

Ere Nokkala

From Natural Law to
Political Economy:
J.H.G. von Justi on
State, Commerce and
International Order

Geschichte

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Chapter three draws partly on “Passion as the foundation of natural law in the German enlightenment: Johann Jacob Schmauss and J.H.G. von Justi”, *European Review of History: Revue européenne d’histoire*, Volume 17, Issue 1, 2010, pp. 113-123.

Chapter five has been expanded from “The Machine of State in Germany – The Case of Johann Heinrich Gottlob von Justi (1717-1771)”, *Contributions to the History of Concepts*, Volume 5, Number 1, 2009, pp. 71-93.

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CHAPTER 1: INTRODUCTION

SETTING THE AGENDA

This book provides the first comprehensive interpretation of the political and international thought of Johann Heinrich Gottlob von Justi (1717-1771). Justi was one of the most important German writers of the 1750s and 1760s,¹ and played a crucial role in the movement towards an increasingly economic understanding of the foundations of social and political life. Indeed, he can be justly considered as a founding father of both German polit-

¹ The remarkable Polish-British lawyer-historian C.H. Alexandrowicz considered Justi to be ‘one of the greatest German political writers of the eighteenth-century’. See C.H., Alexandrowicz, *The Law of Nations in Global History*, eds. David Armitage and Jennifer Pitts (Oxford, 2017), p. 163. Justi had a very eventful and colourful life that had a tragic end. He was a man of both theory and practice. Justi started his career as a soldier among Saxon troops before studying legal and cameral sciences in Wittenberg from 1742 to 1744. In 1745 he began publishing his first journal and from that time he was always managing at least one journal. In 1747 Justi won an essay prize contest set by the Royal Prussian Academy of Sciences with his text *Nichtigkeit und Ungrund der Monaden*, in which he criticised Leibniz’s and Christian Wolff’s theory of monads. In this very same year Justi had been appointed to the service of the widowed Duchess of Sachsen-Eisenach. Three years later, in 1750, Justi went to Vienna, where he was called upon to be chair of *eloquentiae Germanicae* at the Theresianum, Maria Theresa’s new ‘imperial academy’ for recruits to the civil service. From 1752 he became its professor of *Praxis im Cameral- Commercial- und Bergwesen*. In the following year Justi moved to Leipzig and from there in 1755 to Göttingen, where he became *Ober-Policey-Commissar* and the first lecturer to teach cameral sciences at the University of Göttingen. Soon after, in 1757, Justi left Göttingen and went to work for the Danish Court. After a short period in Denmark Justi supported himself until 1765 as an independent writer. This was the time when he wrote most actively. He was granted a pension from Prussia for his pro-Prussian and pro-English pamphlets. In 1765 he was appointed to an inspectorate of mines, glass- and steelworks (*Berghauptmann*) in Prussia. Three years later he was accused of having misused the state’s money. Justi died in 1771, nearly blind and accused of embezzlement, imprisoned in the fortress of Küstrin.

ical economy² and of the sciences of the state.³ His textbooks, *Staatswirtschaft* (1755)⁴ and *Grundsätze der Policy-Wissenschaft* (1756),⁵ are generally thought to be his most central writings. The first was written to support centralising reforms in Austria, whereas the second is an early work written for his lectures on police sciences in Göttingen, dealing with the social and political order of a state. This study focuses on Justi's mature political writings: *Grundriß einer guten Regierung* (1759), *Chimäre des Gleichgewichts von Europa* (1758), *Chimäre des Gleichgewichts der Handlung und Schifffahrt* (1759), *Natur und Wesen der Staaten* (1760), and *Vergleichungen der Europäischen mit den Asiatischen und anderen vermeintlich Barbarischen Regierungen* (1762),⁶ all published after the pivotal moment of his life that he spent in Göttingen (1755–1757). They were also written in the context of the Seven Years' War; and in them Justi reflected on broader European

² The titles of two recent books are instructive: Ulrich Adam, *The Political Economy of J.H.G. Justi* (Oxford, 2006); Jürgen Georg Backhaus (ed.), *The Beginnings of Political Economy: Johann Heinrich Gottlob von Justi* (New York, 2009).

³ Hans Erich Bödeker, 'Das Staatswissenschaftliche Fächersystem im 18. Jahrhundert', in *Wissenschaften im Zeitalter der Aufklärung*, ed. Rudolf Vierhaus (Göttingen, 1985), pp. 143–162.

⁴ Johann Justi, *Staatswirtschaft oder Systematische Abhandlung aller Oeconomischen und Cameral-Wissenschaften, die zur Regierung eines Landes erfordert werden* (Wien, 1755).

⁵ Johann Justi, *Grundsätze der Policy-Wissenschaft in einem vernünftigen, auf den Endzweck der Policy gegründeten, Zusammenhange und zum Gebrauch Akademischer Vorlesungen abgefasst* (Göttingen, 1756).

⁶ Johann Justi, *Der Grundriß einer guten Regierung* (Frankfurt, 1759); Johann Justi, *Natur und Wesen der Staaten als die Quelle aller Regierungswissenschaften und Gesetze* (Berlin, 1771 [1st ed. 1760]); Johann Justi, *Die Chimäre des Gleichgewichts von Europa: Eine Abhandlung, worinnen die Richtigkeit und Ungerechtigkeit dieses zeitherigen Lehrgebäudes der Staatskunst deutlich vor Augen geleyet, und dabey allenthalben neue und rührende Betrachtungen über die Ursachen der Kriege und dem wesentlichen Grunde, worauf die Macht eines Staats ankommt, beygebracht werden* (Altona, 1758); Johann Justi, *Die Chimäre des Gleichgewichts der Handlung und Schifffahrt, oder, Ugrund und Richtigkeit einiger neuerlich geäußerten Meynungen von denen Maaßregeln der freyen Mächte gegen die zu befürchtende Herrschaft und Obermacht zur See: wobey zugleich Neue und wichtige Betrachtungen über die Handlung und Schifffahrt der Völker, und über den höchsten Punkt der daraus entstehenden Macht und Glückseligkeit beygebracht werden* (Altona, 1759). Johann Justi, *Vergleichungen der Europäischen mit den Asiatischen und anderen vermeintlich Barbarischen Regierungen* (Berlin, 1762).

debates about trade and freedom. Study of these books reveals that the intellectual world in which Justi moved was much more open and diverse than has previously been acknowledged; and it is here argued that the same was true for the relatively new field of the cameral sciences (*Kameralwissenschaften*), whose principal advocate Justi was.

The aim of this book is to reassess Justi in this role as an advocate of the cameral sciences. Cameralism is one of the most influential and strangely often misunderstood or overlooked strand in the emergence of political economy.⁷ It developed in parallel with French physiocracy and British political economy as a pan-European political and economic discourse. The most recent scholarly literature on cameralism argues that while the ‘theoretical foundations’ of cameralism have been much in focus, the actual application of cameralists’ writings has been neglected.⁸ Nonetheless, it is argued in the following that it is precisely these ‘theoretical foundations’ of cameralism that have been constantly misunderstood and misinterpreted. In this book I argue that the foundations of cameralism were in natural law, which was not, as often argued, obsolete and merely German in its character, but instead European, transnational and international. It can be argued that the transformation of cameral sciences into two different fields – sciences of the state (*Staatswissenschaften*) and political economy (*Staatswirtschaft*), a process to which Justi contributed – was linked with a shift in natural law thinking.

It is important to note at the outset that cameralism was not a rigid, coherent, economic doctrine that could be easily defined. We are dealing with a language of politics and economics that was under constant change. Lars Magnusson has successfully applied this perspective to the discourse of mercantilism: he treats mercantilism as ‘a set of discourses’ whose most central concepts constantly assumed new meanings. Magnusson justifies

⁷ For the growth of recent interest in cameralism see *Cameralism in Practice: State Administration and Economy in Early Modern Europe*, eds. Marten Seppel and Keith Tribe (Woodbridge, 2017) and *Economic Growth and the Origins of Modern Political Economy: Economic Reasons of State, 1500–2000*, ed. Philipp R. Rössner (London, 2016).

⁸ Marten Seppel, ‘Introduction: Cameralism in Practice’, in *Cameralism in Practice: State Administration and Economy in Early Modern Europe*, eds. Marten Seppel and Keith Tribe (Woodbridge, 2017), pp. 1–16, pp. 2–3.

his approach by pointing out that if one departs from the habit of analysing mercantilism as if it were a coherent economic doctrine it becomes possible to detect the incidence of conceptual changes and innovations in what has previously treated as a unitary body of writing.⁹ This is a very fruitful approach that can also be applied to the study of cameralism. The aim of this book is to understand Justi and cameralistic discourse in their own terms. It is of central importance to recognise that cameralistic discourses – as well as Justi’s own views – were capable of change. Given that ‘cameralist’ and the ‘cameral sciences’ were contemporary self-descriptions – mercantilism was a subsequent designation – the case for treating cameralism as a mutating discourse is even stronger than that for mercantilism. In Justi, we can trace the self-reflections of a self-proclaimed cameralist. But my aim is not to derive one universal conception of what cameralism was all about, but rather to study carefully how the cameral sciences were understood by their principal representative. I study cameralism as a political and economic language, rather than as a systematic doctrine. I apply the methods of conceptual history to cameralism, and deal with cameralism on its own terms, analysing the contemporary usage of camera-related discourse. To do this one must analyse the cameral sciences independently of later interpretative frameworks such as mercantilism or liberalism. The three main themes of this book follow from Justi’s own systematisation of cameral sciences, built around natural law (*Naturrecht*), social and economic policy including all activities of the state (*Policey*), and political theory (*Staatskunst*). I will highlight the real interdependence of these branches of Justi’s thought.

CAMERALISM AS SUBFIELD OF THE GERMAN ENLIGHTENMENT

This book addresses major disagreements about the German Enlightenment related to deficiencies in the way Justi has been studied, and still is being studied. This often follows from a narrow and rigid understanding of

⁹ Lars Magnusson, *The Political Economy of Mercantilism* (London, 2015), preface, x: ‘Instead of depicting it as a coherent doctrine, I rather seek to define Mercantilism as a set of discourses appearing in the Early Modern period, roughly between the sixteenth and eighteenth centuries, that discussed how national power could be achieved by economic plenty, but also how plenty was dependent upon power.’

the German Enlightenment: as something hermetic, esoteric, and above all apolitical.¹⁰

Scholars interested in Justi have long been polarised. On the one hand, Justi has been celebrated as one of the founders of modern German political and economic thought, and as the first major representative of political economy in Germany. On the other hand, the tradition of the cameral sciences and its main representative, Justi, come under criticism for preventing the early development and adoption of ‘real’ political economy on German soil. Justi has been presented simultaneously as the greatest obstacle to the development of political economy, and also as the *primus motor* of its success. One explanation for this apparent paradox can be found in an unnecessarily narrow and rigid understanding of the concept of cameralism as a unitary doctrine incapable of change. There has since the days of Wilhelm Roscher (1817–1894) been a tendency to describe cameralism as an idiosyncratic German version of mercantilism. Adam Smith’s coining of the term ‘mercantile system’ in *Wealth of Nations* Book IV was intended to have a negative connotation, and this has rebounded on the way in which the discourse and practice of the cameral sciences have been evaluated.¹¹ Today cameralism still often appears as an archaic, quintessentially German phenomenon, one moreover often associated with state intervention and absolutism. Douglas Moggach has recently gone so far as to call cameralism a theory of state intervention.¹² This brings us to the broader point of the German Enlightenment. Although the apolitical and authoritarian character of the German Enlightenment has been questioned repeatedly since the 1980’s, it is a perspective that recurs in the literature.¹³

¹⁰ For a classical account, see Peter Gay, *The Enlightenment: An Interpretation. The Science of Freedom* (New York, 1996 [1969]), pp. 488–489.

¹¹ Wilhelm Roscher, *Geschichte der Nationalökonomik in Deutschland* (München, 1874). On mercantilism see Lars Magnusson, *Mercantilism: The Shaping of an Economic Language* (London, 1994) and Lars Magnusson, *The Political Economy of Mercantilism* (London, 2015).

¹² See Douglas Moggach, ‘Freedom and Perfection: German Debates on the State in the Eighteenth Century’, *Canadian Journal of Political Science*, 42 (2009), pp 1003–1023, p. 1006.

¹³ For major contributions questioning the image of an apolitical authoritarian German Enlightenment see Hans Erich Bödeker and Ulrich Herrmann, ‘Aufklärung als Poli-

My approach to Justi and the German Enlightenment emphasises the Enlightenment as a political process. This alternative, and preferable, viewpoint contrasts with an older tradition that sees the German Enlightenment as authoritarian and unpolitical. The Enlightenment as political process was first formulated at length by Ulrich Herrmann and Hans Erich Bödeker in the 1980's. They argued that the politicisation process of the German Enlightenment involved 'critical thinking with practical intentions'.¹⁴ Politicisation was a result of reflection on contemporary circumstances, and based on a consciousness of the interconnectedness in the constitution of the state, social fabric and individual situation. This promoted the rise of a new civil consciousness and new ways of conceiving state and society. The process of politicisation was not only a matter of mind, but a matter of practical conduct towards the world and environment. It was a reform movement that encompassed all spheres of life.¹⁵ Justi was deeply involved in the politicisation of the German Enlightenment, not only at a theoretical level, but in his various roles as *Gelehrter*, government advisor, administrator, public intellectual and journalist. He argued for reforms formulated according to his own political convictions. Even before we consider in what way Justi's thought was political, his life was itself political, since he was an active participant in political life.

Another explanation for the paradox of Justi as the *primus motor*, and yet an obstacle to the development of German political and economic thought, has to do with the tendency to take Anglo-French literature as the standard against which everything else is to be judged.¹⁶ This is widely vis-

tisierung – Politisierung der Aufklärung: Fragestellungen', in *Aufklärung als Politisierung: Politisierung der Aufklärung*, eds. Hans Erich Bödeker and Ulrich Herrmann (Hamburg, 1987), pp. 3-9; Diethelm Klippel, 'Politische Theorien im Deutschland des 18. Jahrhunderts', *Aufklärung 2* (1988), pp. 57-88; Diethelm Klippel, 'Naturrecht als politische Theorie: Zur politischen Bedeutung des deutschen Naturrechts im 18. und 19. Jahrhundert', in *Aufklärung als Politisierung: Politisierung der Aufklärung*, eds. Hans Erich Bödeker and Ulrich Herrmann (Hamburg, 1987), pp. 267-293.

¹⁴ Bödeker and Herrmann, 'Aufklärung als Politisierung', p. 5.

¹⁵ Bödeker and Herrmann, 'Aufklärung als Politisierung', p. 4.

¹⁶ On this point see Keith Tribe 'Concluding remarks', in *Cameralism in Practice: State Administration and Economy in Early Modern Europe*, eds. Marten Seppel and Keith Tribe (Woodbridge, 2017), pp. 263-268, see especially page 266

ible in general interpretations of the German and European Enlightenment. The failure to acknowledge the multifacetedness of the German Enlightenment has led to interpretations that stress the inability of German thinkers to adopt ‘Western ideas’ such as the notion of an economically active citizen, or to make use of republican political language. Fania Oz-Salzberger’s impressive and influential account of the German Enlightenment, *Translating the Enlightenment* (1995) might be thought to exemplify this perspective,¹⁷ suggesting that German thinkers failed to adopt the republican language of Adam Ferguson (1723–1816). Readers could conclude that everything that was innovative, challenging, and indeed interesting in terms of eighteenth-century political thought was conspicuously absent from the German context. Oz-Salzberger shows in detail however the way in which the translation and German reception of Ferguson’s *Essay* (1767) and *Institutes* (1769) reversed the relationship between the two works in their original language. From this, it might seem that German translators of Ferguson simply missed the republican language of his text. Hence it might appear that German political economists, or more exactly cameralists, occupied a linguistic space distinctly different from their French and Anglophone contemporary thinkers, such that German political economists are thought to have been unable to adopt the language and ideas of their Scottish contemporaries.¹⁸

There is also a deeper theoretical or philosophical underpinning for the established interpretations of the German Enlightenment, and this has only recently begun to be challenged. Our understanding of the German Enlightenment has been distorted by the historiographical legacy of Immanuel Kant and his followers. Emphasising Kant’s original achievement, accounts of the early German Enlightenment were chiefly limited to an analysis of Christian Wolff’s (1679–1754) moral and metaphysical rationalism, which was in turn often interpreted as arid, pedantic and in favour of a conservative and authoritarian order. The standard canon runs straight from Wolff to

¹⁷ Fania Oz-Salzberger, *Translating the Enlightenment: Scottish Civic Discourse in Eighteenth-Century Germany* (Oxford, 1995).

¹⁸ Christof Dipper, ‘Naturrecht und wirtschaftliche Reformen’, in *Naturrecht, Spätaufklärung, Revolution*, eds. Otto Dann and Diethelm Klippel (Hamburg, 1995), pp. 164–165.

Kant, omitting everything in between, and so Wolff appears to be a uniquely significant predecessor of Kant. This book seeks to avoid this kind of retrospective Kantianism.¹⁹

The most recent study of Justi takes a very different approach. Ulrich Adam's innovative study of Justi emphasises the extent to which Justi's thought and his political economy was linked to contemporary debates on trade and international order. Justi's thought is interpreted within the larger framework of European politics and domestic economics. Adam offers an extremely valuable and rich analysis of how Justi's political economy should be interpreted against the backdrop of increasing commercial competition between modern nations. As Adam demonstrates, Justi's domestic proposals for reform were a result of his realisation that the economic limits to politics were set by the need to succeed in international trade.²⁰ In other words, Adam recognises how Justi's 'economic policy' (*Policey*) was underpinned by his conception of international order as elaborated in his political theory (*Staatskunst*). However, by placing Justi in a European rather than a German context Adam emphasises on French debates on trade and thereby undermines the significance of natural law for Justi. While successfully interpreting Justi's thought within a wider European framework, Adam pays insufficient attention to the fact that not only Justi, but several of his Göttingen contemporaries were developing ideas about natural law within a European framework. Already at the outset Justi's political thought was embedded in both European and German thought.

To understand Justi's political thought in his own terms it is necessary to explore what he considered to be the foundation of his whole system. Justi considered natural law to be the key organising device for his political and economic thought. Justi's notion of natural law was a precondition for his conception of successful economic policy. Successful economic policy was in turn central for the preservation of the state, while successful foreign policy and internal state order was required for the maintenance and increase of economic resources. Everything in Justi's cameralist system was, as he

¹⁹ For a critique of retrospective Kantianism see the very important text of Ian Hunter, *Rival Enlightenments: Civil and Metaphysical Philosophy in Early Modern Germany* (Cambridge, 2001).

²⁰ Adam, *The Political Economy*, p. 59.

maintained, interdependent. His cameral sciences were structured as an interdependent system (*zusammenhängendes Lehrgebäude*) built on natural law.

This book provides the first comprehensive study of Justi's conception of natural law. The centrality of natural law to the academisation and theorisation of the burgeoning field of cameral sciences has been acknowledged by a number of scholars.²¹ It does not come as a surprise that natural law was important for Justi's thought since it was among the most important university disciplines of the time. Natural law discourse underpinned eighteenth century social and political thought, inspiring lawyers, philosophers, political scientists, theologians and historians alike.²² However, scholars of German cameralism have tended to treat German natural law almost as if it formed a unitary whole during the second half of the eighteenth-century. As I will show, in Justi's case we are dealing with a very particular use of natural law which cannot be fully grasped if natural law is treated as a philosophically-founded body of theory. Rather, natural law is best understood as a discourse subject to great variation depending on political, social and economic contexts, and depending above all on the purposes to which it was applied. In this sense my approach to natural law is the same as that to cameralistic discourse. Both of these intertwined discourses were capable of changing, and they did change.

