinist purge destroyed this experiment, and exiled or executed the leading figures of Dutch secularisation. I offer portraits of Scaliger, Heinsius, Cunaeus and Grotius, placed in a thick context of comparable Italian and French secularising efforts, to develop a new model of secularisation as a contingent, cumulative, and incomplete process, with some unintended consequences.

This Thesis begins by shifting the scene from the Leiden Circle in 1575-1618 to England and Holland in 1617-1658, covering the period from Cunaeus's *De Republica Hebraeorum* and the executions of Oldenbarnevelt and Raleigh, iconic for imperial history, to Harrington's *Prerogative* and Oliver Cromwell's death. The Dutch lesson in the interdependence of the individual's religious, political and economic autonomies profoundly shaped the emergence of a new parliamentarianism from the English Civil Wars. The constitutionalism of the Glorious Revolution, including doctrines of pre-political liberties and right of resistance, conditional religious toleration and the replacement of one royal dynasty with another, likewise drew heavily on Dutch secularising discourses. Innovative arguments by Selden, Bacon, Hobbes, Harrington, Locke and others effected a seismic shift in the intellectual landscape. England by the end of the seventeenth century was essentially Erastian and tolerant in her politics, empiricist in her science, and ready to become the model for the Enlightenment. The intellectually successful but politically abortive Dutch Remonstrant experiment was, in turn,

England's defining model. While much superb work has been done on this period, the story of English secularisation remains to be told. To illustrate its significance for the broader story of Western imperialism and secularisation, the 1617-1658 period in focus is framed by an opening chapter on the Roman agrarian and its sixteenth-century adaptation, and a concluding chapter on the constitutional design for the United States, in many ways the fruit of secularising commercial and colonial imperialism.

In addition to parliamentarianism, constitutionalism and Erastianism, this Thesis will address the indomitably complex and consequential early-modern twinned discourses of legal secularisation and imperialism in England and the Netherlands. Without oversimplifying their complexity, non-linear, incremental, asynchronous and polygenetic features and heavy dose of unintended consequences, and without forcing a genealogy of modernity on the evidence, the secularising implications of several stability-seeking writers will be drawn out and compared. It is the broad range, the variety of thinkers, genres, and rhetorical techniques analysed here that illustrates effectively how a common core of secularising ideology was crafted, and how the centripetal and centrifugal forces of Erastianism, republicanism and imperialism were reshaped and rebalanced around it. Recovering these heterodox etiologies of law, knowledge, salvation, property, politics, representation, commerce and empire sheds new light on the connections between the seemingly disparate discourses of imperialism and secularisation.

I.5 Caveat: some pitfalls of comparing Dutch and English secularisation

Before we begin, a word of caution is in order. Secularisation has profoundly shaped the course of both English and Dutch colonial and commercial expansion. It is hard to identify the role one can safely assign to the English and Dutch states in explaining secularisation's impact. Supranational intellectual movements as diverse in chronological and geographical scale as 'humanism' or the 'Calvinist international,'⁷ or the difference in the time periods over which these two states must be regarded as relatively coherent if they are to serve as either agents or background in explaining secularisation,⁸ are two exemplary reasons why one should be cautious with state-grounded accounts of secularisation. In the particular case of Dutch-English

⁷ A description of the parameters within which 'humanism' is useful see essays I-III reprinted in P.O. Kristeller, *Renaissance Thought II: Papers on Humanism and the Arts* (Harper & Row, 1965) and Erika Rummel, *The Humanist-Scholastic Debate in the Renaissance and the Reformation* (Harvard, 1995). On the 'Calvinist international:' R.M. Kingdon, "Calvinism and Resistance Theory," in ed. J.H. Burns, *The Cambridge History of Political Thought, 1450-1700* (Cambridge, 1993) and J.H.M. Salmon, *Renaissance and Revolt: Essays in the Intellectual and Social History of Early Modern France* (Cambridge, 1987).

⁸ I do not mean a vague "no stepping twice in the same river" type of critique and deconstruction of states, but the possible and serious objection that both the Netherlands and the UK have changed their forms of government during the period in question.

comparisons, there are further reasons to be careful not to overstate the similarities between the two trajectories.

