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Jean Bodin and the concept of the 'liberal state'

by Norman Furniss

In the lexicon of political thinkers, Jean Bodin is usually accorded a prominent place in the second rank. This spot is given either because of his importance as a transitional figure between medieval and 'modern' modes of thought, or more specifically because of his elucidation of the interrelated concepts of 'sovereignty' and the 'state'.¹ Bodin has been credited, by himself and by others, with being the first theorist to posit sovereignty as the essential and unique element of the state. In the most arresting pages of his major work, *The Six Books of a Commonwealth* (1959), sovereignty is defined starkly as the 'most high, absolute and perpetual power over the citizens and subjects of a commonwealth' (p. 84) and operationalized as 'the power to give laws to all his subjects in general, and to everyone of them in particular, without consent of any other greater, equal, or lesser than himself' (p. 159).² From a study of these and other statements it is small wonder that it has been concluded that 'an absolute prince can do almost anything he desires' (Chauviré, 1911, 315) or, more completely, that 'an absolute king had full possession of all the powers that a state could legitimately exercise, and even if he overstepped the bounds of higher law, he could not be lawfully resisted or deposed' (Franklin, 1973, p. 92).

This perspective gives an adequate account of Bodin's specific notion of sovereignty and demonstrates how Bodin attempts to achieve his immediate purpose of confounding the Huguenot theory of resistance (see Skinner, 1978; Vol. II, p. 285). The difficulty in this perspective comes when one attempts to assimilate the numerous restrictions, exceptions, and exhortations that Bodin undertakes particularly beginning with Book Two of the *Six Books*. It is the presence of these restrictions that often is held primarily responsible for the lack of a certain 'timeless quality' in Bodin's work found for example in Hobbes (C. F. Cranston, 1974). For if some of the caveats (for example, the primacy of the Salic Law, any particular sovereign desire to the contrary) might be dismissed as remnants of Mediaevalism, and if the exhortations might be written off as ad hoc moralizing of which even Hobbes was known

to indulge, other injunctions appear more substantial. Bodin upholds the principle of no taxation without consent, and he underscores the inalienability of the Royal Domain. It is not hard to see that these restrictions pose, at least superficially, an important check on the effective limits of sovereignty. It is also clear that Bodin views as the basic unit of the state not the individual but the family. Again the implications for sovereignty are great. The sovereign deals with heads of families only; he has no direct access to the population at large. These restrictions, however, appear to rest uneasily with the prior articulation of the essence of sovereignty: How can something labelled 'absolute' and 'most high' be circumscribed in *any* meaningful sense?

In this article I will argue that the idea of property rights is a useful (and neglected)³ factor in explaining Bodin's ambivalence concerning the scope and limits of sovereignty. I will attempt to show that for Bodin heads of households with bundles of property rights form the logical basis of the state. No one has an original right of command over other holders of property rights. This situation is particularly inimical to public order because the holders of property rights do *not* have material acquisition as their guiding psychological motivation. There is in consequence no 'invisible hand' that yields any spontaneous community of interest among property holders. Rather conflict is more likely to be the norm. Given this position, the specific concern with thievery and the general concern with anarchy follows. We can further appreciate the need for nonresistance to law, for literal interpretations of the law by magistrates, for the 'depoliticization' (this inelegant term seems appropriate) of the population.

This approach by no means removes all problems from Bodin's work. Indeed, the construction of Bodin's purpose in terms of the centrality of property rights enables us to raise the question of the compatibility between private property and state sovereignty. From Bodin's perspective, while only the modern state can provide the necessary security to permit the enjoyment of preexisting property rights, these rights then become threatened a) by the potential despotism of the sovereign himself, b) by the 'new property' associated with the position of the magistracy, c) by the exigencies of international competition which itself is the necessary outcome of Bodin's elaboration of the modern concept of autonomous states. Bodin's efforts to reduce these threats help bring the conceptual tensions of the 'liberal state' into sharp focus.