An inability to recognise change within German and European natural law has led to an emphasis on the differences between German political economy, and French or British political economy. It has been suggested that while in the Anglo-French context the theoretical foundation of political economy was the sociability and self-interest of men, German thinkers

²¹ Most recently the importance of natural law in the political thought of Justi has been emphasised by Schmidt am Busch. See Hans-Christoph Schmidt am Busch, 'Cameralism as 'Political Metaphysics: Human Nature, the State and Natural Law in the Thought of Johann Heinrich Gottlob von Justi', *European Journal of the History of Economic Thought*, 16 (2009): pp. 409-430. He, however, leaves open whether Justi was a Wolfian or not. See p. 413.

²² Hans Erich Bödeker and Istvan Hont, 'Naturrecht, politische Ökonomie und Geschichte der Menschheit: Der Diskurs über Politik und Gesellschaft in der frühen Neuzeit', in *Naturrecht, Spätaufklärung, Revolution*, eds. Otto Dann and Diethelm Klippel (Hamburg, 1995), pp. 80-89, p. 83.

preferred to prioritise the rationality of the state. It has been suggested that it was precisely the tradition of cameralism that made German economic theorists so reluctant to adopt ideas of natural jurisprudence, according to which the individual was seen as an active agent within commercial society. According to this interpretation, the state always had primacy over economically active, self-interested citizens.²³ As a result, the German case has been presented as significantly different from that of Scotland, France or Naples. In each of these contexts natural law played a key role in the efforts of political economists to conceptualise society in terms of economically active individuals. This transition, which took place around 1760, was conditioned by two major intellectual moves on the part of natural law thinkers: on the one hand, by their increased emphasis on the importance of sociability and self-interest as the foundation of commercial society; on the other, their use of historical anthropology to argue for the gradual development of societies towards the most civilised level, that of commercial society.²⁴ In contrast to ‘Western countries’, it has been claimed that in Germany this transformation took place very late, only at the very end of the eighteenth century.

Besides Horst Dreitzel, scholars who have recognised the central role of natural law in Justi’s thought have to date fallen back on the idea that the sole form of natural law to which Justi was indebted was that of Christian Wolff, an interpretation which in itself is in accordance with the longstanding and reductive view that the German Enlightenment was a unitary movement. Recent scholarship has challenged this traditional view,²⁵ but some commentary on cameralism has only incompletely assimilated this new perspective. Jürgen Backhaus, for example, fully recognises the importance of natural law for the political and economic thought of Justi, but argues that the foundation of German political economy lies in the natural law of Christian Wolff. According to Backhaus, the key principle is ‘an enlightened interest of the State which is equal to the interest of the ruler, if he

²³ Christof Dipper, ‘Naturrecht und wirtschaftliche Reformen’, pp. 164-165.

²⁴ For the similarities in these different contexts see Hans Erich Bödeker and Istvan Hont, ‘Naturrecht, Politische Ökonomie und Geschichte der Menschheit’, pp. 80-89.

²⁵ See especially Ian Hunter, *Rival Enlightenments* and Martin Mulrow, *Moderne aus dem Untergrund: Radikale Aufklärung in Deutschland 1680–1720* (Hamburg, 2002).

only understands his interest well. From that principle Justi takes the Wolfian system, which is after all aimed at Wolff's system of *Natural Law*, and takes over roughly Wolff's categorization.' Furthermore, Backhaus identifies the connection between Wolff and Justi at the point 'where Justi takes Wolff's *jus gentium* and its subsections and makes it in a system of state sciences based on Wolff's natural law'.²⁶ Backhaus represents only one of several examples of the way in which the political theory of Justi has been predominantly interpreted within the framework of Christian Wolff's philosophy. This is as true for Justi's notion of natural law as it is for his political and economic thought more broadly.²⁷

If we were to accept that the foundation of German political economy was in Wolff's natural law, this clearly would distinguish it from its Scottish and other 'Western' variations of political economy. It would be fitting to distinguish cameralists from Anglo-French political economists. The latter were indebted to historical anthropology as formulated in natural law before being reworked as political economy; they were also indebted to a voluntaristic strain of natural law emphasising the self-interested and passionate essence of human nature that was in conflict with man's rationality. To posit Wolff's natural jurisprudence as the foundation on which Justi built his political economy is another way of endorsing a one-sided and unitary interpretation of the German Enlightenment that needs challenging. I will instead demonstrate that Justi was one of several authors who regarded themselves as advocates of a revised natural law distinct to that of earlier

²⁶ Jürgen Georg Backhaus, 'From Wolff to Justi', in *The Beginnings of Political Economy*, ed. Jürgen Backhaus (New York, 2009), p. 11, p. 14.

²⁷ For further accounts which depict Justi as following Wolff see for example Ferdinand Frensdorff, *Über das Leben und die Schriften des Nationalökonomens J. H. G. von Justi* (Göttingen, 1903); Louise Sommer, *Die österreichischen Kameralisten: In dogmengeschichtlicher Darstellung* (Wien, 1920/1925); Ursula A. J. Becher, *Politische Gesellschaft: Studien zur Genese bürgerlicher Öffentlichkeit in Deutschland* (Göttingen, 1978). Klaus-Gert Lutterbeck, *Staat und Gesellschaft bei Christian Thomasius und Christian Wolff: Eine historische Untersuchung in systematischer Absicht* (Stuttgart-Bad Cannstatt, 2002), p. 29, p. 195; Susan Richter, 'Pater patriae sinensis: The Discovery of Patriarchal Rule in China and Its Significance for German Theories of State in the Eighteenth Century', in *Structures on the move. Technologies of Governance in Transcultural Encounters*, eds. Antje Flüchter and Susan Richter (Heidelberg, 2012), pp. 61-85.

generations. For these authors, natural law was in one way or another inherent in human nature itself, and not something that had to be imposed on it. Justi emphasised that passions and emotions were the driving factors of human life. This transformation of natural law has variously been called sentimental natural law, natural law of the passions, or anthropological natural law.²⁸ As part of this shift in natural law, Justi's cameral sciences were no obstacle to the reception of natural law theories that emphasised the passionate and self-interested side of the human nature, as often assumed in the scholarly literature. Justi was an advocate of an anthropologically, empirically and historically-oriented natural law which relied on a notion of self-interested individuals making progress towards a commercial society. Shifts in German political and economic thought were part and parcel of larger shifts that took place in European political and economic thought. As I will show, Justi's political economy is actually founded upon the ideas that he has routinely been accused of failing to adopt.

THE POLITICAL SIGNIFICANCE OF JUSTI'S CAMERALISM

We need to engage in a great deal of conceptual clarification if we want to consider Justi as a political figure within a political Enlightenment. Justi was a restless character who never stayed more than a few years in one place. This has presented great difficulties to historians in attempting to contextualise his work, even in geographical terms. Louise Sommer thought Justi was a leading Austrian cameralist; Wilhelm Roscher argued that Justi was a Saxonian national economist; and Ernst Klein claimed that Justi was nothing but an apologist for the Prussian administrative order.²⁹ The related

²⁸ Thomas Ahnert, 'Pleasure, Pain and Punishment in the Early Enlightenment: German and Scottish Debates', *Jahrbuch für Recht und Ethik. Annual Review of Law and Ethics* 12 (2004), pp. 173-187, p. 174; Scattola, Merio, 'Das Naturrecht der Triebe, oder das Ende des Naturrechts: Johann Jakob Schmauß und Johann Christian Claproth', in *Das Naturrecht der Geselligkeit: Anthropologie, Recht und Politik im 18. Jahrhundert*, eds. Vanda Fiorillo and Frank Grunert (Berlin, 2009), pp. 231-250.

²⁹ Sommer, *Die österreichischen Kameralisten*; Wilhelm Roscher, 'Der sächsische Nationalökonom Johann Heinrich Gottlob von Justi', *Archiv für die Sächsische Geschichte*, 6 (1868), pp. 76-106. Ernst Klein 'Johann Heinrich Gottlob Justi und die preußische Staatswirtschaft', *Vierteljahrsschrift für Sozial- und Wirtschaftsgeschichte*, 48 (1961), pp. 145-202, p. 200, 202.

task of situating Justi in the intellectual landscape of eighteenth century Germany or Europe has proved equally challenging. Some scholars have argued that Justi's only achievement was to increase the audience for economic issues. Others praise his theoretical interventions as the 'inventor of modern theory of administration' and as a great systemiser and finaliser of cameral sciences (*große Systematiker und Vollender des Kameralismus*)³⁰. From the perspective of the history of political thought Justi has been variously hailed as an absolutist, a paternalist, an enlightened absolutist, a liberal, and even a republican.³¹ None of these categories truly applies to Justi.

It is important to note that the cameral sciences were initially concerned with questions of monarchy and bureaucracy. Cameralists were administrators in territories subjected to rulers, and so the political arguments in their writings reflect an allegiance to their rulers. But as cameralism turned into an academic and theoretical discipline, a process in which Justi was deeply involved, the nature of the cameral sciences changed. Slowly they moved towards the sciences of state (*Staatwissenschaften*), which focused on the theory and practice of the total happiness of the state. Justi played a key role in this process of the theorisation and academisation of the cameral sciences. Cameralism became a university discipline with a normative academic discourse that developed independently from the context of the *Kammer*. As cameralism became an academic discipline, its primary context became the university.³² To my knowledge, the first scholar to study this process was Pierangelo Schiera in his book *Il Cameralismo e l'assolutismo*

³⁰ Anton Tautscher, 'Geschichte der deutschen Finanzwissenschaft', *Handbuch der Finanzwissenschaft* (Tübingen, 1952), vol. 1, pp. 348-415, p. 411.

³¹ For an interpretation of Justi as an absolutist see Jutta Brückner, *Staatwissenschaften, Kameralismus und Naturrecht: Ein Beitrag zur Geschichte der politischen Wissenschaft in Deutschland des späten 17. und frühen 18. Jahrhunderts* (München, 1977); Ursula A. J. Becher, *Politische Gesellschaft. Studien zur Genese bürgerlicher Öffentlichkeit in Deutschland* (Göttingen, 1978). For Justi as a liberal see Marcus Obert, *Die naturrechtliche "politische Metaphysik" des Johann Heinrich Gottlob von Justi (1717-1771)* (Frankfurt am Main, 1992); Uwe Wilhelm, 'Das Staats- und Gesellschaftsverständnis von J.H.G. von Justi: Ein Beitrag zur Entwicklung des Frühliberalismus in Deutschland', *Der Staat* 30 (1991), pp. 415-441.

³² Keith Tribe, 'Cameralism and the Sciences of the State', in *The Cambridge History of Eighteenth-Century Political Thought*, eds. Mark Goldie and Robert Wokler (Cambridge, 2006), pp. 525-546, at page 525.

tedesco. According to Schiera, Cameralism presented an important transformation in the history of political thought: a transformation from the art of government to the sciences of state. Unlike the art of government, sciences of state were not directly bound to the person of the sovereign. In their political theory the cameralists sought to be less technically oriented, not solely oriented to the empirical reality of the fiscal chamber. Instead, they aimed at more ‘scientific’ knowledge.³³ More recently, the transformation that Schiera described has been challenged. In his thought-provoking revisionist book *The Disordered Police State: German Cameralism as Science and Practice* Andre Wakefield has contested the independence of cameral sciences, claiming that cameralism never completely separated itself from the *Kammer*. According to Wakefield, cameral sciences were never independent from fiscal administration. In this view cameralism consisted of the ‘public discourse of the cameral sciences and the secret discourse of the *Kammer*’.³⁴ Moreover, ‘cameral sciences were *strategic*’, they were part of a strategy to strengthen the fiscal state and cast it in the most positive light.³⁵ Cameralists followed their own interests, searching for administrative or university positions, paying lip service to the people and flattering the rulers. In this sense too ‘[c]ameralism was the public face of secret things; cameralists were publicists for the *Kammer*’.³⁶ They were fiscal propagandists. Even the rhetoric of cameralism can be explained through the

³³ Pierangelo Schiera, *Il cameralismo e l'assolutismo tedesco* (Milan, 1968), p. 453. ‘L’importanza del Cameralismo, sotto questo particolare profilo, riceve infine un’ulteriore conferma da quella che è stata indicata come la sua principale caratteristica, nell’ambito della storia del pensiero politico: l’aver favorito cioè in modo determinante, in terra tedesca, il passaggio da una considerazione precettistica, personalistica (in funzione del sovrano) della realtà politica, ad una più moderna, già qualificata in senso ‘scientifico’, o quanto meno ‘tecnico’, anticipando addirittura un certo modo di accostare i problemi politici che, prescindendo dal ricorso ad ideologie e utopie, a mitizzazioni e teorie astratte, avrebbe contribuito ad aprire la strada alle più moderne scienze politiche e sociali. Il Cameralismo insomma si presentò davvero, nel suo aspetto più generale e valido, come punto di passaggio decisivo dall’arte di governo alle scienze dello stato.’

³⁴ Andre Wakefield, *The Disordered Police State: German Cameralism as Science and Practice* (Chicago, 2009), p. 137.

³⁵ Wakefield, *The Disordered Police State*, p. 138.

³⁶ Wakefield, *The Disordered Police State*, p. 142.

selfish actions of cameralists. They had to be skilful rhetoricians in order to promote their profession.

Treating cameralists as fiscal propagandists underestimates the political nature of cameralists' writings. First, whilst their work may have had the appearance of fiscal propaganda for the prince and the process of state building, the pages of their books provided a medium in which cameralists could criticise the reality of princely politics. Secondly, as Justi's theory exemplifies, cameralism was definitely future-oriented: Justi was advocating reforms in order to achieve a certain kind of state. Therefore his concept of a well-ordered state was a normative political 'anticipatory notion' (*Erwartungsbegriff*). By no means was he saying that it already existed, a point directed in many ways against the inadequacy of rulers and their ministers. Thirdly, as Peter H. Wilson has pointed out 'Cameralists were not all cynically peddling fashionable theories to get ahead. They were engaging in a much broader debate about the true nature of the world, people's place within it, and their relation to God. It is impossible to detach words and motives as neatly as Wakefield seems to suggest. Cameralists convinced prospective employers not simply with tricks, but by using arguments that princes and even some subjects accepted as self-evident truths.'³⁷ Justi worked at different levels of abstraction, and in different contexts, contributing to specific debates. Some of his work – such as his war pamphlets – might be considered as propaganda. Others present sophisticated political theories, which are not only of instrumental interest. All in all, Wakefield's position resembles the earlier argument of Ernst Klein, that Justi was merely describing Prussian state administration.³⁸ Wakefield's position is distinctive only to the extent that he thinks that cameralists are not merely describing contemporary administrations, but selling them to their subjects.

If one accepts Wakefield's assessment of the political aspects of cameralism and of Justi – the main villain of his story – one can only admire Justi's real success in producing propaganda. He must truly have been 'a

³⁷ Peter H. Wilson, Review of Wakefield, Andre, *The Disordered Police State: German Cameralism as Science and Practice. H-German, H-Net Reviews*. January, 2010. URL: <http://www.h-net.org/reviews/showrev.php?id=26084>

³⁸ Klein, 'Johann Heinrich Gottlob Justi und die preußische Staatswirtschaft', pp. 145-202.

smooth operator', as Wakefield colourfully calls him.³⁹ And Justi's success would not be confined to the eighteenth century. Indeed, the culminating point of his success would be during the 1990s, when in their search for the origins of liberal German political thought scholars such as Thomas Württemberg, Marcus Obert and Uwe Wilhelm interpreted Justi as one of the first representatives of German liberalism.⁴⁰ As a skillful rhetorician, Justi seems to have sold the theory of princely absolutism as a liberal theory of government. In this context discussion of Justi's favourite form of government was closely related to a wider discussion about the nature of the German Enlightenment. The question has been raised: where were the German liberals? Liberalism is often seen as the most important part of a European cultural heritage, part of the rise of modernity. Did Germany not participate in this programme, was there in fact a German *Sonderweg*? One way to contest the *Sonderweg* thesis has been to argue that liberalism in Germany flourished within the Enlightenment. Uwe Wilhelm took this line of argument still further in 1991 when he suggested in his article 'Das Staats- und Gesellschaftsverständnis von J.H.G. von Justi: Ein Beitrag zur Entwicklung des Frühliberalismus in Deutschland' (1991) that Justi was an early liberal. According to Wilhelm, Justi was neither a mercantilist nor an absolutist; rather he was the first to bring the concept of freedom to German politics, supporting ideas of popular sovereignty and arguing that people have an active right to resist an unjust government. Consequently, Justi's goal was to overcome absolutist monarchy. Wilhelm stresses that in substance Justi was a liberal, and in chronology an early one. From this perspective Justi stands at the high point of the development of early liberalism in Germany.⁴¹

Although Obert and Wilhelm do make some perceptive remarks on von Justi's thought, it is anachronistic to characterise Justi as a liberal, since he lived at a time when the political concept had not yet been formed.⁴²

³⁹ Wakefield, *The Disordered Police State*, p. 79.

⁴⁰ Uwe Wilhelm, 'Das Staats- und Gesellschaftsverständnis'; Uwe Wilhelm, *Der deutsche Frühliberalismus: von den Anfängen bis 1789* (Frankfurt am Main, 1995); Obert, *Die naturrechtliche "politische Metaphysik"*.

⁴¹ Wilhelm, 'Das Staats- und Gesellschaftsverständnis', p. 441.

⁴² A historically contextualised comparative conceptual history of liberalism in Europe is provided by Jörn Leonhard, *Liberalismus: Zur historischen Semantik eines europäischen Deutungsmusters*.

It was not until the early nineteenth century that the term came into existence. What ‘liberal’ could mean in the context of the 1750s and 1760s is unclear. For one thing, eighteenth century theories of representation were totally different to those of the nineteenth.⁴³ Liberalism cannot be applied as an analytical tool in the analysis of cameral sciences, although this is not to question the existence of certain continuities. All the same, interpreting thinkers such as Justi in the framework of liberalism leads to problems similar to those that arise when he is treated as a mercantilist. The concepts actually used by cameralists are framed in terms of concepts that were alien to them.

Neither does the framework of liberalism take us very far if we want to understand the changes that took place in cameral sciences. We need to study carefully the concepts that Justi and his contemporaries used. It is significant that many of the studies that play down the changes that took place in the cameral sciences during the 1750s and 1760s ignore those works that sought to lay a new ‘theoretical foundation’ for the cameral sciences. For example, Andre Wakefield does not refer to Justi’s *Grundriß einer guten Regierung* (1759) and *Natur und Wesen der Staaten* (1760), or von Pfeiffer’s monumental *Grundsätze der Universal-Kameral-Wissenschaft* (1783). In these works, Justi and Pfeiffer elaborated their views on natural law, arguing that natural law should provide the philosophical foundation for the cameral sciences.⁴⁴ By disregarding these more theoretically nuanced works it is easy to make sweeping claims about the nature of cameralism. Cameralists’ accounts of foreign policy, international order and free trade have also suffered from a similar simplifying approach, often treating Justi’s and other cameralists’ books on these topics separately from the broader framework of the cameral sciences. If cameralism is presumed to be paternalistic, authoritarian, land-locked and protectionist, then writings that do

⁴³ For this point see Horst Dreitzel, ‘Universal-Kameral-Wissenschaft als politische Theorie: Johann Friedrich von Pfeiffer (1718–1787)’, in *Aufklärung als praktische Philosophie: Werner Schneiders zum 65. Geburtstag*, eds. Frank Grunert and Friedrich Vollhardt (Tübingen, 1998), pp. 149–171.