One current stream of historical overviews suggests that while Henry VII's experimentation with John Cabot (including granting the famous patent for discovery in 1496), and with adding colonies to his range of accessories fashionable among 'new monarchs,' there was no English policy of colonialism until the 1580s.⁹ Even Elizabeth I's initial involvement with privateering was driven primarily by the desire for revenue, not by a sustained crown policy of colonisation or commerce, nourished by a coherent vision of empire.¹⁰

A valid challenge to the current account of interrupted English colonialism is to fit The Company of Merchant Adventurers (1407-19th cent.), The Mystery, Company, and Fellowship of Merchant Adventurers for the Discovery of Regions, Dominions, Islands, and Places Unknown (est. 1551, chartered 1553), later Muscovy Company (1555-1917), and the Eastland or North Sea Company (1579-? min. 1661), into the picture. This is a perfectly valid way to enlarge the history of the interaction between the waxings and wanings of English overseas trade and colonialism on the one hand, and of the English state, on the other hand. Such a chronological broadening of perspective, however, comes at the price of de-emphasising the unique features that were introduced by and after Elizabeth I into the English twin development of state and empire. It may well be impossible to find a European country without nominally comparable state-licensed trading and colonial companies; but few of them gave rise to a global empire. While fifteenth-century trade in wool, cloth, timber, and luxuries was an important stage in the rise of English imperialism, this stage has more European equivalents than the seventeenth-century, let alone the later, stages of British expansion does.¹¹ To explain the success of English imperialism, and the place of secularisation in it, one is driven to acknowledge that the conventional comparison with the United Provinces is oversimplified. Unlike the Dutch, the English state underwent major secularising turns before its overseas expansion was in full swing.

⁹ I realise that this is a contentious position. John Cabot's son, Sebastian, was employed by Henry VIII to explore the coasts of Brazil and the West Indies. My argument is that such instances, even if several, add up to neither the same volume of crown-sponsored and -directed enterprise as they did in Spain, nor to a coherent English crown policy of overseas imperialism.

¹⁰ T.W. Fulton, *The Sovereignty of the Sea* (Blackwood and Sons, 1911).

¹¹ I use 'British' and 'English' in this paper variably, but knowingly. The full realisation of the colonialism under examination here is rightly called the British Empire, not least because of the tremendous Irish and Scottish participation in colonisation and imperial rule. In my usage, 'British' therefore refers to the United Kingdom of Great Britain and Northern Ireland. Selden, Harrington and many other seventeenth-century thinkers, however, used 'Britain' to refer to an historical, sometimes mythical state, which excluded Ireland. Given that the scope of this project stretches from the seventeenth to the twentieth century, remaining true to all shifting senses of 'British' throughout the period would sacrifice consistency for its illusion. I use the term in the sense of the period under discussion, unless my sentence indicates the longer-term perspective.

The two secularising imperatives, to contain religious disunion at home, and facilitate commercial and colonial expansion abroad, united politically only after 1688.¹² Legal philosophy and colonial practice, however, predate the political resolution. Selden and Harrington removed Christian components from politics that proved irresolvably contentious; yet both returned to a pre-Christian, Israelite political language to reframe property, law and representation. This half-way house between anti-clericalism and full secularisation drew heavily on Dutch writings before the Synod of Dordt.

Similarly to imperial differences, these small maritime Protestant nations' secularisation of state and empire followed somewhat divergent paths. Unlike the Dutch, the English state has completed crucial stages of secularisation, centralisation and anti-clerical self-fashioning before it embarked on the colonial enterprise where it eventually overtook the Dutch, Spanish, and other rivals. While the Dutch state and imperialism are coeval,¹³ English secularising state-building is best traced to Henry VIII's *Act of Supremacy* (1534) and its reiteration under Elizabeth I (1558). The forceful detachment from Rome and the pro-active Erastianism of shaping religion, instead of merely agreeing to ceremonially invest bishops and arbitrate in ecclesiastical cases submitted, redefined state sovereignty. Elizabeth's famous invocation of the 'two bodies' formula marked an invention in English sovereignty at least as much as it signalled continuity.¹⁴ The anti-clericalist use of history in Selden's *Titles of Honor* (1614) and the ancient constitutionalist legal arguments built upon it are thus fruitfully placed in a context that stretches back to the *Collectanea satis copiosa* project (1530). Long observance and custom have made it a powerful law that all ranks flow from the unitary sovereign. Even in *History of Tithes* (1618), Selden secularises in the sense of defending the monarch from the pope, as Cranmer defended Henry VIII: profoundly, but detachably from colonialism. It is as unhistorical to attribute the success of both English and Dutch early colonialism to the co-operation of governments and corporations as it is counter-productive to

¹² Steve Pincus, *1688: The First Modern Revolution* (Yale, 2009).