The good life for full members of the polity

Early in the *Six Books* Bodin declares his opposition to what he perceives as a fundamental principle of much prior political thought, that man is naturally

a social and political animal who is destined to live in society and who achieves his excellence only within it. In opposition to this tradition Bodin insists that government is in a fundamental sense artificial because families existed, and could still exist, apart from the state, which itself is nothing but the 'lawful government of many families'. Since families are the basis of the state, so too it holds that 'as foundations can of themselves stand without the form of a house . . . so also a family can be of itself without a city or Commonwealth . . . but a Commonwealth can no more be without a family than a city without houses, or a house without a foundation' (p. 9). It is important to recognize the significance of this statement which gives the sovereign power a pragmatic guise. Useful for the 'lawful regulation of family relationships', it is far from a primordial concept. (On this last point, see Euchner, 1973.)

We must note that this formulation is not complete. The declaration and the analogy are not supported by arguments about contracts or a state of nature. Nor is there an effort, which might align more with Bodin's methodological outlook, to trace the rise of the state to conflicts engendered by inequalities of property holding.⁴ Still, if one accepts the contention that the household is the basis of the state, Bodin's other positions follow more easily. The holding of property is what makes families; its coalescence in one person makes the head. The conclusion can be put rather directly. Commonwealths are 'chiefly established to yield to every man that which is his own and to forbid theft, as it is commanded by the work of God who would have every man enjoy the property of his own goods . . . *True popular liberty consists in nothing else, but in the enjoying of our private goods securely without fear to be wronged, in honor, wife or family*' (707. My emphasis). Bodin's message is to let the inhabitants forget about religious or other public controversies while the government proceeds unimpaired in its duty to maintain order and secure property (by the punishment of theft). To employ an analogy of Hobbes', the construction of, and the subsequent respect for, hedges delimiting human behaviour would be a good description of the sovereign's duty. Sovereignty, in fact, becomes defined by Bodin *in relation* to property. One could not exist without the other; or, as Bodin describes (p. 11):

But however lands may be divided, it cannot possibly be that all things should be common among citizens, which for Plato seemed so natable a thing (that) . . . he deemed it would come to pass that these two words, Mine and Thine, should never more be heard amongst his citizens being in his opinion the cause of all discord and evils in a Commonwealth. But he understood not that by making all things common, a Commonwealth must needs perish: for nothing can be public, where nothing is private: neither can it be imagined there to be anything had in common, if there be nothing to be kept in particular.

This argument has important implications both for heads of households and

for the holder of sovereignty. Households may be complete in themselves, but they need security. The sovereign state depends on the Mine/Thine duality as the reason for its existence, it must respect the principle of private property. This relationship between household and sovereign also explains why the head of the household can act, against its other members, like a mini-sovereign, ruling absolutely, punishing transgressions harshly (Bodin often bemoans the 'modern' tendency to spare the rod in enforcing disobedience), *with none of the restrictions* placed upon state authority. The reason for this absence of restrictions, which makes the family head far more 'absolute' than his sovereign, can be seen as stemming from the lack of property rights among other members of the family. The family head, who possesses property rights by definition, has a priori a basis of independence not shared by others. In brief, public order is maintained, the state is established, not to exalt the power of itself or the idea it is supposed to represent, but to maximize the opportunity for private selffulfillment by its property holding inhabitants.

A fuller appreciation of the nature of this 'true popular liberty' can be obtained from a study of Bodin's final work, the *Colloquium of the Seven about Secrets of the Sublime*, completed in 1588.⁵ This work is less well-known than *The Six Books*, and it might be best to summarize Bodin's presentation before extracting those elements relevant to our theme. The *Colloquium* is set in Venice, a city 'where one can live with the greatest freedom. Whereas other cities and districts are threatened by civil wars or fear of tyrants or harsh exactions of taxes or the most annoying inquiries into one's activities, this seemed to me to be nearly the only city that offers immunity and freedom from all these kinds of servitude. This is the reason why people come here from everywhere, wishing to spend their lives in the greatest freedom and tranquility of spirit, whether they are interested in commerce or crafts or leisure pursuits as befit free men' (p. 3). The discussion of 'metaphysics', the true nature and glory of God, the true nature of religion, takes place in the home of one of the members of 'an intimate society' (p. 3). These individuals, a Lutheran, Calvinist, Catholic, Jew, convert to Islam, natural philosopher and skeptic (who 'gives assent to all in regard to all things concerning divine matters', p. 376), 'lived not merely with sophistication of discourse and charming manners but with such innocence and integrity that no one so much resembled himself as resembled all' (p. 4).