⁴⁴ Justi, *Der Grundriß einer guten Regierung*; Justi, *Natur und Wesen der Staaten*; Johann Friedrich von Pfeiffer, *Grundsätze der Universal-Kameral-Wissenschaft* (Frankfurt am Main, 1783).

not fit to this premise are neglected.⁴⁵ While reports written by cameralists and materials found in the archives of princes and their *Kammer* were an integral part of cameralism, they are only part of the story. From the 1750s onwards especially cameralist textbooks were theoretically nuanced, politically-charged and aimed at extensive social and economic reforms. Academic cameralists were by no means unfamiliar with the idea that human beings can be the best judges of their own interest, and that free trade and other non-governed activity is in many circumstances the most efficient way to foster the common good.⁴⁶ If paternalism is understood in a Kantian sense, where fatherly government (*väterliche Regierung*) treats the people as immature children who do not know how best to pursue for their own happiness,⁴⁷ then Justi's political thought cannot be easily included in such a characterisation.

The dualism between mercantilism/absolutism and liberalism does not take us very far in studying cameralists since they believed that individual freedom and economic competition were compatible with state regulation.⁴⁸

⁴⁵ Two exemplary exceptions are Harm Klueing, *Die Lehre von der Macht der Staaten: Das außenpolitische Machtproblem in der "politischen Wissenschaft" und in der praktischen Politik im 18. Jahrhundert* (Berlin, 1986) and Adam, *The Political Economy*.

⁴⁶ Birger P. Priddat, 'Kameralismus als paradoxe Konzeption der gleichzeitigen Stärkung von Markt und Staat: Komplexe Theorielagen im deutschen 18. Jahrhundert', *Berichte zur Wissenschaftsgeschichte* 31 (2008), pp. 249-263, p. 247; Philipp R. Rössner, 'New Inroads into well-known Territory? On the Virtues of Re-discovering pre-classical Political Economy', in *Economic Growth and the Origins of Modern Political Economy: Economic Reasons of State, 1500–2000*, ed. Philipp R. Rössner (London, 2016), pp. 3-25.

⁴⁷ Immanuel Kant, 'Über den Gemeinspruch: Das mag in der Theorie richtig sein, taugt aber nicht für die Praxis (1793)', in *Akademie Ausgabe von Immanuel Kants Gesammelten Werken*, Band VIII (Abhandlungen nach 1781), pp. 273-314, pp. 290-291. <https://korpora.zim.uni-duisburg-essen.de/kant/aa08/290.html> (web page visited 16 October 2018) 'Eine Regierung, die auf dem Prinzip des Wohlwollens gegen das Volk als eines Vaters gegen seine Kinder errichtet wäre, d.i. eine väterliche Regierung (*imperium paternale*), wo also die Untertanen als unmündige Kinder, die nicht unterscheiden können, was ihnen wahrhaftig nützlich oder schädlich ist, sich bloß passiv zu verhalten genöthigt sind [- - -] ist der größte denkbare Despotismus.'

⁴⁸ Guillaume Garner, 'Cameralist Theoretical Writings on Manufacturing and Administrative Practice in the German Principalities: Conflict and Coherence', in *Cameralism in Practice: State Administration and Economy in Early Modern Europe*, eds. Marten

This becomes apparent in the way Justi discusses the *Wirtschaftsbürger* in relation to the state. Cameralistic discourse was not a mere theory of state intervention. Whereas Justi favoured strong social control for certain aspects of life, for the mature Justi the central agent of economic change was the *Wirtschaftsbürger* pursuing his self-interest and happiness. It is worth noting that whilst Justi's conception of the freedom of citizens is rooted in his conception of natural law, he treats it much more extensively within the framework of *Policey*, the primary context here being the maintenance and augmentation of economic management. Justi regarded freedom of citizens as a precondition for the fostering and flourishing of population and commerce, which again was a precondition for success in the development of international competition. All the same, the concepts of absolutism and enlightened absolutism, the idea of giving unlimited power to the king, goes against the grain of Justi's idea of rights. Although this was not fully developed, it did imply that individual rights could be used to limit the power of the state. In this sense Justi's political thought was an attempt to transform unlimited monarchies into limited ones. His primary framework remained, however, royalist. Even when praising the mixed constitution or mixed monarchy of England Justi emphasised strong royal power.⁴⁹

CHAPTER SUMMARIES

The main themes of the book will be discussed in six chapters.

Chapter two outlines the historical context in which Justi and his contemporaries lived. Owing to his frequent – and not always voluntary – relocations, Justi has been referred to as an economic adventurer. He was active in Dresden, Sangerhausen, Vienna, Copenhagen, Altona, Berlin, and most importantly in Göttingen. In the latter he became acquainted with recent developments in German natural law and allied himself with thinkers such as Johann Jacob Schmauss (1690–1757) and Johann Claproth (1715–1748). This alliance would prove crucial in the development of Justi's thought, and his rejection of Wolff and his pupils. This chapter, then, emphasises Justi's experiences as the first public teacher of cameral sciences in Vienna,

Seppel and Keith Tribe (Woodbridge, 2017), pp. 133–154, see page 152.

⁴⁹ Despite some differences that will be elaborated on later in the text, my interpretation here comes close to Adam, *The Political Economy*.

as *Ober-Policey-Commissar* and scholar in the provincial yet ‘liberal’ and international atmosphere of Göttingen, and as a Prussian pamphleteer. I emphasise especially the importance of Justi’s Göttingen period; this was formative for his thought, and I also draw attention to the city’s status as a true centre of the German Enlightenment.

Chapter three argues that, influenced by his Göttingen contemporaries, Justi emphasised the passionate as opposed to the rational nature of man. Justi’s conception of natural rights was empiricist, historicist and voluntarist, as opposed to the rationalist and abstract conceptions of natural law. In other words, Justi spoke not of natural laws, but rather of natural rights. For Justi, commercial society was grounded in a passionate man defined by natural rights, seeking to fulfil his self-interest in specific empirical and historical contexts. Insufficient emphasis has been laid upon the fact that Justi developed his ideas about natural law in a very particular context and for a certain purpose. The extent to which Justi’s conception of the foundations of commercial society were influenced by Göttingen natural lawyers has not been sufficiently emphasised. Natural law discourses had played a major role in the Hanoverian city since the foundation of the university in 1734/1737. One can with some justification even speak of Göttingen natural law.⁵⁰ The peculiarity of Göttingen natural law was that, unlike in most German universities of the time, the natural law of Christian Wolff had only limited significance for Göttingen jurists and philosophers. Furthermore, Göttingen natural law anthropologised and historicised man. This was effected within the discourse of natural law, from which other branches of knowledge such as anthropology, politics and ethnology derived. In Göttingen natural law was transformed into empirical and historical knowledge, one element of which was the cameral sciences.⁵¹ For Justi, the cameral sciences were not totally independent from natural law, but remained closely linked to it. Nonetheless, the basis for a transformation from natural law to political economy and politics had been laid. For Justi, a minimalist natural

⁵⁰ I am here building on Merio Scattola. He counts Justi, Gottfried Achenwall and August Ludwig Schlözer to this school. See Merio Scattola, ‘Das Naturrecht der Triebe’, p. 247.

⁵¹ For the general framework see Hans Erich Bödeker, Philippe Büttgen and Michel Espagne (eds.), *Die Wissenschaft vom Menschen in Göttingen um 1800: Wissenschaftliche Praktiken, institutionelle Geographie, europäische Netzwerke* (Göttingen, 2008).

law served to legitimise the existence of the burgeoning field of the cameral sciences, whilst leaving room for the sciences that Justi considered most useful, namely the cameral sciences and especially the so-called *Policey-Wissenschaften*. These sciences dealt with the social and economic policy of the state and its subjects.

Chapter four analyses the concepts of freedom and *Policey* within the so-called doctrine of state aims (*Staatszwecklehre*⁵²), as advocated by Justi. According to Justi, the purpose of the state was happiness. I explore the way Justi shifted the focus from constitutional order to state economic policy, placing major emphasis on the maintenance and increase of the resources of the state. According to Justi, the task of the *Policey* was to enhance happiness, which he understood as security, inner strength and freedom of the state and its citizens. The scope of the debate on happiness extended far beyond rationalist philosophy. The concept of happiness is pertinent to my analysis since it has been argued that cameralists such as Justi adopted a theory of civil legislation or ‘welfare policy’ from Wolff, designed to ensure the happiness of subjects and directly organised by the state. However, I show that Justi was an exponent of the individual freedom of households.⁵³ Justi viewed the freedom of householders through the optic of its role in fostering successful commerce. As I demonstrate, Justi’s *Policey* is dual, something which was typical for the Göttingen scholars. On the one hand, he advocated emancipation and freedom for the elites, for men like himself, for active *Wirtschaftsbürger*. On the other hand, he favoured the strong social and economic control of the lower classes, and of women and servants in the male dominated sphere of the household.

⁵² On the doctrine of state aims see Michael Stolleis, ‘Staatszweck’, in *Historisches Wörterbuch der Philosophie*, eds. Joachim Ritter and Karlfried Gründer, vol. 10, (Basel, 1999), pp. 80-84; Diethelm Klippel, ‘Der liberale Interventionsstaat: Staatszweck und Staatstätigkeit in der deutschen politischen Theorie des 18. und der ersten Hälfte des 19. Jahrhunderts’, in *Recht und Rechtswissenschaft im mitteldeutschen Raum*, ed. Heiner Lück (Köln, 1998), pp. 77-103; Peter Preu, *Polizeibegriff und Staatszwecklehre: Die Entwicklung des Polizeibegriffs durch die Rechts- und Staatswissenschaften des 18. Jahrhunderts* (Göttingen, 1983).

⁵³ Justi still thought of the family-centred household as the productive unit of society. Accordingly, I retain the traditional labels, ‘household’ and ‘householder’.

Chapter five demonstrates the consequences of Justi's conception of freedom for Justi's conception of the state. The chapter focuses on Justi's conception of the state as mediated by the metaphor of the machine. Justi used this metaphor extensively, and it has been interpreted as an argument for an authoritarian order. I argue that Justi, the principal advocate of the doctrine of state aims and the most notable exponent of the metaphor of the state as machine, allowed great freedom to citizens who were seen as passionate parts of the state machine but endowed with natural rights. The state machine was a special moral machine made up of passionate components: human beings who could not be treated simply as, or reduced to, machines. Citizens had *voluntarily created* the state machine to protect their own happiness, comprising security, freedom and wealth. This chapter further shows that Justi was a devoted admirer of the mixed government of England, which he considered the contemporary state that most closely resembled his concept of the machine state. By exposing the meaning of Justi's metaphor of the state machine we can recognise the more 'liberal' aspects of his political thought, although ultimately Justi opts for the royalist interpretation even of mixed government.

Chapter six analyses Justi's views of international order in a broader eighteenth-century discussion of political order and commerce. Two different ways of understanding the relationships between states are outlined. During this period theorists commonly envisaged the world state in the form of a universal monarchy or of *civitas maxima*, or alternatively argued that peace and tranquillity among states could be secured through the orchestration of a balance of power between states. Justi's position in this debate is rendered somewhat puzzling because of his early essay on universal monarchy (1748). Here Justi argues that a monarch ruling the whole of Europe could secure peace and tranquillity in Europe. This would seem to make him one of the last defenders of a universal monarchy. I argue, however, that this piece is in fact a satire in which Justi comments on the situation of the Holy Roman Empire. Justi ridicules petty tyrants and pleads for larger commercial unities. According to him, the Holy Roman Empire contained far too many tyrants, and it would be much more beneficial to have a stronger centralised regime. The contemporary counterconcept to universal monarchy was that of the balance of power, whereby potential oppressors were to

be kept within limits by means of the orchestration of balances. Emer de Vattel (1714–1767) was the most prominent and influential theoretician of the balance of power. In general, eighteenth-century theorists who rejected the doctrines of universal monarchy and *civitas maxima* usually opted instead for the balance of power doctrine. However, this chapter shows that this is not the case with Justi. He launched a vehement attack on the notion of the balance of power. According to Justi, the balance of power doctrine was nothing but a mask for *raison d'État* thinking; a disguise for violent passions and hidden motives. States and their governors were no more rational than individual human beings in the state of nature. In this way Justi's conception of human nature as passionate fed into his understanding of the structure of international relations.

Chapter seven addresses Justi's future vision for Europe and Prussia. After rejecting the ideas of the balance of power and of the greatest state, Justi argued that states, the main actors in international relations, always remained in the state of nature in which everyone was equal. There was no authority above a sovereign state. States were free and equal just as men had been before the foundation of civil society and still were in parts of America and Asia. Unlike men, however, states could not form a state together, as Justi's critiques of the *civitas maxima* and universal monarchy reveals. They could not even rely on the balance of power as the keeper of peace. However, it would be too hasty to assume that states were in a constant state of war. The mechanism that secured peace between states was the same as in the state of nature: the law of retaliation, and the other side of the same coin, namely adherence to the Golden rule: 'Do unto others as you would have them do unto you'.⁵⁴ The fear of punishment and the hope of pleasure moved states just as they moved individual men. This chapter shows that Justi argued that there are two equally good ways to follow these rules. A state could follow the Golden rule either by choosing the way of a 'philoso-

⁵⁴ On the Golden rule see Joachim Hruschka, 'Die Konkurrenz von Goldener Regel und Prinzip der Verallgemeinerung in der juristischen Diskussion des 17./18. Jahrhunderts als geschichtliche Wurzel von Kants kategorischem Imperativ', *Juristen-Zeitung* 42 (1987), pp. 941-952; Joachim Hruschka, 'Die Goldene Regel in der Aufklärung: die Geschichte einer Idee', *Jahrbuch für Recht und Ethik. Annual Review of Law and Ethics* 12 (2004), pp. 157-172.

pher state', as in the case of China, or that of a 'man of the world', which was represented by England. A philosopher who wanted to live in isolation lived as if he were alone in the world. A man of the world was different; he was social and treated other states socially. Justi did not want Prussia and its philosopher king to choose the way of China and concentrate only on inner development and domestic production, that is, to choose the philosophical way out of the dilemma posed by the jealousy of trade among European nations. In Justi's view, the way of the philosopher, China, was impossible to implement in Europe because of all the connections between European states that already existed; he had especially in mind trading connections. Because of these pre-existing conditions, European states were bound to live the difficult lives of men of the world, constantly competing with one another. This chapter shows that, to find a way out of this dilemma, Justi pleaded for the equality and integrity of nations, a state of international affairs in which minimal morality and sociability would be accepted. Thus he opted for contingency and conventions as principles by which to regulate international relations, as opposed to 'chimerical' ideas about the unity of states.

This book seeks to show how Justi, in building a theory of natural law on human passions and instincts, formulated the idea of universal natural rights and a theory of the state and of political economy that was strikingly different from earlier German cameralists. He saw these natural rights as applicable to international relations, and consequently attacked European colonialism. The book shows the ways in which earlier thinkers prepared the ground for Justi's development of these themes in the context of several European countries and institutions. Its major contribution is to shift the emphasis of our understanding of the German Enlightenment toward a multifaceted and diverse politics. It is not only a contribution to the study of the political thought of Justi; it also opens up perspectives on a range of issues concerning the intellectual history of the Enlightenment in Germany and Europe. In so doing it moves beyond previous studies of Justi's thought and its place in the German Enlightenment, such as those by Istvan Hont and Horst Dreitzel.⁵⁵ My aim is not to bestow belated canonical status

⁵⁵ Istvan Hont, *Jealousy of Trade: International Competition and the Nation-State in His-*

on Justi, rather I offer a balanced study of a rich thinker and a colourful person who developed distinctive views on natural law and commercial society in response to a series of complex intellectual and political contexts. The aim of this book is to place Justi in a German context, and the German Enlightenment in the European context.

torical Perspective (Cambridge, 2005); Horst Dreitzel, *Absolutismus und ständische Verfassung in Deutschland: Ein Beitrag zu Kontinuität und Diskontinuität der politischen Theorie in der frühen Neuzeit* (Mainz, 1992).

CHAPTER 2: THE POLITICAL CONTEXT OF JUSTI'S MAJOR WORKS

JUSTI AS A WRITER

This chapter highlights a series of key moments of Justi's life and sets his writings in the political and intellectual context of eighteenth century Europe. Justi was active as a literary journalist, scholar, state official and he tried his luck several times as an entrepreneur, with not such excellent results. Altogether Justi wrote 69 monographs. His experiences as a writer, academic, administrator and entrepreneur influenced his attitudes towards all the major topics of this book; human nature, promotion of the economy, state formation and international thought. In the following I discuss the context of Justi's main works in the cameral sciences. In order to explore the political and international thought of Justi it is essential to recognise that he presented his points in specific political contexts and that he formulated his theories as contributions to ongoing debates. This is equally true for Justi's writings on political as well as international issues. The aim of this chapter is to elaborate the three main contexts of Justi's major writings. The first context is Justi's role as the main advocate of cameral sciences in Vienna. The provincial town of Göttingen and its university are the second major context for Justi's treatises, and finally Justi's writings on political theory and international order can be only understood through his activities as a pro-Prussian and pro-Hanoverian author.

It is no easy task to establish the debates in which Justi participated by relying purely on textual analysis of his works. Justi was reluctant to refer to earlier authors. This becomes clear from his textbook on *Grundsätze der Policy-Wissenschaft*. In it Justi self-confidentially stated: 'In this book I have followed my usual rule of not citing other authors. A dogmatic writer must present the subject conclusively, and if he does this he does not need

the authority of earlier writers. Such citations smack of pedantry, unless they contain historical facts, or unless some special circumstances call for them.⁵⁶ This is quite surprising since Justi had in an earlier text argued that reputation and wealth in the republic of letters was based on references to other authors.⁵⁷ References are not totally absent from Justi's works. For instance, he does acknowledge the significance of Montesquieu's *Esprit des Lois* for his *Natur und Wesen der Staaten* (1760).⁵⁸ It is however at times difficult to ascertain which views are Justi's, and which are compilations and translations of texts by other authors. This becomes apparent in Justi's discussion of the concept of representation in *Grundriß einer guten Regierung* (1759).⁵⁹ At times Justi's authorial voice gets lost and it is difficult to know who is talking. As Barbara Stollberg-Rilinger has shown, Justi basically adopts Montesquieu's views on representation, or even just translates Montesquieu's passages without giving any credit to the original author.⁶⁰

Although Justi claimed to be a systematic writer, the haste with which he wrote his books is perceptible. It was a constant struggle for him to live by the profits of his pen. The struggle for income imposed many limitations on his life and had a clear impact on his writings. Every year from the 1750s onwards Justi presented a new book at the Leipzig book fair. The self-plagiarism of which Justi has been accused can be attributed to the fact that he simply needed the money. Justi's haste sometimes affected the structure of his books and arguments, and in some cases served to ob-

⁵⁶ Johann Justi, *Grundsätze der Policey-Wissenschaft in einem vernünftigen, auf den Endzweck der Policey gegründeten, Zusammenhange und zum Gebrauch Akademischer Vorlesungen abgefasset* (Göttingen, 1759; first ed. 1756), preface. The translation is from Albion W. Small, *The Cameralists: The Pioneers of German Social Polity* (New York, 1909), p. 439.

⁵⁷ Johann Justi, 'Die Beschaffenheit und Verfassung der Republik der Gelehrten', In Justi, *Scherzhafte und satyrische Schriften* (Berlin, 1760), vol. 2, pp. 341-374, p. 350. Justi's satire was first published in Justi, *Ergetzungen der vernünftigen Seele aus der Sittenlehre und der Gelehrsamkeit überhaupt* (Leipzig, 1745-1749), No. 5, pp. 395-412 and No. 6, pp. 491-507.