¹³ C.H. Alexandrowicz, *An Introduction to the History of the Law of Nations in the East Indies* (Oxford, 1967), 42, on Dutch in the East as "part and parcel of the policy of liberation of the Netherlands from all dependence (political and economic) on Spain."

¹⁴ "My lords, the law of nature moveth me to sorrow for my sister; the burden that is fallen upon me maketh me amazed; and yet, considering I am God's creature, ordained to obey His appointment, I will thereto yield, desiring from the bottom of my heart that I may have assistance of His grace to be the minister of His heavenly will in this office now committed to me. And as I am but one body naturally considered, though by His permission a body politic to govern, so I shall desire you all, my lords (chiefly you of the nobility, everyone in his degree and power), to be assistant to me, that I with my ruling and you with your service may make a good account to almighty God and leave some comfort to our posterity in earth." 17 Nov, 1558. In Elizabeth I, *Collected Works*, eds. L.S. Marcus, J. Mueller and M.B. Rose (Chicago, 2000), 51-2.

overdraw the interaction between secularisation and state-building, or secularisation and successful colonialism, by either state.¹⁵

Another possible challenge to the currently held account of nearly a century of English non-colonialism comes from those who unite the imperialism of policies for gaining overseas territories and establishing a legally, militarily and demographically stronger presence in Ireland.¹⁶ Even so, neither state-creation nor colonial and commercial expansion creates the same sort of motives for secularisation that a reassertion of domestic control does.¹⁷ While the urgency of domestic secularisation could equal or outstrip the utility of a non-Christian idiom for colonial encounters, the tasks of pacifying old enemies, making new friends, or creating durable new polities, are clearly different.

¹⁵ Similarly to Elizabeth I's grant of a royal charter to the East India Company on 31 December, 1600, one could also see the legal process of Sir Walter Raleigh's trial and suspended death sentence (1603), the reinstatement of his sentence under Spanish pressure (1617), and his execution (1618), as another emblematic part of the shift from the Crown's haphazard interest in colonial affairs to its skilled use of the legal ambiguities stemming from the status of privateers and private corporations. Pocock warns that comparing Dutch and English expansionary republicanism creates a "problem of the elephant and the whale." J.G.A. Pocock, "The Atlantic Republican Tradition: The Republic of the Seven Provinces," *Republics of Letters* 2:1 (Dec. 2010), 1-10, at 3. See also Jonathan Scott, *When the Waves Ruled Britannia: Geography and Political Identities, 1500-1800* (Cambridge, 2011), xiv, 3-6, 34 and *passim*, and the pertinent distinctions in Alexandrowicz, *Introduction*. David Armitage consistently ignores the distinction, and ties the failures and successes of British state-building and empire-building together. E.g. *The Ideological Origins of the British Empire* (Cambridge, 2000), 60.

An important counter-melody to my distinction would be a comprehensive survey of the impact of exiled English preachers in the United Provinces. Robert Parker and others are mentioned below. For Hugh Peter see Scott, *When the Waves*, 68.

¹⁶ Alison Games, *The Web of Empire: English Cosmopolitans in an Age of Expansion, 1560-1660* (Oxford, 2008). In this light, Harrington's detailed policy recommendations for reconquering and stabilising both Scotland and Ireland come from this tradition, rather than his pursuit of new possibilities opened by the Wars of the Three Kingdoms (1639-51). Armitage, *Ideological*, 6-7, and chapter 2.

¹⁷ One can state that motives are created by certain factors without speculating about the motives of individual thinkers. If a thinker experienced those factors, they make his motivation more probable, but not proven.