The dialogue begins with a rather genteel discussion of the majesty and power of the divine in which the skeptic questions politely, the natural philosopher usually answers, and compliments flow. Broad agreement is reached on the existence and capacities of demons and angels (p. 31 etc.), on levitation (p. 15), on resurrection of the dead (p. 135), on the fact that souls survive bodies (p. 449), and in general, with some hesitation by the skeptic, that things

can and do happen in opposition to nature. On issues that touch state policy, no opposition is raised to the statements that it is not prudent for rulers to try to uproot religions (p. 159), that those propagating divisive religions deserve their usually grisly deals (p. 132 etc.), that atheism is the worst evil because he 'who fears nothing except a witness or a judge, necessarily rushes headlong toward every crime' (p. 239), and that public worship should not be deserted (p. 235). This is not to say that the members feel inclined to broach these matters *in public*. Anarchy remains the great evil (p. 162 etc.). And, moreover, 'it the law of nature that we should obey the magistrate issuing the orders, and whoever does otherwise is considered unjust' (p. 194).

This discussion culminates in a celebration of harmony, of multiplicity to unity, for when one sound conquers the others 'the dissonance offends the delicate senses of wiser men' (p. 145). This emphasis on the positive virtues of religious toleration and pluralism ('as the variant natures of individual things combine for the harmony of the universe, so do the hostilities of individual citizens foster the harmony of all people', p. 149) is qualified by the acknowledgment that the presence of only two positions would bring continuous strife (pp. 145, 151). Still harmony seems sufficiently strong for the group finally (the subject had been avoided in previous gatherings), to embark on a discussion of religious creeds, for as the host asks, 'in such a harmonious gathering of wills and spirits as we have here, who can give or receive offense?' (p. 165).

Unfortunately, his optimism is misplaced. Just as the group is vexed by being unable to discern real from artificial apples (pp. 233-234), so the effort to decide on and convince others of the true religion fails amid some rancor. The question posed in Book IV, 'is it proper for a good man to discuss religions?', is answered implicitly in the negative. All are led to agree that no one should be forced to believe against his will and that harmony is best preserved by restraint, lest advocates for a particular creed 'confound the people and the order of the state by seditious gatherings' (p. 471). After this renewed commitment to toleration, the members 'withdrew, having embraced each other in mutual love. Henceforth, they nourished their piety in remarkable harmony and their integrity of life in common pursuits and intimacy. However, afterwards they held no other conversations about religions, although each one defended his own religion with the supreme sanctity of his life' (p. 471).

Drawing on this account, I shall emphasize three matters of particular relevance to my argument. First, the values expressed in the *Colloquium* broadly parallel those in the *Six Books*. In both it is repeated that religion is no business of the state; nor should its propagation be a concern of groups. (I will expand on this latter point when I discuss below the role of corporations). Second, the setting is definitely a passive state that neither taxes heavily nor

pries into the private lives of its subjects. Its duty, which is absolutely central, is restricted to the maintenance of order. Third, and most important, Bodin firmly rejects the assumption that human purpose can be reduced to material acquisition, an assumption which facilitates the formulation of a logical relationship between state sovereignty and private property rights. If material acquisition is the governing motivation, one can permit full interaction among property holders without having to worry overly about the impact on public purpose or public peace. (The few exceptions, proscribing the private appropriation of the only water hole in the desert, assuring the provision of 'public goods' and so on are reasonably straight-forward; the first case of problems was identified at least as early as Locke, the second at least as early as Hume.) Bodin's position is more complex. He favors the articulation of preferences because of the value attached to modulated harmony. Yet he recognizes that this harmony works only when carefully circumscribed. Thus his insistence that no one should be forced to believe against his will, and, even more revealing, the apparently unanimous consensus that this 'intimate society' of these learned and remarkably different men could be sustained best by no further discussions of religions.