⁵⁸ Justi, *Natur und Wesen der Staaten*, preface.

⁵⁹ Justi, *Grundriß einer guten Regierung*, p. 141 ff; p. 159 ff.

⁶⁰ Barbara Stollberg-Rilinger, *Vormünder des Volkes? Konzepte landständischer Repräsentation in der Spätphase des Alten Reiches* (Berlin, 1999), p. 207.

scure the true implications of his work. The sometimes abstruse structure of Justi's books has at times been a hindrance to the interpretations of his books. This explains the interpretations according to which Justi was deeply influenced by Wolff's natural law. In the traditional historiography of *Geistesgeschichte* that goes from one peak to another peak it has been easy to assume that Justi's framework was the same as that of the leading German philosopher of his time, that is to say of Christian Wolff. Although Justi's *Natur und Wesen* begins with a discussion of natural law, one needs to read almost to the end to find a brief acknowledgement where Justi half-heartedly recognises his indebtedness to the natural law of Johann Jacob Schmauss. His admiration of English government⁶¹ presents a similar case: initially it is praised, and only later in *Natur und Wesen* does Justi subject it to serious criticism. In sum, Justi's practice as an author poses a major challenge for interpretation of his works.

Although Justi's writings often leave the reader wondering who the authors were with whom he engaged, his political and international thought can still be successfully contextualised in terms of wider political, social and economic developments in the Holy Roman Empire. The historical backdrop in which Justi lived, taking biographical details of Justi's life into account, will put us in a better position to explore the relationship between Justi's natural law, economic policy and political thought. There is good reason to examine the stages of his life and the path taken by his study in more detail.

THE EMERGENCE OF CAMERAL SCIENCES AS A UNIVERSITY DISCIPLINE: THE FIRST PUBLIC LECTURER OF CAMERAL SCIENCES IN VIENNA

It is no coincidence that Justi worked for both Maria Theresa and Frederick the Great. Both were important sponsors of reform, often supporting intellectuals who they believed to be in a position to help them to augment the economies of their realms. Justi and the emerging cameral sciences appeared to be opportune. The Holy Roman Empire is an essential backdrop for understanding Justi's conception of cameral sciences; it was central to

⁶¹ Justi conflates British and English, as do many other Continental thinkers.

the growing enmity between Austria and Prussia while also guaranteeing the perpetuation of a wide variety of institutional contexts that, in turn, nurtured vigorous debate about political systems. Much of Justi's life was lived in the context of the respective needs of Prussia and Austria to raise ever-greater sums of money for their economies. From this perspective reform and the cultivation of state power went hand in hand. Justi maintained that the cameral sciences were key to a successful economy. He advocated the interests of *Wirtschaftsbürger*, of entrepreneurs and of scholars. Justi's thought involved the advancement of the elites that he advocated. Above all, Justi wanted to see the rise of the cameral sciences, this involving the introduction of cameralists to state service on all possible levels. He was consequently hostile to the enduring power of the estates (*Ständestaat*). His critique of the hereditary nobility is consequently a constant theme in his oeuvre. Ultimately Justi's struggle for the rise of cameral sciences was a fight for positions, salaries, recognition and political impact for himself and his like. It is no surprise that he encountered opposition in all the contexts where he was active. He came from the lower *Bürgertum* and the social boundaries imposed by his humble origins constantly limited his endeavours as a political and economic theorist pleading for change.⁶² He observed the sorry state of the German lands and of Europe more generally. He believed that, without political and economic reform, European civilisation was doomed to decay. But like all those hoping for change, he encountered resistance and obstacles, and he accumulated an enormous number of enemies: Jesuits, Wolffian metaphysicians, and complaining citizens of Göttingen, where he worked as an administrator. However, he also had powerful patrons: among them Count Bernstorff, the foreign minister of Denmark; Count Haugwitz, the Austrian reformer; and last but not least, Frederick the Great himself.

Justi's first comprehensive economic treatise was his *Staatswirthschaft oder Systematische Abhandlung aller Oeconomischen und Cameral-Wissenschaften, die zur Regierung eines Landes erfordert werden*, published in Leipzig in 1755. This was the book that established Justi's fame

⁶² Horst Dreitzel, 'Justis Beitrag zur Politisierung der deutschen Aufklärung', in *Aufklärung als Politisierung: Politisierung der Aufklärung*, eds. Hans Erich Bödeker and Ulrich Herrmann (Hamburg, 1987), pp. 161-164.

as a major systematic academic cameralist. Although the book was published in Leipzig and two years after Justi had left Vienna it is clear that the primary context of the book was as a response to the need of high officials in the unified Austrian bureaucracy. Justi had arrived in Vienna and assumed his chair of *eloquentia Germanica* at the *Theresianum* in 1750.⁶³ He opened his first 'scholar's shop' (*Gelehrtenladen*) at the *Theresianum*, which had been founded four years earlier, providing post-university education for civil servants. The students, who came primarily from the Hungarian nobility, were to be educated in German rhetoric from a practical perspective. Justi, famed for his lucid writing style, was considered most suitable for the post. Furthermore, Count Friedrich Wilhelm von Haugwitz (1702–1765), Austrian statesman and key advisor of Maria Theresa, had a plan to combine classes in rhetoric with economic and financial courses. Shortly before his arrival in Vienna Justi had established himself as an expert in the latter, with his writings on domestic economic improvement.⁶⁴ Haugwitz and Justi seem to have been on very good terms, and Justi even became a tutor to Haugwitz's son. Ultimately Justi was a man of practice as much as of theory, and expressed a wish to be involved in the 'actual affairs' of the Empress by putting his newly acquired knowledge into action.⁶⁵ He later claimed that it was his ambition to experiment in the field

⁶³ On the *Theresianum* and Austrian aristocratic education within Haugwitz's system see the seminal study of Ivo Cerman, *Habsburgischer Adel und Aufklärung: Bildungverhalten des Wiener Hofadels im 18. Jahrhundert* (Stuttgart, 2010), pp. 108–114.

⁶⁴ Adam, *The Political Economy*, pp. 31–35

⁶⁵ Johann Justi, *Auf höchsten Befehl an Sr. Röm. Kaiserl. und zu Ungarn und Böhmen Königl. Majestät erstattetes allerunterthänigstes Gutachten von dem vernünftigen Zusammenhange und practischen Vortrage aller Oeconomischen und Cameralwissenschaften wobey zugleich zur Probe die Grundsätze der Policywissenschaft mit denen dazu gehörigen practischen Arbeiten vorgetragen werden; benebst einer Antrittsrede von dem Zusammenhange eines blühendes Zustandes der Wissenschaften mit denjenigen Mitteln, welche einen Staat mächtig und glücklich machen* (Leipzig, 1754). pp. 43–44. 'Denn da die Beschaffenheit meiner Brust, an welcher ich in jüngern Jahren Schaden gelitten, das täglich bey dem Vorlesungen erforderliche starke und viele Stunden dauernde Reden meine ganze Lebenszeit hindurch ohnedem nicht gestatten würde: so habe ich zu Eurer Kaiserl. Königl. Majestät höchsten Gnade das demüthigste Vertrauen, daß höchstdieselben mich nicht lebenslang bey der Professur lassen werden: und ich kann mich in dieser devotesten Hoffnung um so mehr bestärken, da höchstdieselben bey der

of mining that had brought him to Austria. However, his efforts in Austria as a private entrepreneur were not totally successful; the promising silver mine in Annaberg in which he had invested was not nearly as productive as Justi had hoped. Justi quickly sold his shares to the Empress and left Austria. His motives in so doing were various: Justi's silver mine was not successful, the censorship of Montesquieu's *Spirit of Laws* against Justi's objections and his activities as a member of the censorship committee, plus constant pressure of the Jesuits.

As preparation for his lectures in *eloquentia Germanica* Justi wrote *Anweisung zu einer guten Deutschen Schreibart* (1755) in which he gave practical advice for future administrators. The textbooks of his predecessors, including that of Johann Christoph Gottsched (1700–1766), were inadequate for this purpose, Gottsched's main audience being philologists, not administrators. Justi wrote his textbook for future bureaucrats, but this did not prevent him from including a more theoretical level in his work. In *Anweisung* Justi describes his own conception of the metaphors he used so frequently. According to Justi, a good writing style was fluent, clear and natural, and the beauty of the words was to serve clarity and comprehensibility. Justi's book on German rhetoric was very influential. Indeed, it is rather surprising that there is no scholarly study of Justi's use and theory of language, since Justi was in his stylistic perceptions twenty years ahead of his time.⁶⁶

While Justi's aim was to reform the language of administrators and jurists, his inaugural lecture dealt with a different topic, the connection between the flourishing of the sciences and the means to make a state strong and happy.⁶⁷ It was in Vienna that Justi truly began to engage more profoundly with cameral sciences, and one has to ask what it was that suddenly encouraged him to become a cameral scientist. Justi own explanation was

mir allergnädigst gestatten zweyten Audienz mich mündlich allerhuldreichst zu versichern geruhet haben, daß höchst dieselben in Ansehung meiner, durch ohne Vorbereitung in Gegenwart eines Dero Ministers abgefaßten Probeschrift, erwiesenen guten Geschicklichkeit, mich auch zu andern Dero Diensten und wirklichen Geschäften gebrauchen würden.'

⁶⁶ Martin Johannes Heller, *Reform der deutschen Rechtssprache im 18. Jahrhundert* (Frankfurt am Main, 1992), p. 258.

⁶⁷ Justi, *Auf höchsten Befehl*.

that a scholar does not fulfil his duty if he is only occupied with speculative sciences (*mit speculativischen Wissenschaften*). For Justi the aim of all sciences was general utility (*Gemeinnützigkeit als Ziel der Wissenschaften*). In order to fulfil his role properly 'he needs to employ himself with tasks that immediately benefit the social life of human beings and the welfare of the state'.⁶⁸ Cameral sciences appeared to Justi to supply an appropriate link between theory and practice.

Justi's inaugural lecture, later published, contained a detailed plan for teaching the cameral sciences at the *Theresianum*. This initiative had powerful supporters; Count Haugwitz, the great reformer of Austrian administration, was at the time keen to emphasise the importance of educating future administrators, not only in rhetoric but also in cameral sciences.⁶⁹ His ideas were adopted, and from 1752 onwards Justi had the opportunity to teach *Praxis im Cameral- Commercial- und Bergwesen*, hence becoming the first public teacher of cameral sciences in Austria. Justi's *Staatswirthschaft* (1755) was an outgrowth of his lectures at *Theresianum*, as he mentions in its dedication to Empress Maria Theresa. *Staatswirthschaft* became the most famous and influential of all cameralist textbooks.⁷⁰

As Justi explains in the preface of his book, *Staatswirthschaft* was supervised by *Directorio generali in publicis et cameralibus*, a central council lead by Haugwitz that had been founded by Maria Theresa in 1749 to separate political and financial administration from the judiciary. The Austrian reforms of 1748/1749 were a response to changing circumstances after the loss of Silesia to Prussia, which was a blow to Austrian hegemony in the Holy Roman Empire. Drawing directly on the example of earlier Prussian administrative reforms under Frederick William I (1688–1740), Maria Theresa sought reforms that would bring in more money to maintain the

⁶⁸ Ferdinand Frensdorff, 'Die Vertretung der ökonomischen Wissenschaften in Göttingen, vornehmlich im 18. Jahrhundert', in *Festschrift zur Feier des hundertfünfzigjährigen Bestehens der Königlichen Gesellschaft der Wissenschaften zu Göttingen* (Berlin, 1901), p. 508; Johann Heinrich Gottlob von Justi, *Neue Wahrheiten zum Vortheil der Naturkunde und des gesellschaftlichen Lebens der Menschen* (Leipzig, 1754–1758), vol. 1. preface.

⁶⁹ Adam, *The Political Economy*, p. 33.

⁷⁰ Wakefield, *The Disordered Police State*, p. 68.

army.⁷¹ The point in this was underscored by reports that Prussia was able to collect considerably more taxes from the lost Silesian region than Austria had been able to. Cameral sciences were seen as part of these reforms, as had been the case in Prussia about two decades earlier.

As the main advocate of cameral sciences, Justi left no doubt which part of the divided Austrian state apparatus deserved more attention. The study of cameral sciences was to be required of all state officials, as also for lawyers as well.⁷² He placed in question the old principle that state bureaucrats were recruited from lawyers.⁷³ In fact, Justi argued that cameral sciences were necessary for all university students to teach them their duties and educate them into being good citizens. Justi was therefore ready to transfer the traditional role of natural law to the cameral sciences. With the exception of Prussia and Sweden, the cameral sciences were greatly neglected, despite their utility. Prussia was the paragon for Justi's cameral sciences, just as it had been the model for the process of centralisation and concentration of power in Austria. As later in Vienna, reforms had been preceded by the establishment of professorships in cameral sciences, taught in Prussia since 1727 with the aim of educating civil servants committed to the centralised state. What was lacking, Justi claimed, was a systematic treatment of all cameral-sciences; this he intended to provide in his *Staatswirthschaft*. In addition, he announced in the preface that four more textbooks were necessary to elaborate the subfields of political economy: one on political theory (*Staatskunst*), one on domestic economic policy (*Policey-Wissenschaften*), on the theory of trade (*Commerciengewissenschaften*) and one on oeconomy (*Oeconomie*).⁷⁴ True to character, Justi provided more than four works, though only two of the announced textbooks were published. *Natur und Wesen der Staaten* (1760) was Justi's major publication on *Staatskunst*, whereas *Grundsätze der Policey-Wissenschaften* (1756) was the promised text book on *Policey-Wissenschaften*. It needs to be em-

⁷¹ On Austrian reforms under Maria Theresa see Barbara Stollberg-Rilinger, *Maria Theresia: die Kaiserin in ihrer Zeit* (München, 2017), pp. 178-245.

⁷² Justi, *Staatswirthschaft*, preface, xxiii.

⁷³ Mack Walker, 'Rights and Functions: The Social Categories of Eighteenth-Century German Jurists and Cameralists', *The Journal of Modern History* 50 (1978), pp. 234-251.

⁷⁴ Justi, *Staatswirthschaft*, preface, xliv.

phased that Justi's writings on all these topics appeared in an entirely new context, and reflected his changing conceptions of each of the fields. The major centre for the formulation of his thought was the new leading centre of the German Enlightenment, Göttingen.

Being an advocate of cameral sciences in the Vienna of the 1750s meant rivalry with the provincial estates and constant pressure from the Jesuits. It was not only his misfortune in business that complicated his life in Vienna. Whilst the *Theresianum* was officially under the supervision of Maria Theresa, in practical terms it was led by the Jesuits, who felt that Justi was exceeding his brief. Justi himself explained that the Jesuits had made their opposition clear in maintaining that Austria had long been perfectly happy without any useless cameral sciences.⁷⁵ Justi's services were therefore not needed. Justi's Protestant background complicated things further. In November 1750 the *Göttingische Zeitungen von Gelehrten Sachen* reported that Justi had been appointed to his chair in Vienna after a change of religious denomination.⁷⁶ Justi himself was ambiguous on this point, emphasising rather the constant pressure that was put upon him regarding this matter. Justi's later writings are remarkably hostile towards Catholicism, but it is certain that he did convert to Catholicism since one of his daughters was baptised in St. Stephen's Cathedral in Vienna.⁷⁷ However, the Jesuits remained suspicious, for they questioned that high positions and tasks could be given to a convert.

The Jesuits were not Justi's only enemies in Vienna. The provincial estates viewed Justi's pursuits as part of Haugwitz's centralising plans, and as a result their attitude towards Justi was anything but welcoming. In addition, having won the favour of Haugwitz and the Empress and become one of the highest-paid academics in Vienna soon after his arrival, Justi naturally aroused enormous jealousy among Viennese scholars.⁷⁸ In short, it was not on the basis of health problems, as Justi himself stated, that he left Austria suddenly in 1753, and he did so with a pronounced hatred of

⁷⁵ Justi, *Grundriß*, p. 324; Frensdorff, *Über das Leben*, p. 385.

⁷⁶ *Göttingische Zeitungen von gelehrten Sachen* (Göttingen, 1750) No. 111, p. 888.

⁷⁷ Obert, *Die naturrechtliche "politische Metaphysik"*, p. 18.

⁷⁸ Adam, *The Political Economy*, p. 38.

Catholicism and hereditary nobility that was to colour everything he wrote from this point onwards.

DIRECTOR OF POLICE AND FIRST LECTURER OF
Policey-Wissenschaften AT THE UNIVERSITY OF GÖTTINGEN

If Justi's stay in Vienna was short, it was nonetheless very productive. In many ways his experiences in the city paved the way for his future career. From this point on Justi was distinguished as cameralist: 'a mediocre metaphysician had perhaps become a great cameralist'.⁷⁹ In addition, he had produced two significant textbooks. As was common at the time, Justi based his lectures on textbooks. But he was not satisfied with the existing material, and decided to rewrite these texts himself for his lectures on *eloquentia* as well as on cameral sciences. From Vienna Justi moved to Leipzig, where he maintained himself and his family as an 'independent writer' for two years before moving to Göttingen in 1755. Here he was appointed *Ober-Policey-Commissar*, with the right to lecture on *Policey-Wissenschaften* at the University of Göttingen. The minister Gerlach Adolf von Münchhausen (1688–1770), curator of the University of Göttingen, had wished to found a faculty of cameral sciences since the foundation of the university in 1737. Justi seemed suited to the plan, since he had outlined a system of cameral sciences in his *Staatswirtschaft*. This book served as the springboard for Justi's position in Göttingen, and he became Göttingen's first teacher of cameral sciences. In addition, Münchhausen believed that Justi would help to raise the reputation of Göttingen University as well as reform the administration (*Polizei*) of the Hanoverian town.⁸⁰ In the announcement of his lectures Justi emphasised that his goal was to teach *Oeconomische und Cameralwissenschaften*, sciences to be studied by all administrators and cultivated in all universities and scientific academies. Justi was convinced that in the future ten times more cameralists than lawyers would be needed, and therefore proposed the founding of a faculty of economic sciences (*eine Facultaet der oeconomischen Wissenschaften*) to stand alongside the two

⁷⁹ Frensdorff, *Die Vertretung*, p. 533.

⁸⁰ Wakefield, *The Disordered Police State*, pp. 68-73.

professional faculties of law and medicine, echoing the wishes of Münchhausen.⁸¹

Justi's lectures were not completely without success. A Swedish student, Daniel Aurell, praised the lectures in Göttingen in general and spoke especially highly of a certain Justi in a letter to the prominent Uppsala professor Johan Ihre.⁸² True to his ambitions of influencing social rather than academic life, Justi presented himself as a courtly gentleman and aspired to lecture in a 'gallant' manner, behaving in the manner of a gentleman of court. He first gave a lecture of thirty minutes and thereafter he stepped down from his lectern and continued sociable conversation with his students. His aim was to avoid the dry and pedantic Wolffian style of lecturing practised at most universities. Justi thus applied polite court culture to his classes, attempting to replace the pedantic professor with a gallant scholar.⁸³ Justi lectured on *Policey-Wissenschaften* for which purpose he wrote the above mentioned textbook *Grundsätze*. The second edition of the completely sold out *Staatswirthschaft* was published in 1758. The original 1245 pages were supplemented with about one hundred pages, which mostly consisted of new footnotes commenting on and often disputing the statements of the original text. The most extensive changes had to do with Justi's views on political theory (*Staatskunst*) and on the tasks of the *Policey*. In the 1758 edition Justi argued that successful economic policy required freedom for householders. Henceforth Justi defined happiness not only in terms of wealth and security as he had done earlier, but also in terms of freedom, his conception of freedom being strongly influenced by his reading of Montesquieu. Justi was not fully able to elaborate these topics in the minor changes of the second edition. However, all of them are visible in his most radical book, *Grundriß einer guten Regierung* (1759), and even more so in *Natur und Wesen der Staaten* (1760), which offers fur-

⁸¹ Johann Justi, *Abhandlung von den Mitteln die Erkenntniß in den Oeconomischen und Cameral-Wissenschaften dem gemeinen Wesen recht nützlich zu machen: wobey zugleich zu seinen in diesen Wissenschaften auf den [16]ten des Heumonats anzufangenden Vorlesungen ergebenst einladet* (Göttingen, 1755), pp. 10-11.

⁸² Anders Grape, *Ihreska handskriftssamlingen i Uppsala universitets bibliotek* (Uppsala, 1949), p. 248.

⁸³ Wakefield, *The Disordered Police State*, p. 8.

ther evidence of Justi's commitment to the study of natural jurisprudence and political theory. Justi's changing conception of the foundations of state and society had consequences for his understanding of *Policey*. There are remarkable differences between the first edition of Justi's *Grundsätze der Policey-Wissenschaften* (1756) and his later monumental magnum opus on *Policey-Wissenschaften, Die Grundfeste zu der Macht und Glückseligkeit der Staaten oder ausführliche Vorstellung der gesamten Polizeiwissenschaft* (1760/1761). In the latter the emphasis has been moved from centralising and regulating commerce to creating preconditions for the economic initiative of individual householders.

Although Justi did not stay long in Göttingen, his experiences there left a strong intellectual impression on him. Here Justi had the opportunity to become acquainted with representatives of anti-Wolffian natural law. Justi's confrontation with Wolff had begun with his writing on monads in 1747⁸⁴, and continued to be in the forefront of his intellectual endeavours in Göttingen. Peter Hanns Reill is among the few to recognise that Justi was 'one of the most vocal opponents of Wolff – against the creation of ivory towered academics'.⁸⁵ Justi's thought continued to be developed to a great extent in confrontation with Wolff. Göttingen with its rising anti-Wolffianism was a natural intellectual home for Justi. During his stay in Göttingen he also studied Montesquieu thoroughly. Admiration for English form of government arising from its treatment on Montesquieu's *Esprit des Lois* was widespread among the scholars of natural law in Göttingen. Göttingen was in the state of Hanover, which was linked with England through a personal union, and not surprisingly British culture played an important role in the "Athens on the Leine" (the small river that runs through Göttingen). As a result of his Göttingen stay, Justi became one of the first German authors to study intensively and comment on *Esprit des Lois*.⁸⁶ Justi had known

⁸⁴ For the context of Justi's essay on monads see Thomas Ahnert, 'Newtonianism in Early Enlightenment Germany, c. 1720 to 1750: Metaphysics and the Critique of Dogmatic Philosophy', *Studies in History and Philosophy of Science* 35 (2004), pp. 471-491 and R.S. Calinger 1969, 'The Newtonian-Wolffian Controversy (1740-1759)', *Journal of the History of Ideas* 30 (1969), pp. 319-333.

⁸⁵ Peter Hanns Reill, *The German Enlightenment and the Rise of Historicism* (Berkeley, 1975), pp. 150-151.

⁸⁶ Frank Herdmann, *Montesquieurezeption in Deutschland im 18. und beginnenden 19.*

Montesquieu's book at least since 1752, when he had been an official of the Austrian censorship commission (*Bücher-Commißion*). By then, accompanied only by Maria Theresa's liberally-minded doctor Gerhard van Swieten (1698–1772), Justi defended Montesquieu's book against its most powerful critics, the Jesuits.⁸⁷ In spite of this, no direct influence of Montesquieu in Justi's writings appears until 1757. It may be that the new scholarly circles in Göttingen inspired Justi to study Montesquieu even more closely. Another plausible possibility is that he was too cautious to reveal his enthusiasm towards Montesquieu in Vienna. Justi's successor in Vienna, Joseph Sonnenfels (1732–1814), argued that it 'could cost standing and happiness if one would let it to be noticed that one had browsed the pages of 'esprit des lois'.⁸⁸ Montesquieu could not be mentioned without the fear of being dismissed. Besides, the book was banned in Austria from the beginning of 1750 until March 1753, when Maria Theresa intervened in the work of the censorship commission and ordered the publication of *Esprit des Lois* in Austria. It was most likely during the time of this official ban that Justi wrote most of his *Staatswirthschaft*, and so he could not refer to it. However, during and after his Göttingen stay Justi no longer shied from his engagement with Montesquieu. This had consequences, especially for Justi's conception of the state. Justi described his book on political theory called *Natur und Wesen der Staaten* as a spirit of the laws (*Geist der Gesetze*) and a kind of political metaphysics (*Eine Art politische Metaphysik*). The editor of the second edition, an influential lawyer and political theorist named Heinrich Scheidemantel (1739–1788), explains that he accepted the editing task because he had studied Justi's *Natur und Wesen* while writing

Jahrhundert (Hildesheim, 1990); Rudolf Vierhaus, 'Montesquieu in Deutschland: Zur Geschichte seiner Wirkung als politischer Schriftsteller im 18. Jhd.', in *Deutschland im 18. Jahrhundert: Politische Verfassung, soziales Gefüge, geistige Bewegungen* (Göttingen, 1987), pp. 9–32.

⁸⁷ Johann Justi, *Die Grundfeste zu der Macht und Glückseligkeit der Staaten oder ausführliche Vorstellung der gesamten Polizeiwissenschaft*, 2 vols, (Königsberg, 1760–1761), vol. 2, pp. 57–59.

⁸⁸ Quoted after Gustav Marchet, *Studien über die Entwicklung der Verwaltungslehre in Deutschland von der zweiten Hälfte des 17. bis zum Ende des 18. Jahrhunderts* (München, 1885), p. 230.

his *Staatsrecht*.⁸⁹ According to Scheidemantel, Justi gave to the scholarly world a political metaphysics without being barbaric. What was especially admirable in this, he noted, was Justi's ability to view the broad field of *Staatswissenschaften* from a constant and unchanging standpoint.⁹⁰ This had indeed been Justi's intention; as he himself explained in the author's introduction, the book was an attempt to build a foundational science for all the economic and cameral sciences, a sort of political metaphysics that constituted all sciences of government (*Regierungswissenschaften*).⁹¹ Metaphysics in this context had to do with the universality of Justi's claims and ability to build a system from a single point. Justi argued that this was exactly where Montesquieu had failed. Whilst Justi acknowledged his debt to Montesquieu, whose treatise he regarded as a most valuable book (*eines der schätzbarsten Bücher*), Justi argued that his own book was an improved version of the spirit of laws.⁹²

It was essential for Justi's reading of Montesquieu and other contemporary writers that he was in Göttingen from 1755 to 1757. In my view the significance of Justi's stay in Göttingen has been significantly undervalued. Ulrich Adam has recently argued that Justi seemingly failed to establish close contacts with either Johann Stephan Pütter (1728–1807) or Johann Jacob Schmauss in Göttingen and that it is thus doubtful that Justi's lectures left any lasting impact upon the further development of *Statistik* and *Staatswissenschaften* at the university.⁹³ Adam properly emphasises the European context of Justi's thought, but makes use of an unnecessary di-

⁸⁹ Johann Justi, *Natur und Wesen der Staaten als die Quelle aller Regierungswissenschaften und Gesetze* (Mittau, 2nd. Ed. 1771 [1760]). This second edition has comments by Heinrich Scheidemantel. See Heinrich Scheidemantel, 'Vorerinnerung des Herausgebers', in *Justi, Natur und Wesen*, ix.

⁹⁰ Scheidemantel, 'Vorerinnerung', x. 'er liefert der gelehrten Welt eine politische Metaphysik ohne barbarisch zu reden und zeigt die Möglichkeit, wie man die weit ausgebreiteten Felder der Staatswissenschaft aus einem festen Standpunkt übersehen kann'.

⁹¹ Justi, *Natur und Wesen*, 'Vorbericht des Verfassers', xxiv. 'Man sieht leicht, daß dieses Buch die Grundwissenschaft aller ökonomischen und Cameral-Wissenschaften in sich enthält, und eine Art von einer politischen Metaphysik, wenn man so sagen kann, vor alle Regierungswissenschaften ausmacht.'

⁹² Justi, *Natur und Wesen*, 'Vorbericht des Verfassers', xxvii–xviii.

⁹³ Adam, *The Political Economy*, p. 40. Adam is here questioning the position of Bödeker, 'Das Staatswissenschaftliche Fächersystem'.

chotomy distinguishing the German from European influences in Justi's thought. One of the main characteristics of Göttingen natural lawyers and political thinkers was that their ideas were tightly bound together with the pan-European discourse of natural law. Adam's interpretation is therefore questionable on at least three grounds. Firstly, it undermines the importance Justi's books played in the development of cameral sciences, political economy and *Staatswissenschaften*. Secondly, it ignores that fact that Justi developed his ideas in Göttingen, and as I argue, that he was very familiar with and to great extent followed the ideas of Schmauss and Claproth. Thirdly, it fails to recognise Gottfried Achenwall's (1719–1772) contribution to the further development of *Staatswissenschaften*. Achenwall was an eminent professor of natural law who substantially adopted Justi's state conception as one of the foundations of his whole work.⁹⁴

Much of Justi's work on *Staatskunst* relies on a distinction between a *Universal-cameralist* and a *Particular-cameralist*. The difference is that a universal cameralist always seeks for the guiding ordering principle, for the interconnectedness of all actions guided by cameral sciences, whereas a particular cameralist is only interested in increasing the revenues of a particular prince. The only solid foundation Justi could imagine for cameral sciences was provided by natural jurisprudence. Justi's move to combine cameral sciences and natural jurisprudence had more radical consequences than might immediately be assumed. As already mentioned, by binding natural jurisprudence with cameral sciences Justi was paving the way for the development of cameral sciences into the sciences of state (*Staatswissenschaften*) and political economy (*Staatswirtschaft*). This process took place mainly in Göttingen. Owing in large part to Justi, from the 1750s onwards cameralism became the most influential *political-economic discourse* in the Holy Roman Empire of the German Nation.⁹⁵ The distinctive feature of cameralism in the second half of the eighteenth century was precisely that it united the discourses of economics and politics. It is therefore

⁹⁴ On Achenwall see Paul Streidl, *Naturrecht, Staatswissenschaften und Politisierung bei Gottfried Achenwall (1719–1772)* (München, 2003).

⁹⁵ Marcus Sandl, *Ökonomie des Raumes: Der kameralwissenschaftliche Entwurf der Staatswirtschaft im 18. Jahrhundert* (Mörlenbach, 1999), pp. 45–46.

pointless to discuss whether cameralism was an economic or political theory.

A short exploration of writings that Justi wrote in Vienna and in Göttingen helps to interpret contradictory assessments of Justi's political thought. Much here is rooted in a failure to take full account of the chronology of Justi's work. We need to fully recognise that there are at least two Justis, and as such it is helpful to see his life and work in distinct phases. For anyone wanting to see Justi as an absolutist conservative thinker the first edition of his *Staatswirthschaft* (1755) is certainly a good starting point. It was of course difficult or impossible to criticise an absolutist regime in a book dedicated to Maria Theresa and written for the lectures at the *Theresianum*. Study of the second edition of *Staatswirthschaft* (1758) reveals that during his period in Göttingen (1755–1757), Justi devoted himself to the study of Montesquieu and Schmauss, which changed his political thought considerably.

Justi's life in Göttingen was no more tranquil than his Viennese experience. He had constant difficulties maintaining his family, and soon he was in debt. Just as in Vienna, certain members of the community were unimpressed by Justi's reforming initiatives. Justi's wife Gertrud was devastated by the family's financial situation and constant relocation. She left Justi in July 1756. A colourful and scandalous divorce process followed. Gertrud accused Justi of infidelity. Justi responded by pointing out that carrying the child of Bergmann, an advocate, was hardly a sign of devotion either. Justi accused his wife and Bergmann of scheming behind his back and of besmirching his good name. Johann David Michaelis (1717–1791), a theologian and renowned orientalist at the University of Göttingen, wrote a letter to anatomist and naturalist Albrecht von Haller (1708–1777) in which he stated that Justi, whose violent nature was beyond comparison, was despised in Göttingen because of his debts and his shameful divorce. Justi was thus compelled to leave Göttingen.⁹⁶ While he waited, Justi asked for leave of absence in order to travel to Denmark. He was given three months. With creditors at the door and approaching French troops – who were now allied with Austria, a country Justi had left with debts and without permis-

⁹⁶ Frensdorff, *Die Vertretung*, p. 523.

sion – Justi left Göttingen, never to return. If his aim had been to raise the reputation of Göttingen, he failed miserably.

DANISH CUSTOMS DIRECTOR, PRUSSIAN WAR PAMPHLETEER AND POLITICAL THEORIST

After being forced to leave Göttingen Justi tried his luck in Denmark, where he found a position as an advisor to the Danish Court. On 27 August 1757 a former principal of the cathedral school in Trondheim, Benjamin Dass, wrote a letter to historian Peter Fredrik Suhm in which he referred to ‘an annoying German who is to become the chief mining inspector in Kongsberg, Norway.’⁹⁷ After a brief stay in Danish service Justi settled down in Altona, just outside Hamburg, in 1758. Altona was the base from which Justi served the Prussian cause in the Seven Years’ War. He became perhaps the most productive pamphleteer active during the war. Although presenting himself as a private citizen, motivated only by his love for the fatherland, it was widely known that he had a Prussian pension. Even the Swedish authors commenting on Justi’s critique of the Swedish constitution pointed this out.⁹⁸ Justi had also a more personal motive; his pamphlets were written in order to win the favour of Frederick II.⁹⁹ Most were published anonymously, as was conventional at that time. However, both writing style and content revealed Justi’s authorship to his contemporaries. The most important of these pamphlets – which Justi actually published under his own name – are *Chimäre des Gleichgewichts von Europa* (1758)¹⁰⁰, and *Chimäre des Gle-*

⁹⁷ Erik S. Reinert, ‘Johann Heinrich Gottlob von Justi: The Life and Times of an Economic Adventurer’, in Backhaus (ed.), *The Beginnings of Political Economy*, pp. 33-74, see page 45.

⁹⁸ Anders Wilde, *Påminnelser wid de tankar om Swea rikets regeringssätt och grundlagar, och i synnerhet om höga öfwerhetens förfatningar angående censuren hwilka blifwit ytrade uti et år 1759 hos L.L. Grefning genom trycket utkommit arbete, under titel: Til Rikens Höglofl. ständer, församlade wid Riksdagen år 1760, en wördsam föreställning* (Stockholm, 1761), pp. 34-38.

⁹⁹ Adam, *The Political Economy*, p. 42.

¹⁰⁰ Johann Justi, *Die Chimäre des Gleichgewichts von Europa*. Justi had established himself as an expert on European order in the context of the War of Austrian Succession (1740–1748). At this point Justi still had close relationships with the Saxon court in Dresden, and there are traces of this in his writings. The most interesting of these pieces

ichgewichts von Handlung und Schiffahrt (1759).¹⁰¹ Both pamphlets were printed in Altona, which was not only a capital of international commerce, but also religiously plural and known for its broad culture of toleration.¹⁰² In short, the third main context of Justi's major writings is his occupation as a pro-Prussian and pro-Hanoverian author during the Seven Years' War. Justi's political thought and especially his later major writings on international order are most adequately interpreted in this context.

The years between 1759 and 1763 were a time of intensive political writing for Justi. Justi's actions in favour of England and Prussia took the form of war pamphlets, but left several traces also in Justi's textbooks. One illuminating example is Justi's first discussion of Montesquieu's balance of power theory, whose admirer Justi confessed to be, although with some restrictions. The first time Justi applied ideas of balance of power in relation to civil liberty was in a very particular context. Justi in fact applied the balance of power doctrine for the first time in an essay called *Von der Cultur der Oberfläche der Länder, in Absicht um die Gewässer auf der Oberfläche zu leiten, und in Ordnung zu bringen* (1758).¹⁰³ This essay dealt with the cultivation of land, which might sound strange to a modern reader. However, Justi explained that cultivation of land and wholesome maintenance and increase of resources was not possible in a state where civil liberty

in terms of my argument concerning Justi's future vision for Europe are *Untersuchung, Ob Europa in eine Staatsverfassung gesetzt werden könne, wobei ein immerwährender Friede zu hoffen ist* (1746) and the anonymously-published essay *Beweis, dass die Universalmonarchie vor die Wohlfahrt von Europa und überhaupt des menschlichen Geschlechts die größte Glückseligkeit wirken würde* (1747). In the former Justi denied the possibility of forming a European constitution, whereas in the latter he was at first sight apparently willing to defend the idea of European universal monarchy. The latter essay *Beweis*, in particular, attracted substantial attention in Germany and was extensively commented on by the prominent political theorist and great uncle of Goethe, Michael Loen (1694–1776). Clearly, Justi did not want see his name mentioned because of his radical position in relation to German princes. He went as far as to call two of them petty tyrants and mentioned them by name. Once again Justi's writing style was praised.

¹⁰¹ Justi, *Die Chimäre des Gleichgewichts der Handlung und Schiffahrt*.

¹⁰² Jonathan Israel, *Democratic Enlightenment: Philosophy, Revolution, and Human Rights 1750–1790* (Oxford, 2012), p. 178.

¹⁰³ Justi, *Neue Wahrheiten* (1758), pp. 503–553.

did not prevail. According to Justi, economic and civil liberty were necessary preconditions for a successful economy. In this essay Justi applied the theory of the separation and balance of powers in the form of critique of the Swedish constitution, and its lack of balance, as an explanation of the uncultivated nature of Sweden. It was typical of Justi that he timed his attack on the Swedish constitution immediately after Swedish troops had ventured on to Prussian soil in the Seven Years' War. It is worth noting that Justi also published these very same views two years later in *Natur und Wesen der Staaten*, his textbook on political theory. Acknowledging the extent to which Justi's writings are context-bound does not diminish the value of Justi's arguments, rather it helps us to interpret the points he makes with greater accuracy.

In his chimera-pamphlets Justi set out to prove that the balance of power and balance of trade were in fact chimeras, a mere disguise for reason of state thinking. The reason Justi took issue with the balance of power doctrine was that it was now for the first time being used against Prussia and England. In *Gleichgewicht von Europa* Justi's main target of criticism was a professor of philosophy, Ludwig Martin Kahle (1712–1775), dean of the philosophical faculty at the University of Göttingen who had written a dissertation on the balance of power during the War of Austrian Succession. Kahle's pamphlet was pro-Prussian, but following the 'diplomatic revolution' formalised in the treaties of Westminster and Versailles of 1756 the situation of Europe had changed so much that Kahle's arguments were now, in the new setting, applied to restrict the ascendancy of Prussia and the increase of the power of Great Britain, a state which was already threatening to become the predominant power in the world. In the second chimera-pamphlet Justi attacked the views of French writers such as Jean-Henri Maubert de Gouvest (1721–1767) and Victor de Riqueti, marquis de Mirabeau, (1715–1789), who had argued that England was trying to build a universal monarchy on the seas. These French writers assumed that a balance of trade could prevent England from gaining too much power.