Politics was of course even more to be avoided. These twin prohibitions make Bodin's society an interesting precursor of Freemasonry which was introduced in France in the 1730s. The lodge meetings permitted the mingling of men from different stations on a basis of equality; indeed its constitutional aim was to become 'the *Center of Union*, and the means of conciliating true Friendship among Persons that must else have remained at a perpetual Distance' (From Bendix, 1979, p. 359; emphasis in original). To achieve this end no candidate could be asked his religious or political convictions, and neither subject could be discussed in lodge meetings. That the French monarch and Catholic hierarchy should find all this somehow subversive is not surprising (see Bendix, pp. 359-361). The setting of the *Colloquium* in Venice (an 'aristocratic republic') shows that Bodin's vision of civil society is not compatible with the ideal of an 'absolutist' monarchy or with a religious order that demands public and private uniformity.

In this connection it must be recalled that sixteenth century Europe was far from exemplifying a system even approximating interactions by heads of households on a level of equality. Feudalism, of course, established a chain of rights and duties based on the supposition that one's social and political essence was based on birth. More directly for our purpose, feudal property rights entailed authority over, and often responsibilities toward, other *people*. This conception conflicts with Bodin's aims both to establish the absolute public supremacy of the sovereign and to construct a system of individually based property rights. Neither can exist without an active levelling of inter-

mediary rank.

Bodin makes this effort in the *Six Books* primarily in his discussion of the distinction between family and corporation. Within families governance is hierarchical; the 'sovereign' has no right to intervene. When heads of families interact for common purposes (through corporation), on the other hand, all relationships must be based on equality and individual assent. And here the sovereign has a major role to play. In order to insure that private interaction does not threaten the public peace (we should remember that modulated harmony is artificial; it needs restraint either internalized or imposed), all corporations must be licensed, controlled, and subordinated to state authority (pp. 361-366). The end result is to make the duality sovereign-subject the most vital in the state, transcending all degrees of the feudal scale. No one can demand special privileges of the sovereign, gazing down from the lonely heights of power (pp. 114-119). Indeed, it could hardly be otherwise, for sovereignty in order to be 'absolute' and 'most high' could not be mediated through a system not of its own creation, nor could it mean *a priori* something different for one than for another. And the goal of the Commonwealth, 'to yield to every man that which is his own', only makes sense if individual enterprise does not lead to the advantage of someone else.⁶

The tensions between property rights and state sovereignty

Thus far we have explored Bodin's purpose. When we turn to the means to achieve his goal of 'the popular liberty', we find three difficult, and basically unresolved, dilemmas. The first, not the least important for being the most obvious, is the dilemma of despotism and anarchy. For Bodin, absolutism, 'order', cannot be considered an end in itself, but the absence of some order precludes the attainment of one's basic purpose. Moreover, since the state is seen as an agglomeration of individual wills neither infused with higher purpose nor capable of being tied to a public vice produces public virtue argument, there remains the constant tension between despotism and anarchy. For Bodin it is not hard to decide where the greater danger lies: Far more salient than how to guarantee that the sovereign would not transgress the boundary between private and public is the issue of how the sovereign, the central authority, is to achieve sufficient power and assent to govern effectively in the first place.

The problems of the contemporary French monarchy were sufficiently obvious even had Bodin not been a keen political observer and participant. Briefly, the monarch found himself in an unfortunate situation. On the other hand, the props of the feudal monarchy (the existence of a territorial nobility,

the king as participant in the ministry, the inability of disgruntled subjects to mobilize large numbers of men and weapons) had vanished. On the other hand, the new actors (royal officials, mercenary armies, the new nobility) caused only further turmoil. And when this explosive situation was overlaid with religious divisions, the consequence was pervasive civil war, the resolution of which seemed to entail more, not less, central power. But how? Bodin's answer is the reformation of the court bureaucracy, the institution of magistracy.