The atrocities of the Seven Years' War inspired Justi's outright attack on the state of Europe and on European overseas expansion in *Vergleichungen der Europäischen mit den Asiatischen und anderen vermeintlich Barbarischen Regierungen* (1762). Here Justi radically questioned the Eu-

rocentric views of his contemporaries and defended China as an ideal state. *Vergleichungen* differs significantly from the somewhat tendentious chimera-pamphlets in its direct critique of colonialism.¹⁰⁴ One explanation for this is that Justi's Prussian employers would have probably not have wished him to include a critique of England in pro-English pamphlets. After all, Prussia and England were allied. In his comparison of European and Asian states Justi attacked the European habit of doing *Activ-Handel* at the cost of non-European nations, extending economy to power politics. According to Justi, a country doing *Activ-Handel* carried its external trade to foreign markets, whereas *Passiv-Handel* meant limiting a country's foreign trade to its own internal markets. He considered the extension of active trade to hegemonic policy as a violation of the law of nations. China was therefore right to limit European merchants and engage itself only in *Passiv-Handel*. Whereas the Europeans were actively extending their trade to foreign markets, Asian people limited their foreign trade activities to their own internal markets. Justi considered this to be a wise policy on the part of the Chinese, countering the danger Europeans posed to its sovereignty. In his text Justi was not so much criticising England, but directs his barbs to Spain, Portugal and the Netherlands. When it comes to the universality of the law of nations and Justi's critique of the practices of colonial trade, his *Vergleichungen* is definitely his major work.¹⁰⁵

One could now read *Vergleichungen* as Justi's future vision for Prussia. He pleaded for domestic reforms and improvement of domestic production. Justi's treatise can and has been regarded foreshadowing Fichte's idea of a closed commercial state.¹⁰⁶ Even if this were partly true, there is a different and to my mind genuine version of Justi's vision for Germany and Europe from another of his anonymously published war pamphlets, snappily enti-

¹⁰⁴ It is no coincidence that the most positive evaluation of Justi as political thinker and economist comes from Jürgen Osterhammel, who considers Justi an undervalued writer with considerable originality. See Jürgen Osterhammel, *Die Entzauberung Asiens: Europa und die asiatischen Reich im 18. Jahrhundert* (München, 1998), p. 72.

¹⁰⁵ See C.H., Alexandrowicz, *The Law of Nations in Global History*, pp. 163-167, p. 173.

¹⁰⁶ For instance, Wolfgang Burgdorf has pointed out that Justi's idea of an isolated state reminds Fichte's closed commercial state. See Wolfgang Burgdorf, 'Johann Heinrich Gottlob von Justi (1720-1771)', in *Europa-Historiker*, eds. Heinz Duchhardt [et al.] (Göttingen, 2006), vol. 1, pp. 51-78, p. 68.

tled *Wohlgemeynte Vorschläge eines die jetzigen unglücklichen Zeiten be-
seufzenden Menschenfreundes auf was vor Bedingungen die jetzo in Krieg
befangenen Mächte zu einem dauerhaftigen und ihrem allerseitigen Inter-
esse gemässen Frieden gelangen könnten. Zur Aufmunterung ganz Deutsch-
landes* (1759).¹⁰⁷ This pamphlet builds largely upon Justi's experiences in
Denmark and it supports the importance of international trade. According to
a Danish dictionary, Justi worked as customs director (*Colonial-Inspektor*)
in Copenhagen.¹⁰⁸ In addition to Justi's customs job, his main task was to
produce a treatise on the cultivation of heathland in Jutland. His mentor
Count Bernstorff, the Danish foreign minister of German origin, was a de-
voted supporter of neutrality. When Justi left Denmark he took with him
an interest in maritime trade, colonies and neutrality as foreign policy. Justi
advocated the benefits of an active foreign trade for Prussia, especially in
the context of fixed neutrality. Justi's vision was compatible with Prussia's
attempt to join the world of overseas commerce pursued by Frederick the
Great with determination until the end of the Seven Years' War.¹⁰⁹ Part of
this plan was to justify the right of Prussia to become a carrier of goods and
enjoy the benefits brought by neutral status. The ultimate goal of Justi and
also of Frederick was to transform Prussia into a trading nation.¹¹⁰

Justi's efforts as a pamphleteer for the Prussian cause did not go unno-
ticed. Finally, in 1765 his dream came true when he was appointed to an
inspectorate of mines, glass-, and steelworks (*Berghauptmann*) in Prussia.
However, a failed cataracts operation had left Justi with poor eyesight and
as a result he had had difficulties accomplishing his duties. This had already
been noted when he was appointed. Frederick the Great declared: 'He has

¹⁰⁷ Johann Justi, *Wohlgemeynte Vorschläge eines die jetzigen unglücklichen Zeiten be-
seufzenden Menschenfreundes auf was vor Bedingungen die jetzo in Krieg befangenen
Mächte zu einem dauerhaftigen und ihrem allerseitigen Interesse gemässen Frieden
gelangen könnten. Zur Aufmunterung ganz Deutschlandes* (Friedensnah, 1759), pp. 5-6.

¹⁰⁸ Reinert, 'Johann Heinrich Gottlob von Justi', p. 45.

¹⁰⁹ See Florian Schui, 'Prussia's 'Trans-Oceanic Moment': The Creation of the Prussian
Asiatic Trade Company in 1750', *Historical Journal* 49 (2006), pp. 143-160.

¹¹⁰ Marco Cavarzere, 'The Rise of a Trading Nation: Prussia and the *Convention Prélimi-
naire de commerce* with France (1753)', in *The Politics of Commercial Treatise in
the Eighteenth-Century*, eds. Antonella Alimento and Koen Stapelbroek (Cham, 2017),
pp. 295-320.

a head, I will give him eyes'.¹¹¹ Only three years after his appointment Justi was accused of having misused the state's money.

Being thrown into jail did not stop Justi's literary production. Under the pseudonym 'Anaxagoras von Occident' he published a treatise titled *Physicalische und Politische Betrachtungen über die Erzeugung des Menschen und Bevölkerung der Länder* (1769). As late as 1771 he published a treatise on the history of the Earth: *Geschichte des Erd-Cörpers aus seinen äußerlichen und unterirdischen Beschaffenheiten hergeleitet und erwiesen*. Neither of these late treatises can be considered exactly ground-breaking scientific achievements. The latter received devastating reviews. The former shows Justi's meagre knowledge of reproduction. For the purpose of this book it is interesting to note that even when he was blind and ill Justi never forgot his dear enemy Wolff. In his *Physicalische und Politische Betrachtungen* he attacked Wolff once more as a representative of two ridiculous ideas: That men carried small semenanimals (*Saamenthierchen*) and female eggs (*Eyer*); and that reproduction was based on the unification of these. Justi tells his readers that he had to laugh heartily upon hearing this new idea, informing them that not so long ago a *Weltweise* had entered the scholarly stage and presented this opinion. According to Justi, the *Weltweise* was Wolff, who was building on Leibniz's system and attempting to complete it with his own inventions and supplements. However, in Justi's view Wolff did so with so little thoroughness that his philosophy (*Weltweisheit*) was doomed to fail. Wolff's attempt to improve Leibniz, Justi argued, was nothing but a shallow gloss (*Schminke*), merely a deception that would be recognised by future generations. Justi saw Wolff's ideas about reproduction as an example of where his metaphysics would lead. It was a version of the doctrine of monads.¹¹² He believed that Wolff's 'ridiculous views' had been

¹¹¹ Burgdorf, 'Johann Heinrich Gottlob von Justi', p. 52.

¹¹² Johann Justi, *Physicalische und Politische Betrachtungen über die Erzeugung des Menschen und Bevölkerung der Länder* (Smirna [i.e. Breslau], 1769), p. 11. 'Sie ist die Folge aus einem andern eben so abgeschmackten System der Leibnizschen Philosophie vor seinem Nach Tisch ausputzet und schmücket, nämlich aus dem System der Monaden oder der einfachen Dinge, von welchen der Herr Baron von Leibniz selbst nicht weiß, ob sie vor Körper oder vor Geister ausgehen soll.'; Christian Wolff, *Vernünfftige Gedancken von dem Gebrauche Der Theile in Menschen, Thieren und Pflantzen* (Halle, 1753). See especially chapter six, which is devoted to *Geburtsglieder*.

informed by his metaphysics, a result of reasoning in the mode of Leibniz.

THE COHERENCE OF A CHAMELEON

Justi's life and intellectual achievements have remained closely entangled. Ulrich Adam, who considers Justi to be one of the founders of modern German economic and political thought, has accurately pointed out that scholars who emphasise the adventurousness of Justi's life often tend to undermine his scholarly achievements and, in particular, to downplay the coherence of Justi's thoughts.¹¹³ Indeed, Wolfgang Burgdorf has emphasised how Justi constantly changed his mind so that it would correspond to that of his employer, claiming on this basis that his thoughts could never be coherent. In short, Justi was a chameleon, who constantly changed his colours.¹¹⁴ The most recent interpretation is from Andre Wakefield who places Justi in a very negative light. According to Wakefield, Justi petitioned, schemed, threatened and cajoled. Wakefield's new findings from the archive show that Justi indeed had major difficulties keeping his own money and those of the state separate.¹¹⁵

In my view Justi was an adventurer. Yet this does not mean that his thoughts were uninteresting or insignificant, nor is Justi the first interesting thinker to change his opinions during his career. What set Justi apart from many other contemporary adventurers was his devotion to serious scholarship.¹¹⁶ And most importantly, I argue that there was a certain matrix, certain presuppositions that remained consistent in Justi's thought: his critique of corporative structure, advocacy of larger economic units and emphasis on the importance of the cameral sciences. On the basis of these presuppositions Justi was able to develop different 'variations' in response to changing circumstances.

During Justi's life the international and political order changed through the rise of Prussia to a great power and through and the 'diplomatic revolution'. It would have been implausible had Justi's views and cameralistic discourse not have changed. Let me use the example of Count Brühl:

¹¹³ Adam, *The Political Economy*, p. 23.

¹¹⁴ Burgdorf, 'Johann Heinrich Gottlob von Justi', p. 71.

¹¹⁵ Wakefield, *The Disordered Police State*, pp. 108-110.

¹¹⁶ Reill, *The German Enlightenment*, p. 150.

In 1745 Justi wrote a paean of praise (*Lobesgedicht*) to Count Brühl, the Prime Minister of Saxony. This was when he was still interested in Saxon employment. In 1759 Justi, now writing Prussian war propaganda, attacked despotism using Brühl as an example of a despot and in so doing legitimised Prussia's attack on Saxony. This is an illuminating example in the sense that Justi's change of opinion was not only a result of the fact that his employer had changed. Recent studies support Justi's position. At the beginning of his career Count Brühl was a highly talented administrator and economist. Towards the end of his career his wasteful use of state revenues and poor administration pauperised Saxony.¹¹⁷

Indeed, it is true that one can hardly claim that Justi never changed his mind. As early as 1748 he stated that: "However, we human beings are just so, that our own principles are often valid for as long as they are useful to us." It would be a mistake to try and explain all contradictory statements Justi made and make a coherent system out of them. This would simply lead to a myth of coherence. One should not search for inner coherence, where probably never existed.¹¹⁸ Rather, I will demonstrate that Justi can be considered as a good example of a 'theoretical politician', an exemplary case of the fact 'that political life itself sets the main problems for the political theorist, causing a certain range of issues to appear problematic, and a corresponding range of questions to become leading subjects of debate'.¹¹⁹

¹¹⁷ Adam, *The Political Economy*, pp. 157-163.

¹¹⁸ Quentin Skinner, 'Meaning and Understanding in the History of Ideas', *History and Theory*, 8 (1969), pp. 3-53, pp. 16-18.

¹¹⁹ The quotation is from Quentin Skinner, *The Foundations of Modern Political Thought* (Cambridge, 1978), p. xi; I am building here also on Kari Palonen, 'Political Theorizing as a Dimension of Political Life', *European Journal of Political Theory* 4 (2005), pp. 351-367.

CHAPTER 3: ESCAPE FROM NATURAL LAW TO CAMERAL SCIENCES

FROM THE PASSION OF SOCIABILITY TO THE RIGHT OF SELF-PRESERVATION

Justi claimed that he was the first to place the cameral sciences on a solid basis. It is no surprise that this foundation was provided by natural law. After all, natural law represented the common language of most of the scholars of the eighteenth-century, as Knud Haakonssen has pointed out, one can even talk about the ‘ubiquity of natural law’.¹²⁰ Natural law was the most significant tradition of ethics, politics and the philosophy of justice in the early modern era. Its significance was by no means limited to jurisprudence; it was the most general and philosophical part of jurisprudence and was part of the common knowledge shared by lawyers, philosophers, historians, theologians and cameralists. Natural law was at the core of all societal thinking in the seventeenth- and eighteenth-century. Although relatively young as an academic discipline, it played an important role in the education of future state administrators. It can be even argued that natural law provided schol-

¹²⁰ Knud Haakonssen, ‘Enlightenment and the Ubiquity of Natural Law’, *Jahrbuch der Österreichischen Gesellschaft zur Erforschung des 18. Jahrhunderts* 27 (2012), pp. 45-57; For an overview of natural law theory in the German Enlightenment, see Knud Haakonssen, ‘German Natural Law’, in *The Cambridge History of Eighteenth-Century Political Thought*, eds. Mark Goldie and Robert Wokler (Cambridge, 2006), pp. 251-290. On the Reception of Hobbes in Germany Horst Dreitzel, ‘The Reception of Hobbes in the Political Philosophy of the Early German Enlightenment’, *History of European Ideas* 29 (2003), pp. 255-289. For a study in which Pufendorf is interpreted as Hobbesian see Fiammetta Palladini, ‘Pufendorf Disciple of Hobbes: The Nature of Man and the State of Nature: The Doctrine of Socialitas’, *History of European Ideas* 34, (2008), pp. 26-60.

ars with a habitus that bridged the differences between social origin and religious confession.¹²¹

When Justi began to elaborate natural law as the basis of the cameral sciences in the later 1750s and early 1760s he knew that he was talking a language his fellow scholars from different disciplines would understand. However, it was a political language capable of changing, so we cannot just say ‘Justi adopted the language of natural law’. As I will show in this chapter, Justi adopted a natural law that was quite distinctive, something that most of the scholarly commentary has overlooked. Changes in the language of natural law are perceptible at the conceptual level. The most central concepts, such as sociability and happiness, gained new meaning in the mid-eighteenth century, coming to play a major role in conceptualising commercial society. It is fair to say that political economy – cameralism included – was built on two foundations: historical anthropology and moral philosophy, both of which were adopted from a specific natural law.¹²²

This chapter seeks to answer several questions concerning the relationship between natural law and the cameral sciences: What was the relationship between natural law and Justi’s whole oeuvre; What was the practical role of natural law and the area of its applicability; What kind of natural law did Justi advocate and what purpose did it serve? My aim is not to assess the philosophical quality of Justi’s conception of natural law, nor that of his predecessor Johann Jacob Schmauss, but to understand them in their own terms, to understand their purpose in using the discourse.

Justi built the cameral sciences on natural law for two primary reasons. First, referring to natural law served to legitimise cameral sciences as a science (*Wissenschaft*) and thereby justify the existence of the newly established discipline. Second, Justi employed it to explain the rise of commercial society. I argue that Justi’s conception of human nature, of human history and of the foundation of commercial society has been misunder-

¹²¹ Barbara Stollberg-Rilinger, ‘Vom Volk übertragene Rechte? Zur naturrechtlichen Umdeutung ständischer Verfassungsstrukturen im 18. Jahrhundert’, in *Naturrecht und Staat: Politische Funktionen des europäischen Naturrechts (17.-19. Jh.)*, ed. Diethelm Klippel (München, 2006), pp. 103-118. See especially pages 104-105 and 108.

¹²² Hans Erich Bödeker and Istvan Hont, ‘Naturrecht, Politische Ökonomie und Geschichte der Menschheit’, pp. 80-89.

stood due to misplaced interpretation of his natural law. Justi's conception of natural law was indebted to his Göttingen colleagues, above all to Johann Jacob Schmauss, in its omission of sociability and other conceptions of natural law that were held to be 'abstract'. Justi gave a foundation to the cameral sciences in a conception of human nature derived from historical anthropology, developed within the natural law tradition. I argue that, for Justi, the normative elements of Schmauss-inspired minimalist natural law were applicable to civil law and to the law of nations. Furthermore, Justi's ultimate goal was to promote the cameral sciences. By narrowing the applicability of natural law considerably room was created for the most useful sciences, for the cameral sciences. One could even say that Justi escaped from natural law into the cameral sciences.

There is a somewhat puzzling statement concerning natural law to be found in Justi's *Natur und Wesen der Staaten* (1760). Quite late on in the book, given that the book opens with a treatment of natural law, Justi stated that despite the devastating critiques levelled against it the main concept of Schmauss's natural jurisprudence was correct.¹²³ Justi's somewhat cryptic statement is completely at odds with the oft-heard interpretation that Wolffian natural law formed and influenced the education of a generation of the Prussian lawyers and cameralists, and hence the values of the Prussian bureaucrats invested in the image of an omnipotent state.¹²⁴ However, the relationship between Wolffian natural law and cameralism is less straightforward than previously assumed. Justi, did not base his notion of natural law on Wolff. Being the self-sufficient man he claimed to be, Justi never

¹²³ Justi, *Natur und Wesen*, pp. 384-385. 'Der Hauptbegriff des verstorbenen Hofrat Schmauß in Göttingen von dem natürlichen Recht war demnach, ohngeachtet des heftigen Widerspruchs, den er gefunden hat allerdings richtig. Vielleicht fehlte ihm nur ein genugsam philosophischer Kopf, um die richtige Folge seiner Sätze deutlich zu zeigen, und die Anwendung derselben solchergestalt vorzustellen, daß sie weniger anstößig schien.'

¹²⁴ On the views according to which Wolffian natural law provided the basis for the education of the Prussian bureaucrats see Eckhart Hellmuth, *Naturrecht-Philosophie und Bürokratischer Werthorizont: Studien zur preußischen Geistes und Sozialgeschichte des 18. Jahrhunderts* (Göttingen, 1985) and Ian Hunter, 'The Law of Nature and Nations', in *The Routledge Companion to Eighteenth-Century Philosophy*, ed. Aaron Garrett (New York, 2014), pp. 559-592, p. 577.

admitted his full debt to Schmauss. Characteristically, Justi argued that before he had ever seen Schmauss's book he had written an entire manuscript in which he had founded natural jurisprudence on natural instincts, just as Schmauss had done.¹²⁵ Justi's account of natural jurisprudence must be explained as part of a larger transformation that took place in the natural law theories of the German and European Enlightenment, a transition from laws and commands to a more moral psychological emphasis on passion and sentiments as the sources of moral actions.¹²⁶ Building on the ideas of Johann Jacob Schmauss, Justi furthered a shift from reason-based natural law to a theory that placed emphasis on human instincts and historical anthropology. Schmauss and Justi argued that universal instincts were the foundation of natural rights, and only by virtue of this of the law. Today this transformation, so important in German Enlightenment, is unfortunately much neglected; Horst Dreitzel calls it 'the forgotten further development of Thomasius's conception of the law of nature'.¹²⁷

Before going into Justi's account of Schmauss we need to analyse Schmauss's natural law to establish its leading principles, and why Justi found it so attractive. Schmauss was a rather controversial figure in Göttingen. He was born in 1690 in Landau, and received his university education in Halle where he followed the lectures of the famous natural lawyers Christian Thomasius (1655–1728) and Nicolaus Hieronymus Gundling (1671–1729). Schmauss made his name through his edited compendia of German public law (1720) and European peace treatises (1730). Alongside his academic career he acted as a *kleinstaatliches* diplomat working for the bishop

¹²⁵ Justi, *Natur und Wesen*, pp. 384–385. Justi had discussed the topic of natural instincts briefly in his early essay *Von der Herrschaft eines Thieres über das andere, und der Gewalt, welche die Menschen über die Thiere, und über einander selbst ausüben*. The content of Justi's essay reveals that it was written at least a decade earlier. However, the only printed version I have been able to find is in Justi, *Oeconomische Schriften über die wichtigsten Gegenstände der Stadt- und Landwirtschaft* (Berlin, 1760–1761), 2 vols, pp. 501–518. The essay begins as an answer to an anonymous writer who had questioned the right of man to eat meat. From this starting point it develops into a rather detailed discussion of Hobbes's natural law as presented in *Leviathan*.

¹²⁶ Thomas Ahnert, 'Introduction' to Christian Thomasius, *Institutes of Divine Jurisprudence, with Selections from the Foundations of the Law of Nature and Nations* (Indianapolis, IN, 2011), p. xxiv.

¹²⁷ Horst Dreitzel, 'Justis Beitrag', p. 176, footnote 24.

of Strasbourg. In addition to his books, Schmauss was known as an excellent lecturer. Gerlach Adolph von Münchhausen (1688–1770), for whom the University of Halle served as a model in his direction of the University of Göttingen, was very keen on getting Schmauss appointed to Göttingen, since he was well-suited to the practical aims of the new university. Schmauss was well-equipped to aid the university to secure its international reputation, attracting students from across Europe and teaching topics that had practical impact. Schmauss gave his first lectures on the law of nature and of nations in 1734. But no matter how successful a lecturer Schmauss was, his personality was highly controversial in Göttingen. One of the main principles for Göttingen professors was that they should not cause scandals. This was a rule to which Schmauss was not able to adhere. Göttingen inhabitants did not appreciate Schmauss's unwillingness to attend church service (*Gottesdienst*), and serious personal debts gave him a bad reputation. However, it was his book *Neues Systema des Naturrechts* (1754), that caused a tumult that continued until Schmauss's death on 8 April 1757. When Justi arrived in Göttingen in 1755 the 'scandal' that Schmauss had created was fresh in the memory of the good citizens of Göttingen.

As we have seen, Schmauss was the connecting link between the two great centres of the German Enlightenment, Halle and Göttingen. Indeed, as Notker Hammerstein has stated, it could be argued that Schmauss was the last in the great tradition of Halle, and first great publicist in Göttingen.¹²⁸ Schmauss was the most radical of Thomasius's students, although it has to be noted that Schmauss's natural law was in many ways unique. All the same, he did borrow some theoretical elements from Thomasius.¹²⁹ Building on his mentor, Schmauss put forward the idea that the exercise of man's will offered great insights into the correct principles of natural jurisprudence. The moral actions of men were directed by the will, and the will, in turn, was founded on passions and instincts, more specifically, on

¹²⁸ Notker Hammerstein, *Jus und Historie: Ein Beitrag zur Geschichte des historischen Denkens an deutschen Universitäten im späten 17 und frühen 18. Jahrhundert* (Göttingen, 1972), p. 343.

¹²⁹ Frank Grunert, 'Das Recht der Natur als Recht des Gefühls: Zur Naturrechtslehre von Johann Jacob Schmauss.', *Jahrbuch für Recht und Ethik. Annual Review of Law and Ethics* 12 (2004), pp. 139-153, p. 153.

feelings of pain and pleasure.¹³⁰ Schmauss criticised theories of the source of natural rights and duties for being too artificial, abstract, and above all dependent upon a false principle. Schmauss's opposition to the Wolffian School of natural jurisprudence could hardly have been more radical.¹³¹ Schmauss argued that in Wolff's hands natural law had gone completely awry and that the entire development of natural jurisprudence was regrettable. He maintained that since Grotius many brave and courageous people had brought the law of nature to its perfection, yet now Wolff and his pupils were about to destroy everything. Wolff and his predecessor Leibniz were to blame for this sad state of affairs. Schmauss argued that aside from mathematics, where he perhaps had some talent, Leibniz was nothing but a braggart, a pedlar of fancy and a bungler.¹³² If Schmauss was clear about who his opponents were, he was equally sure about whom he admired. The first to found natural law on real human nature, Schmauss argued, was Hobbes, whose legacy Schmauss praised: 'The first who left the scholastic system of the law of nature behind and put up a whole new system was the famous Englishman, Thomas Hobbes.'¹³³ Schmauss counted Grotius among the representatives of scholasticism. Schmauss argued that Hobbes had been admirably followed by his own mentor, Thomasius.¹³⁴ At the time there were few outspoken followers of Hobbes in Germany and it was a bold move to build a tradition on him. The only known declared advocate of Hobbes in Germany was Johann Christoph Becmann (1641–1717), who argued that not sociability, but neediness (*indigentia humana*), self-interest (*desiderium proprium*) and mutual fear (*mutuus metus*) were central principles of natural law.¹³⁵ Schmauss's books made him a member of this small club of pro-Hobbesians. In the context of eighteenth-century

¹³⁰ On the role of pain and pleasure in natural jurisprudence see Thomas Ahnert, 'Pleasure, Pain and Punishment in the Early Enlightenment', p. 174.

¹³¹ Johann Jacob Schmauss, *Kurze Erleuterung und Vertheydigung seines Systematis Juris Naturae* (Göttingen, 1755), p. 21.

¹³² Schmauss, *Kurze Erleuterung*, p. 6. Concerning that Leibniz developed differential calculus quite far this was not a high praise from Schmauss.

¹³³ Johann Jacob Schmauss, *Neues Systema des Rechts der Natur* (Göttingen, 1754), p. 220.

¹³⁴ T. J., Hochstrasser, *Natural law theories in the early Enlightenment* (Cambridge, 2000), p. 148.

¹³⁵ Dreitzel, 'The Reception of Hobbes', pp. 267–268.

Germany Schmauss's outspoken admiration of Hobbes would have been sufficient cause to condemn his work.

Yet if Schmauss was enthusiastic about Hobbes's achievements, his highest praise was reserved for the vice-chancellor and Professor of Marburg, Johann Friedrich Hombergk zu Vach (1673–1748), who had anonymously published a piece entitled *Dubia Iuris Naturae* in 1719 accusing contemporary natural law theorists of intellectualism. Hombergk zu Vach raised the fundamental question of whether there was even such a thing as natural law, and whether there could be a natural law based on human nature.¹³⁶ Schmauss shared Hombergk zu Vach's scepticism, and in the preface of *Neues Systema* Schmauss stated that the main aim of his own publication was to pay tribute to *Dubia Iuris Naturae*, to make it better known and more respected.¹³⁷ Drawing on Hombergk zu Vach, Schmauss criticised the early Thomasius and, above all, Pufendorf. He accused them of mixing natural law with the moral criteria man derived from applying his reason, that is to say, with civil law. He asserted that Pufendorf and Thomasius were not truly natural law theorists at all; they were instead advocates of universal public law (*ius publicum universal*).¹³⁸ In Schmauss's view Pufendorf and Thomasius were abstracting from positive law in the hope of disclosing natural law.¹³⁹ For Schmauss positive law, unlike natural law, was a product of reason. It was he thought of the utmost importance to maintain a distinction between man as a rational creature (*Vernunftwesen*) and man as an instinctive creature (*Triebwesen*) if one wanted to appreciate the universality of natural rights. The state of nature was characterised by instincts, whereas reason was essentially linked to civil society and its laws.¹⁴⁰

The false principle that Schmauss had in mind was sociability. Sociability was indeed seen by many as the most central concept of natural ju-

¹³⁶ Schmauss, *Vorstellung*, pp. 10–11.

¹³⁷ This seems to have been a popular rhetorical strategy of the time. For example, von Justi claimed his desire merely to refine Montesquieu's *Esprit des Lois* in his *Natur und Wesen*, and Emer de Vattel stated that his *Droit des gens* aimed only at making Wolff's *Ius Gentium* better known, with some minor improvements.

¹³⁸ Hunter, 'The Law of Nature and Nations', p. 575.

¹³⁹ Hammerstein, *Jus und Historie*, p. 344, see footnote 146.

¹⁴⁰ Scattola, 'Das Naturrecht der Triebe', p. 245.

risprudence.¹⁴¹ Man was thought to be social by nature. The duties of men towards each other followed from his natural sociability. As Knud Haakonssen has argued, Thomasius (1655–1728) ‘formulated a theory of natural law as the specification and rule of the passions that make social life possible’.¹⁴² Another natural law theorist, Frédéric-Henri Strube de Piermont, stated in 1744 that sociability was ‘basically a passion, even that passion which contains all others within itself’.¹⁴³ Schmauss, and later in his footsteps von Justi, opposed this view by arguing that sociability was at least partly a product of reason. In Schmauss’s opinion, when Pufendorf and Thomasius accepted sociability as a principle of natural law they were making the error of aligning themselves with the intellectualists whose views were too abstract.¹⁴⁴ Schmauss maintained that sociability was not universally recognisable and as such it was different from the principle of self-preservation, something that was evident even to the simplest creatures.

The title of Schmauss’s book, *Neues systema des Rechts der Natur* (1754), is significant. As it suggests, Schmauss was not departing from his predecessors in the sense that he would have wanted to dismantle natural law as a system. He sought to re-formulate the foundations of natural law *qua* system. He departed from the mainstream of natural law theorists in his conviction that such a system could not be based on any intellectual principle. In his new system of natural law Schmauss argued that human will and emotions exist prior to reason; it is positive law that is the product of reason, which is in itself a development of man’s more fundamental, passionate, nature.¹⁴⁵ Schmauss began with the idea that in order to be universal, the principles of natural jurisprudence need to spring from human nature, not from men as lawgivers.¹⁴⁶ They could not be found in the eternal truths of reason. Natural rights (*ius, Freiheit, Befügniß*) can, Schmauss held, be recognised by all persons little given to contemplation, deep study or the guid-

¹⁴¹ Petter Korkman, ‘The Vital String of Mankind: Sociability and the Foundation of Natural Law and Universal Rights’, *COLLeGIUM* 4 (2008), pp. 5-34, p. 6.

¹⁴² Haakonssen, ‘German Natural Law’, p. 252.

¹⁴³ Quoted after Ahnert, ‘Pleasure’, p. 173.

¹⁴⁴ Schmauss, *Vorstellung*, p. 3.

¹⁴⁵ Hochstrasser, *Natural law theories*, pp. 147-148.

¹⁴⁶ Schmauss, *Vorstellung*, p. 3.

ance of scholars. Everyone had the right to live according to human nature. Schmauss's account was directed against Pufendorf and Wolff. Schmauss hinted in an ironic manner that in the search of the initial premises of natural jurisprudence pedantic metaphysicians were of very little help. His argument was that if natural law was to be universal and valid for everyone, it had to be immediately evident and immediately effective. Instead of being abstract, natural jurisprudence had to be simple and concrete. It was available to the most uneducated and stupid of people: 'One shall not go further than to that point, which everyone can feel and sense in himself without studying or heavy contemplation.'¹⁴⁷ Schmauss's premise led him to dismiss sociability as a central concept for natural jurisprudence. Schmauss saw sociability as a structure created by reason. In other words, it was an abstract and artificial concept not shared by everyone, and likely to be totally unknown to people living in the state of nature. Schmauss argued that human reason by itself is not able to form general, constant, unchanging and at the same time binding natural laws.¹⁴⁸ Reason was not completely innate to men, there were no true theoretical innate ideas. Men were only born with the ability to form ideas, not with the capacity to order and connect them rationally. Moreover, reason was to a great extent subordinated to the will. The source of human action was the will, which also directed the course of action. The two main affects, hope and fear, governed the will; the former provided incentives, the latter moderated action.¹⁴⁹ However, Schmauss denied a complete distinction between will and reason, arguing that there is an inseparable nexus and mutual influence between reason and will.¹⁵⁰ Schmauss emphasised that the law of nature was not to be found in the reason of a person, but in his will, which in turn directed the actions of men. This will was not empty in its content; it was directed by desires, affects and passions.¹⁵¹ The affects of the human will did not follow reflection in man's reason, they are innate and would exist even if men were without reason. As in animals, actions directed by the will were not based on reasonable

¹⁴⁷ Schmauss, *Neues Systema*, p. 453.

¹⁴⁸ Schmauss, *Neues Systema*, p. 454, 460.

¹⁴⁹ Schmauss, *Neues Systema*, p. 512.

¹⁵⁰ Schmauss, *Neues Systema*, p. 461.

¹⁵¹ Grunert, 'Das Recht der Natur', p. 140.

conclusions, but on innate feelings or sentiments (*angeborene Föhlung und Empfindung*). Therefore in searching for the basis of natural law one should not concentrate on the study of reason; instead one should study the will of men, which was the source of all human action.¹⁵² From the method of self-analysis we could infer the truly natural from the instincts.¹⁵³ Schmauss invited his students to conduct this self-analysis, pointing out that the audience of a lecture consists of men just like the professor, and that his auditors were therefore capable of recognising their natural instincts.¹⁵⁴ Since the principles of natural jurisprudence were empirical principles Schmauss was convinced that all of his students would share common human instincts that aimed at securing their self-preservation. From this principle, based on empirical observations and self-analysis, he derived the notion that it must be a natural *right* to preserve oneself. Accordingly, the main principle of natural jurisprudence was not sociability, but self-preservation. Nature had given men the instinct to live and preserve life.¹⁵⁵

It is important to notice that in Schmauss's natural jurisprudence rights (*ius*) were prior to laws (*lex*). Obligation in the state of nature only followed from the mutual recognition of other people's rights.¹⁵⁶ In the proper sense of the term, natural laws were for Schmauss not real laws (*propria dicta*). They were more like advice. Unlike in a civil society, in the state of nature there was no legislator, a superior who would mete out punishment for any failure to obey commands. The instincts that God has implanted into human beings were not commands. The limitations of natural rights were defined by the rights of the other person: one should not injure the rights of others, and from this followed *lex naturae*. As long as one does not violate the rights of others, one does not act against the law of nature. Schmauss for instance did not consider suicide, polygamy, or polyandry as a violation of natural rights.¹⁵⁷ What was a violation could be recognised through a change of perspective. By placing himself in the position of another one

¹⁵² Schmauss, *Vorstellung*, pp. 13-14.

¹⁵³ Scattola, 'Das Naturrecht der Triebe', p. 241.

¹⁵⁴ Schmauss, *Vorstellung*, pp. 20-21.

¹⁵⁵ Schmauss, *Neues Systema*, pp. 462-463.

¹⁵⁶ Schmauss, *Neues Systema*, pp. 504-505.

¹⁵⁷ Grunert, 'Das Recht der Natur', p. 143.

person realises the rights of the other. Everyone had an inborn capacity to recognise the rights of others, and this capacity was the true source of natural law, demonstrating the reciprocity between rights and obligations.¹⁵⁸ In line with this, the Golden rule became the standard of conduct. Since a violation of rights was met with unrestrained retaliation, it was the feeling of fear that created the binding effect of the Golden rule. Moral motivation came from the hope of achieving something, but even more so from the fear of retaliation.¹⁵⁹

While Schmauss considered God to be the creator of human instincts, he did not regard him as the great legislator of natural law.¹⁶⁰ Therefore, for Schmaussian morality God was not a necessity. In other words, for Schmauss the recognition of the law of nature did not presuppose the necessity of God. In this sense Schmauss's natural jurisprudence was radical. In his attempt to universalise natural rights and their corollary natural law Schmauss made further claims that aroused both attention and criticism. He argued that universal natural rights were also valid for atheists, because he believed that an atheist had the same natural instincts as anyone else; arguing to the contrary would go against empirical observation.¹⁶¹ Schmauss in fact clarified publicly that he was not an atheist, a charge levied against him by some critics. He emphasised that God was the creator of human instincts, but noted that God had equally created the natural instincts of atheists, adding that not all atheists were evil.¹⁶² Schmauss held that in the study of natural rights and natural law the idea that the Fall had fundamentally changed and corrupted human nature should be treated with caution. Unlike most eighteenth-century theologians Schmauss claimed that the Fall did not change human nature, nor for him was it the source of corrupted passions (*verderbte Leidenschaften*). According to Schmauss, there was nothing in

¹⁵⁸ Schmauss, *Neues Systema*, pp. 451-452; Ian Hunter, 'The Law of Nature and Nations', p. 575.

¹⁵⁹ Grunert, 'Das Recht der Natur', p. 140, 143, 153.

¹⁶⁰ Schmauss, *Neues Systema*, p. 529. Thomas Ahnert, 'Problematische Bindungswirkung: Zum "Epikureismus" im Naturrecht der deutschen Frühaufklärung', In *Das Naturrecht der Geselligkeit. Anthropologie, Recht und Politik im 18. Jahrhundert*, eds. Vanda Fiorillo and Frank Grunert (Berlin, 2009), pp. 39-54, 52.

¹⁶¹ Schmauss, *Neues Systema*, p. 526.

¹⁶² Schmauss, *Neues Systema*, pp. 462-463.

the Holy Bible about this. He therefore maintained that ‘Man is today the same as when God created him for the first time’.¹⁶³

Now it is easy to see why Schmauss’s text book was so scandalous. Lutheran theologians did not welcome his choice to minimise the importance of the Fall, or the argument that atheists were capable of recognising the principles of natural jurisprudence. The reaction of Schmauss’s critics shows the radical nature of his position. Schmauss was accused of teaching the natural law of animals, a charge often levied at authors believed to be Epicureans.¹⁶⁴ The most outspoken critic of Schmauss was Johann Martin Chladenius (1710–1759), one of the founders of modern hermeneutics and famous for highlighting the concept of point-of-view or perspective as a methodological device in historical writing, as explicated in *Allgemeine Geschichtswissenschaft* (1752). Less known is Chladenius’s role as the most fervent critic of Schmauss, a position he expressed in his periodical *Biblische Untersuchungen* (1754). As the son of the theologian Martin Chladenius, and as professor of ‘theology, rhetoric and poetry’ at the University of Erlangen, his orthodox-Lutheran critique of Schmauss is not entirely surprising. It can be considered representative of the ‘Pufendorfian-Lutheran critique’ of Schmauss, which has less to do with Pufendorf’s original view than with the polemical purposes for which Pufendorf was being used by authors such as Chladenius.

Chladenius’s critique reveals what was at stake in Schmauss’s *Neues Systema*. Chladenius charged that Schmauss had emptied *Jus naturae* of its most important doctrines, and discarded natural jurisprudence as a science (*Wissenschaft*). For Chladenius – following Pufendorf – the greatest value of natural jurisprudence lay in the way it scientifically founded the duties of man towards God, himself and other human beings. As Chladenius noted, Schmauss on the other hand emphasised rights, and duty (*Pflicht/officium*) is hardly ever mentioned in his *Neues Systema*. By denying that man is obliged to follow any *officio humanitas* in the state of nature Schmauss dismissed an entire catalogue of duties (*Catalogi von Pflichten*). In addition, he had argued that the recognition of the main principles of natural jurispru-

¹⁶³ Schmauss, *Neues Systema*, pp. 414–415.