The important position of the magistracy arises from the previously described constitution of the Commonwealth. Men (extended families) form the foundation of the Commonwealth, which consists precisely in an assemblage of fathers. Over this group stands the sovereign, and it is this cleft between sovereign and subject that greatly augments the status of the magistracy. Since the sovereign obviously cannot administer the laws himself, and since for Bodin property rights should no longer confer the power of command, the link between the sovereign and subject is to be the magistrate alone, who appropriately is accorded a status above that of the greatest feudal lord. (So important does Bodin consider the creation and appointment of magistrates that he uses it as a touchstone for the location of sovereignty itself. If one person has the power to appoint magistrates, the state is a monarchy; if more than one and less than half, an aristocracy; of more than half, a democracy).

The magistrates, then, are the line of defense against Bodin's great fear-anarchy, a state considered 'worse than the strongest tyranny in the world'.⁷ At this point the first dilemma of risking despotism to avoid anarchy becomes sharply focused. To grant his assumption that anarchy is a worse evil than tyranny does not obviate the utility of grounding the proper performance of the magistracy in a framework that would at least inhibit excesses of the sovereign. This Bodin does not do. If, in the final analysis, the sovereign decides to tax his subjects harshly, or to impose a particular religion, or to meddle generally in private affairs, there is no institutional check on his ability to do so. The only recourse, as the *Colloquium* makes clear (p. 242 etc.), is emigration. In fact, by debasing the significance of all intermediate groups between the sovereign and subject, and by making the task of the magistracy the literal interpretation of the letter of the law, Bodin provides the sovereign with the power, if not the authority, to transgress the limits he prescribes.

In his development of the concept of the magistracy, Bodin reveals an additional dilemma involving the new status of magistrates and his previously described position on the nature of property rights. Clearly, in Bodin's system the magistrates are the central actors; they possess *all* of the public authority delegated by the sovereign. The exercise of this authority would be a full time occupation. Law could not administered and order maintained ancillary to

other activities without reverting to feudal relationships which Bodin is determined to break. Consequently, one is faced with the question of how and where these new individuals, the magistrates, are to be placed in society. There are three broad possibilities, the elaboration of which will be fairly complex. First, it could be denied that magistrates should possess any independent property rights at all. The logical deduction from this premise would be for the sovereign to rule through slaves. (The Ottoman Empire represents an historical example.) The problem from the point of view of the sovereign is that this solution tends not to be permanent. The inability of the sovereign to oversee territorial administration plus the immense powers of the magistrates in relation to the general population tend to make slavery 'degenerate' into a more independent status which is not, however, grounded in law. With no legal title to any property rights and with their de facto independence in constant jeopardy, magistrates are led to extract resources from the population as rapidly as possible. These resources would then generally be used for lavish consumption. This is inefficient despotism from the position of the sovereign. The population is overtaxed; central revenues stagnate. (Once again we can see an historical example in the rule of the Ottoman Empire. A similar pattern can be observed in the Mogul Empire. On the former see Heper, 1980). For Bodin the problem is that the arrangement *is* despotism. To deny the magistracy any formal property rights has the unwanted outcome of undermining all property rights, of obliterating the distinction between mine and thine. This first possible way of placing magistrates in society must be rejected.

The second possibility would be to give the magistracy traditional forms of property rights, primarily in land (as was done in tsarist Russia). A related opinion would be to restrict the choice of magistrates to those already possessing sufficient property. One can see why this latter alternative was favored by aristocracies throughout Europe; equally one can see how its institution would undermine the efforts of Bodin in theory and the emerging European states in practice to construct a new public order. The first option, however, amounts to basically the same thing. As the tsars themselves found when they undertook sporadic social reforms (e.g. emancipation of the serfs), magistrates who are given traditional property rights have a vested interest in preserving them which can conflict with the desires of the sovereign. And since the sovereign can work only through magistrates, his ability to transform social relations is considerably less than might at first appear. For Bodin the problem is even more acute because the sovereign is constantly enjoined from interfering with the property rights of his subjects. Thus, presumably, a magistrate who declines to carry out a sovereign law would leave state service, but he could not as a result be deprived of his property. To conclude, there is no difficulty for the sovereign in drawing the magistracy from (or in giving the

magistracy entry into) the dominant system of property relations provided the interests of the sovereign and those of the dominant groups in society do not diverge. But it was precisely because Bodin saw that they often do that he attempts to set the magistracy apart from the feudal order.

The third major way in which the magistracy could be placed in civil society is to create a new form of property right in the office itself. This is probably Bodin's intention. If so, there are implications that he does not explore. To begin with, is it now accurate to say that society can exist without the state if a major form of property right is a state creation? And if the state can create some forms of property rights for the purpose of maintaining internal order, then why not other for the purpose of promoting economic growth or some other worthy goal? And if property rights can now be seen in a functional sense, why should not the *existing system* itself be modified if changes could promote these or other ends? (That is, why not taxation without consent?) For, and here is the central issue, could not this new form of property right, the office, be considered superior to the underlying system of property relations just as the magistrate himself is considered superior to the greatest feudal lord? The logic of creating a new form of property right in an office raises the potential of constituting competing hierarchies leading to ideological conflict. In short, to give the sovereign the ability to create new forms of property rights is to break through the limits to sovereign power that I have argued Bodin is so concerned to set. It is also to give disputes over property right hierarchies a public, ideological component, again precisely what Bodin wishes to avoid.

In this connection, it is useful to look briefly at the actual solution to the 'dilemma' of magistrates and property taken by Old Regime France. As I described earlier, Bodin's concern for lawful administration and individual obedience arose within the seemingly unending religious strife and domestic turmoil of contemporary France. The restoration of order was particularly difficult because the 'sovereign' commanded only one (not necessarily the most powerful) of the many armed forces. While feudal obligations dissipated, no reliable new means of control had arisen. The response, which evolved from Henry IV through the 'absolutist' Bourbon monarchy, was indeed to create a magistracy (to use Bodin's term) responsive in theory only to the throne. The issue of property rights was then finessed by giving officials new property rights in office holding *and* by tending to draw officials from the dominant landed groups. The relevant consequences are drawn out well by Skocpol (1979). First, a passion for office was created that rivaled the previously preeminent form of ownership of land. Second, the two types of property rights in effect merged so that from destroying previous proprietary rights, the magistracy 'tended to freeze, indeed guarantee, the very sociopoliti-

cal institutional forms – seignorial, corporate, provincial – whose original functions it replaced or superseded' (p. 21). And when the French monarchy was faced at last with a 'fiscal crisis' that required massive social reform to overcome, it found that its officials had a vested interest in preserving the status quo.

That Bodin could have foreseen this likely outcome is not to be doubted. The last two of the *Six Books* are full of admonitions to the sovereign not to incur deficits, not to create venal offices, not to tie the destiny of the magistracy to that of any particular group. It is not my intention to saddle Bodin with the record of the 'absolutist' monarchy. As I hope I have shown, Bodin's conception of the purpose of the state, let alone its functioning, is strikingly different from the direction subsequently taken by the French monarchy. But it is fair to conclude that since Bodin offers no guidance on the social position of the magistracy and the relation of this position to his goal of true popular liberty, he does not foreclose conceptually the possibility the French monarchy in fact took. Moreover, in neglecting the external pressures for greater state spending, Bodin gives little insight into why the solution of the French monarchy was not the result of some strange miscalculation but rather stemmed from what seemed to be irresistible challenges. It is to this final dilemma of internal order and external threat that I now turn.

One of the many merits of Professor Skinner's *Foundations of Modern Political Thought* (1978) is its systematic elaboration of Bodin's central role in the development of the modern concept of the 'state'. Bodin 'indicated most clearly of all that he was willing to think of the State as a locus of power distinct from either the ruler or the body of the people' (Vol. II, p. 357). A construction of Bodin's argument in terms of property rights helps give purpose to this 'new locus of power'. Only the state can secure order so that the (existing) system of property rights can be enjoyed profitably. (It seems preferable to say 'by households' rather than by 'the body of the people'). What Bodin overlooks in this formulation is a consideration of how these new states might deal with each other. Indeed, as when in the *Six Books* he finds it exemplary that a neighboring prince invades a land to depose a tyrant, he implicitly invokes values incompatible with an international order based on a multiplicity of autonomous states. These autonomous and interacting states are confronted with the need to *compete* successfully. Particularly in times of crisis the maintenance of the existing domestic order and the exigencies imposed by foreign threats are not necessarily compatible.

The tension is far from abstract. Even leaving aside the question to what extent 'demonstration effects' induce internal reforms, the challenge of war is compelling, and warfare among the emerging states of Western Europe was endemic. In the seventeenth century there were only seven calendar years in

which the emerging states of Europe were not at war. To cite more figures from Wright (1965), the average percentage of time in which eleven principal European powers were at war was 63.5 in the sixteenth and 60.0 in the seventeenth century; France was at war for 107 of the 200 years.⁸ The threat and reality of war meant that the new states had to raise what were often thought to be extraordinary revenues almost continually.

Yet, as formulated by Bodin, these new states had no legitimate authority to mobilize resources at the expense of property holders. To repeat, even feudal appeals made on an obligation to serve are ruled out. Consistent with his conception of the good life based on the enjoyment of property rights, the prohibition against thievery is extended to the state itself. Thus the two major restraints, often labelled anomalies or inconsistencies, on sovereign power: the inalienability of the Royal Domain and the injunction to the sovereign to live off its proceeds, and the prohibition of levying taxes on the population at large. To first consider the question of the Royal Domain, we should recall that the notion that the sovereign should live off the income from his lands had been abandoned even by the contemporary French monarchy. To revive this practice would necessitate a far less active role than the monarchy (without benefit of being labelled quite so 'absolute' or 'most high') then enjoyed. In general, by tying the sovereign to the Royal Domain, Bodin evokes a picture of frugality incompatible with a world of autonomous and competing states.

Bodin does not assume that the sovereign could be persuaded to embrace frugality solely on the basis of reasoned argument and exhortations (although both are widely offered throughout the last of the *Six Books*): thus the prohibition of new taxation without consent. (For an excellent account of Bodin's formulation, see Wolfe, 1968). This prohibition is not 'clearly inconsistent with his basic doctrine' (Franklin, 1973, p. 103); it derives logically from his purpose. Sovereignty is established to preserve and protect the property of the citizens, and it must be accorded the power to do so. On the other hand, Bodin is aware that the division between mine and thine is also amenable to destruction by the sovereign state itself. Consequently, while sternly forbidding the transfer of private desires and disputes to the public plane, Bodin equally prohibits the public authority from undermining the property of rights of citizens. The problem with linking absolute obedience and absolute property rights is empirical incompatibility. The state needed revenues to finance wars⁹, and it got the money by interfering in property relations and (in France most obviously) by organizing the magistracy around its propensity to generate income rather than its prospects for efficient administration.

We can now summarize our argument. We have identified and developed three unresolved dilemmas stemming from Bodin's work: how the sovereign

is to be prevented from transforming the enforcement of order into a tyranny; how the magistracy is to be secured in society without either compromising its independence from other social groups or undermining the thesis that the state is created to guarantee pre-existing property rights; how successful international competition is possible when private property rights (or the dominant system of property relations) is declared inviolable. These dilemmas are not unique to Bodin. They go to the heart of the emerging idea of the 'liberal state' which attempts to reconcile private liberty with public order. Bodin is probably the first fairly consistent exponent of this concept. Our use of property rights arguments has enabled us to underscore not only that Bodin develops the concept of a modern 'state' capable of repressing internal uprising and general lawlessness in the complete absence of hierarchical norms attached to concepts of property – feudalism, office holding lower magistrates, all are cast aside. We can also highlight the 'liberal' dimension of his thought by showing the purpose of this new public power is not self-exaltation but is rather the tranquility and prosperity of individuals in their private capacity as property holders. To be sure, Bodin does not remove the underlying dilemmas involved in this formulation. But in particular his realization that social conflict is unlikely to be resolved spontaneously does permit us to present the tensions between private rights and the exigencies of public order in a stark and potentially insightful way.

Notes

1. See, for example, the assessments of Sabine (1937) and Franklin (1963). The most recent and important interpretation is Skinner (1978; especially Vol. II, 349-358).

2. Citations from the *Six Books* are from the Harvard University Press edition of 1959, translated by Richard Knolles and edited by Kenneth D. McRae. For a discussion of texts see McRae's introduction. Whether there is a 'young Bodin' whose early work was more 'liberal' is debated. For an argument that there is, see Skinner (1978). The position that Bodin's work does indeed form a composite whole is outlined by King (1974, appendix 4). The issue is not central to our purpose, although in using evidence from the *Colloquium* I do implicitly embrace the latter view.

3. As we shall describe, this neglect increases the difficulty of dealing with Bodin's limitations on sovereign power. Faced with the seeming contradiction between the exaltation of absolute sovereignty on the one hand and the proscriptions on the other, a disregard of property rights perspective tends to lead to the rejection of the restrictions as anomalies arising either from muddled thinking, considerations of the contemporary French political scene, or the still powerful influence of medieval norms. The first appears to be the assessment of Sabine (1937, pp. 407-411). The second is advanced by Salmon (1973). The third is proposed by Franklin (1973, pp. 102-103). All, of course, can be combined. Skinner (1978) attempts to resolve the problem by stating that these restrictions are not inconsistent but 'a further illustration of [sovereignty's] intended character, and in particular a

confirmation of his claim that the rights of sovereignty must always be tempered by the laws of nature' (p. 297). This formulation, however, seems only to internalize the contradiction within the definition of sovereignty itself.

4. As is undertaken, for example, by Rousseau. An excellent analysis of Bodin's methodological position is offered by Franklin (1963).

5. *The Colloquium* was never published and was circulated in manuscript. All citations are from the 1975 translation of Marion Leathers Daniels Kuntz published by Princeton University Press. Her introduction and annotations are extremely useful.

6. In this regard Bodin appears much closer to Locke than to Hobbes. While yielding nothing to Hobbes in his opposition to political pursuits, he accords private gain a far greater security from sovereign whim. And Locke's many strictures on the origin and best form of the state find close parallels in Bodin's previously quoted statement in the *Six Books* that commonwealths are 'chiefly established to yield to every man that which is his own and to forbid theft' and in his depiction in the *Colloquium* of Venice as a haven from the 'servitudes' of tyrants, heavy taxation and meddlesome inquiries into the affairs of free men. This interpretation has some parallels with that of Lewis (1968) who is equally anxious to rescue the *Six Books* from its role 'as a primer to the understanding of Hobbes'. Lewis, however, argues that Bodin aimed at a conception of natural law.

7. From the preface to the French edition of the *Six Books*, quoted by Polin (1973, p. 344). Similar comments are found throughout the *Colloquium*, for example 'nothing is more destructive than anarchy in which no one rules, no one obeys' (p. 162).

8. The countries studied (when existing) were France, Austria, Britain, Russia, Prussia, Spain, The Netherlands, Sweden, Denmark, Turkey and Poland. As one might anticipate, with the emergence of newly self-conscious states, the intensity of conflict also increased. Pitrim Sorokin's index of war intensity of eight principal countries (based on their duration, the size of forces and other indices) went from 311 in the fifteenth century to 5193 in the seventeenth (cited in Wright, p. 655). The precise ratio is less important than the observed magnitude. Sorokin also estimated (Wright, p. 656) that the number of war casualties per 1000 population tripled during the same time.

9. Bodin recognizes that taxation might be necessary in times of immediate danger (e.g. imminent foreign invasion). But when the 'immediate danger' can be said to be constant, then the situation becomes qualitatively transformed.

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