¹⁶⁴ See Neven Leddy and Avi Lifschitz (eds.), *Epicurus in the Enlightenment* (Oxford, 2009).

dence did not require sophisticated contemplation. Only after years of study were scholars capable of demonstrating universal principles with certainty. This was what made the discipline into a science. An expert on morality could deduce truths with the same certainty as mathematician. In many ways finding the truths of natural jurisprudence was a learned exercise comparable to mathematics or astronomy. It was years of study, Chladenius maintained, that had raised natural jurisprudence to its present height. According to Chladenius, it was this lofty achievement that Schmauss was ready to destroy. So far the priests had allowed their sons to study natural jurisprudence because it was in harmony with the teachings of the Bible. However, not only was Schmauss's teaching aggravating, he also contradicted one of the clearest doctrines of the Holy Book. Schmauss called the doctrine of original sin a mere prejudice, and in so doing insulted his Lutheran teachers. For Chladenius it was clear that the Fall had changed the nature of each and every human being, and what made Schmauss's intervention so terrible was that he was a public teacher at an acclaimed Lutheran university in Göttingen.¹⁶⁵

Schmauss's answer to Chladenius was suitably pointed. He repeated the position he had already expressed in his *Vorstellungen* (1748): what Chladenius and his colleagues were teaching contradicted the words of St Paul, who argued that even pagans, who are ignorant of the laws of God (*von dem geoffenbahrten Gesetz Gottes und Decalogo*), have the law written in their hearts. Schmauss drew on St Paul to argue that 'the work of the law is inscribed in their hearts'.¹⁶⁶ Every individual could find it in himself by self-reflection. However, Schmauss also used reference to St Paul to assert that the law was inscribed in the will of a person, heart being equated to will. He was implying that while his opponents claimed to be acting in the name of the Christian religion, they were in fact in contradiction with teachings of St Paul. Schmauss added that if the Fall destroyed the reason of

¹⁶⁵ Johann Martin Chladenius, *Wöchentliche Biblische Untersuchungen*. Stück xxvi, Erlangen 1754, pp. 534-547. Here we find a parallel to Fichte's *Atheismusstreit*. It was not so much the content but the fact that it was a teacher of the young who was spreading the inclination to unbelief that was condemned by critics. See Anthony La Vopa, *Fichte: The Self and the Calling of Philosophy, 1762-1799* (Cambridge, 2001), p. 370

¹⁶⁶ Schmauss, *Vorstellung*, p. 4.

all men, then this must have happened to Jews and pagans too. However, St Paul says that even this corrupted reason is able to recognise natural rights (*Erkenntniß des natürlichen Rechts*). In Schmauss's view, it was impossible to combine the doctrine of the scholastics (*die Lehre der Scholasticorum*) with that of the Apostle. He concluded from this that the Fall had no significance whatsoever for the discipline of natural jurisprudence. It may be a central doctrine of the Christian religion, but it would never take root in the minds of pagans, who as passionate beings do recognise natural rights. In the case of the discipline of natural law it was as futile to speak of corrupted reason as it was of the *Decalogue*. For Schmauss, natural law was neither positive law nor divine positive law. Radically, Schmauss argued that natural jurisprudence should be distanced from revelation.¹⁶⁷

Joining criticism from orthodox-Protestant circles, Wolffians also attacked Schmauss, although he did not find this surprising, nor was it of great concern to him. Indeed, since he believed that he had revealed 'the childishness' of Wolff's work, 'the foolishness his doctrines and the almost inhuman and stupid pomposity of the man himself', the opinions of Wolff's followers were of little consequence for him.¹⁶⁸

It is not easy to determine what Schmauss intended with his natural law, since he argued that natural law was valid only in the state of nature. In his critique Chladenius made two crucial observations that help contextualise Schmauss's book: Schmauss was indeed concentrating on rights instead of obligations, and he was questioning natural law as a science (*Wissenschaft*). In Schmauss's hands the emphasis moved from natural law to natural rights. For many of Schmauss's contemporaries natural law was foremost an academic subject taught to young students to educate them in their duties, to inform young people of their duties. According to Schmauss, these duties followed only from the recognition of the rights of the others. The corresponding norm of natural law, Golden rule, was also for Schmauss the touchstone (*Proberstein*) of the just and unjust in the civil state. Accordingly, in Schmauss's hands natural law based on human nature – instincts – developed into 'critical anthropology'.¹⁶⁹ Even more importantly, Schmauss

¹⁶⁷ Schmauss, *Kurze Erleuterung*, p. 28.

¹⁶⁸ Schmauss, *Kurze Erleuterung*, pp. 23-24.

¹⁶⁹ Grunert, 'Das Recht der Natur', p. 152.

was paving the way for a historical and economic understanding of society and of international relations. Due to his minimalist conception of the discipline of natural jurisprudence, emphasis was moved in the direction of the sciences of state (*Staats-Wissenschaften*) and diplomacy. Schmauss downplayed the role of reason in natural law, while emphasising that natural law was an empirical and historical discipline. According to Merio Scattola, this ultimately contributed to its decline.¹⁷⁰ It is true that Schmauss distanced himself from the natural law tradition and maintained that he did not understand his main field of interest, *Staats-Wissenschaft*, to be a law of nature and law of nations or *Jus publicum universale*.¹⁷¹ According to Schmauss, it was important to know the inner institutions, strengths, weaknesses and interests of the leading European states. For Schmauss, political actors were not primarily *homo legalis*. On the contrary, both states and individuals acted primarily in the name of their own interest: they were *homo economicus*.¹⁷² He therefore emphasised the importance of studying the history of inter-state relations and existing treatises. In addition, he promised to deliver a history of European commerce. He called for the integration of economics and history; a plan that he was never able to fully carry out.¹⁷³

Ian Hunter has interpreted Schmauss as an exponent of philosophical natural law arguing that Schmauss ‘exemplifies some of the central features of eighteenth-century philosophical natural law, as a discourse on philosophical principles concerned above all to validate the principles of the

¹⁷⁰ Scattola, ‘Das Naturrecht der Triebe’, p. 244, pp. 247–248.

¹⁷¹ Johann Jacob Schmauss, *Einleitung zu der Staats-Wissenschaft, und Erleuterung des von im herausgegebenen Corporis Juris Gentium Academici und aller andern seit mehr als zweyen Seculis her geschlossenen Bündnisse, Friedens- und Commerciën – Tractaten. Erster Theil, Die Historie der Balance von Europa, der Barriere der Niederlande, der Oesterreichischen Sanctionis pragmaticae, und anderer dahin gehörigen Sachen und Tractaten in sich haltend.* (Leipzig, 1741), xi. ‘[---] nicht etwan ein Natur- und Völkerrecht, oder ein Jus publicum universale verstehe, sondern eine solche Wissenschaft, die blos auf das Interesse, ohne Absicht auf Recht oder Unrecht, gerichtet ist.’

¹⁷² Axel Rüdiger, *Staatslehre und Staatsbildung: Die Staatswissenschaft an der Universität Halle im 18. Jahrhundert* (Tübingen, 2005), p. 263.

¹⁷³ Peter Hanns Reill, *The German Enlightenment and the Rise of Historicism* (Berkeley, 1975), p. 150.

philosopher'.¹⁷⁴ In my view it would be more suitable to place Schmauss within the civil Enlightenment and civil natural law. Schmauss was questioning the meaningfulness of the entire discipline by asking: what is the point of studying something that can be recognised by anyone without a formal education. According to his contemporaries, he even made fun of himself as a Professor *NonEntis*, as professor of a non-existing subject. Only towards the end of his career did Schmauss admit that natural law was not totally chimerical.¹⁷⁵ The application and usefulness of natural law lay above all for Schmauss, as Frank Grunert has argued, in its role as a 'critical anthropology'.

The reception of Schmauss's natural jurisprudence was largely negative and somewhat muted. It might appear at first glance that Schmauss had virtually no influence on the development of natural jurisprudence in the German context. Immediately after Schmauss's *Neues Systema* (1754) was published it was viciously attacked by Georg Christian Rollius, Johann Gottlieb Thenius, Johann Christoph Cramer and Michael Conrad Curtius. Schmauss did defend his work in several publications, but the debate was still continuing when he died in 1757. Frank Grunert argues that this put a stop to the emerging debate on the new foundations of natural law. The publication of Christian Wolff's *Jus Naturae* (1740–1748) and *Grundsätze des Natur- und Völkerrechts* (1754) also contributed to dampen the reception of Schmauss's book, the phenomenal attention they received contributing to the rapid eclipse of Schmauss's book. As Grunert also points out, the mainstream of German natural law thinkers was anti-voluntaristic, and therefore very hostile towards Schmauss's propositions.¹⁷⁶

Some contemporaries differed however on the importance of the shift that Schmauss had sought to bring about. Somewhat cryptically, philosopher Johann Heinrich Georg Feder (1740–1821) argued that: 'Schmauss caused a sensation in natural jurisprudence (*Naturrecht*): the system of sentiments which Hutcheson made famous is now dominant in almost all writ-

¹⁷⁴ Hunter, 'The Law of Nature and Nations', p. 576.

¹⁷⁵ Alexander Schmidt, 'Unsociable Sociability and the Crisis of Natural Law: Michael Hissmann (1752–1784) on the State of Nature', *History of European Ideas* 41 (2015), pp. 619–639, see page 622.

¹⁷⁶ Grunert, 'Das Recht der Natur', pp. 137–138.

ings on ethics'.¹⁷⁷ The strand of natural jurisprudence Schmauss advocated was more influential than is often allowed. Indeed, Schmauss's radical position was most significantly taken over by Justi.

JUSTI ON NATURAL INSTINCTS AND NATURAL RIGHTS

When Justi started to publish more extensively on natural jurisprudence in the late 1750's and early 1760's the debate on sociability, rights and duties was still in progress. His writings are best understood against the backdrop of a distinctive Göttingen focus on the science of man, human history and anthropology. Justi, who was at this time based in Göttingen, was well aware of the negative reception of Schmauss's natural jurisprudence and of the controversies it had caused. He was consequently very careful in his statements. Justi shared Schmauss's anti-intellectual voluntaristic presuppositions, and asserted that natural rights must be recognisable to educated and uneducated, civilised and uncivilised alike. In addition, Justi emphasised the importance of keeping the law of nature and the law of reason, this is to say civil law, separate. Were these to be merged, the uneducated uncivilised and barbaric nations would have no law of nature whatsoever, because they would be unable to draw the conclusions necessary for the formation of natural law.¹⁷⁸ Even more significantly, Justi shared Schmauss's conviction that human instincts aimed at the self-preservation of man and, as such, they were the foundation of rights to which positive law was subordinated. However, Justi did not follow Schmauss slavishly. He selected some of Schmauss's conceptions, developed them further and then mixed them with the views of other natural law theorists. It must also be emphasised that Justi was less radical than Schmauss. This becomes evident in Justi's account of the role of God in natural jurisprudence. Unlike Schmauss, who stated that God was only the creator of natural law, Justi argued that God was doubtless its greatest legislator. Natural law was thus God's law.¹⁷⁹

¹⁷⁷ Johann Georg Heinrich Feder, *Grundriss der philosophischen Wissenschaften* (Coburg, 1769), p. 341.

¹⁷⁸ Justi, *Natur und Wesen*, p. 383.

¹⁷⁹ Justi, *Natur und Wesen*, p. 421.

In accordance with Schmauss, Justi argued that if natural jurisprudence should become universal, it would be necessary to study the fundamentals of human nature.¹⁸⁰ Justi's conception of human nature was informed by Thomasius's threefold way of understanding human beings. According to Justi, human nature could be considered from three points of view. According to this schema, every man could firstly be considered as a body, just like all other bodily things in the world. Secondly, man could be seen as a being that consists of body and spirit (*als ein aus Körper und Geist zusammengesetztes Wesen*); and thirdly, he may be understood as a purely spiritual, reasonable being (*ein blos geistiges, oder vernünftiges Wesen*).¹⁸¹ Processes in the human body that took place without the cooperation of our will, and to a great extent even unconsciously (*ohne unserm vorbewusst*) could not be controlled by men, and should not be punished even when they were in contradiction to a law, e.g. if someone coughs in the presence of the prince. However, natural rights did not emerge from this part of human nature. The aforementioned actions were not moral actions. The real source of natural law was the bond between body and spirit. This bond triggered emotions (*Regungen*), and these were recognised by reason. Reason in turn was influenced by the emotions and the two influenced one another reciprocally. Emotions were not created by reason; they are not the result of any kind of reasoning or decisions made by a person; they simply emerged from the bond between body and spirit (*Geist*). Since the bond between body and spirit was the source of natural law, Justi regretted that there was no knowledge of the true nature of this bond, no deeper understanding than was held of the connection between body (*Leibe*) and soul (*Seele*).¹⁸² The foundations of the emotions, which form the basis for natural law, remained a secret. Here we also encounter the limits of how far Justi is interested in going in his theoretical contemplations. For him

The metaphysician, when his imagination has penetrated into the primordial corpuscles of substance, into the bond between body and soul – and perhaps even farther – believes that he is engaged in the most splendid science. And he forgets

¹⁸⁰ Justi, *Natur und Wesen*, p. 149, 378.

¹⁸¹ Justi, *Natur und Wesen*, p. 379.

¹⁸² Justi, *Natur und Wesen*, pp. 380-382.

that these are merely his fairy tales [- -] and that the origin of corporeal things and the essence of creation will always remain hidden from human knowledge.¹⁸³

After acknowledging that our knowledge of the bond between body and spirit was meagre, Justi emphasised that it was enough to recognise that the emotions emerging from this bond were something that had been implanted into our nature and that we sense them in connection with both our mind and our body. Justi called these emotions (*Regungen*), natural instincts (*natürliche Triebe*). These natural instincts were the source of natural rights. Like Schmauss, Justi takes human instincts to be the basis of rights. Also not unlike Schmauss, Justi held that the feelings of pleasure and pain had a fundamental role in moral action. We love those who give us pleasurable sensations, as is perceivable, for example, in the actions of children towards their wet nurses.¹⁸⁴ On the one hand, the self-love and desire (*Lust, Begierde*) that we experience in pleasant sensations move us to seek all the possible advantages, conveniences and pleasures of life. Conversely, the fear of painful sensations guides us to maintain peace and act socially.¹⁸⁵ By coupling fear of pain to the sensations Justi tried to accommodate the sensations to natural jurisprudence. He participated in the transformation of natural law towards a more sentimentalist account, according to which passions were understood to be accompanied by feelings of pleasure and pain. This was a way of taking Hobbes's notion of self-preservation seriously, but at the same time denying the view according to which immoral action in a state of nature had no sanctions.¹⁸⁶

In Justi's system of natural law self-preservation was to be regarded as the highest of all rights from which all other natural rights are deduced. He knew that he was not the first person to advocate the primacy of self-preservation. However, he argued that no one before him had been able to prove the generality of this principle, nor demonstrate how other natural instincts and corresponding natural rights could be deduced from it. In short, he concluded, many authors have known the correct principle of natural

¹⁸³ Justi, *Staatswirthschaft* (1755), preface, pp. x-xi. The translation is from Wakefield, *The Disordered Police State*, p. 69.

¹⁸⁴ Justi, *Natur und Wesen*, p. 381.

¹⁸⁵ Justi, *Natur und Wesen*, p. 381, 443.

¹⁸⁶ On this shift see Ahnert, 'Pleasure', p. 174, 180, 184.

right without being able either to found it properly or to draw the line between it and its application.¹⁸⁷ Justi argued that the guiding principle of self-preservation entailed the following instincts and rights: the right to defend one's life against any attack, the right to search for nutrition, the right not to do anything to harm one's own children. All of these rights were dependent on instincts that implied rights.¹⁸⁸ According to Justi, it is self-love which gives us the right to defend ourselves from an attack. We perceive our own life to be more valuable than those of others. From the right to defend oneself follows not only the right of a state to oppose foreign attack, but also the right to nurture. Even babies, who did not have any concepts, sought their mother's breast. No law could override this. Justi argued that if shipwrecked parents ate their children out of sheer need that was, for the end of self-preservation, they deserved not our condemnation but, on the contrary, our compassion.¹⁸⁹ Peace as the result of fear of painful sensations was another law of nature derived from instincts. The natural drive caused by fear does not cause a war of all against all as famously argued by Hobbes. Justi pointed out that even the smallest danger made men careful and attentive in their actions. The weakness that men recognised in themselves makes them even more attentive. The abhorrence of painful sensations (*Empfindungen*) multiplied fear. The result of fear was not *bellum contra omnes*. On the contrary, from this fear followed the peaceful encounter between humans. Reason too played a role in the creation of peaceful interaction between humans. The gradual growth of reason helped us to recognise that it was beneficial to appreciate the lives of others because, as a consequence, they will reciprocate. Peace among humans was therefore only strengthened through the use of reason.¹⁹⁰ Another central natural instinct was the interest we find in the other sex. According to Justi, God implanted this desire in order to secure the preservation of mankind, not for the fulfilment of desires for their own sake.¹⁹¹

¹⁸⁷ Justi, *Natur und Wesen*, p. 423.

¹⁸⁸ Justi, *Natur und Wesen*, pp. 442-443

¹⁸⁹ Justi, *Natur und Wesen*, p. 427.

¹⁹⁰ Justi, *Natur und Wesen*, p. 431.

¹⁹¹ Justi, *Natur und Wesen*, p. 435.

Given that Justi shared Schmauss's starting point of anti-intellectualism, the most surprising of Justi's natural instincts is the sixth and final in his list, namely sociability. However, it should be kept in mind that Justi did not hold sociability to be the main principle of natural jurisprudence. All the same, it does not really seem to follow from his presuppositions, and therefore merits further scrutiny. The debate surrounding sociability was initiated as a reaction to Schmauss, who claimed that the concept of sociability was too abstract to be the foundation of natural jurisprudence. However, Schmauss did not consider the state of nature as a war of all against all. On the contrary, he believed that it was the binding effect of the Golden rule, and first of all the fear of revenge, that would make the state of nature peaceful.¹⁹² In line with Schmauss, Justi argued that men were unlikely to have any intrinsic desire for sociable life. Instead, sociability had a rational egoistic basis: it emerged from the recognition of the benefits of mutual aid. Justi argued that the ability to recognise these benefits presupposed rationality, which men living in the state of nature did not sufficiently possess. Once a degree of reason is exercised the pleasant sensations that sociability brings become perceivable. Accordingly, sociability belonged in the first place to civil society and was related to the laws of reason (*Vernunftrecht*), hence civil law. Justi argued that it could still be included among the natural instincts and rights thereby arising on the grounds that sociability has historically existed, and still exists among those tribes that are living in a state of nature. In Justi's view this was the only way of explaining the existence of barbarian societies:¹⁹³ The growth of reason also led people to realise that they would benefit from living in larger societies (*Gesellschaften*), which were still in the state of nature.¹⁹⁴ However, it was not only the benefits provided by mutual aid but also the fear of revenge or attack from a third-party that encouraged social action. Society made everyone stronger than they could ever be alone.¹⁹⁵ Ultimately, entry into society was prompted by self-interest, to

¹⁹² Schmauss, *Neues Systema*, pp. 457-458.

¹⁹³ Justi, *Natur und Wesen*, p. 443.

¹⁹⁴ Justi, *Natur und Wesen*, pp. 11-12.

¹⁹⁵ Justi, *Natur und Wesen*, p. 443.

avoid dangers and to gain advantages. Not unlike Schmauss's natural law theory, hope and fear guided human conduct in the state of nature.

Justi's treatment of sociability reveals a number of tensions in his thinking. Firstly, Justi agreed with Schmauss that this faculty was too intellectual an idea to be possessed even by everyone living in the state of nature. It was a principle that would belong more to positive than to natural law. It was precisely on this basis that Schmauss had accused Pufendorf and Thomasius of confusing positive law with natural law; that they had emphasised the principle of sociability in the field of natural jurisprudence. Justi was troubled by this tension. Still, for him the distinction between civil and natural law remained central. In essence, he argued that God had given men instincts in order to maintain self-preservation. They were endowed with reason in order to pursue happiness. Whereas natural law was based on the principle of self-preservation, the law of rationality was based on the principle of human happiness. Sociability seemed to exist somewhere in between. It was neither completely instinctual nor entirely rational. However, above all it was 'historical'.

HISTORISING PASSION AND REASON: HUMAN HISTORY AND THE RISE OF COMMERCIAL SOCIETY

The manner in which Justi distinguished between natural and positive law echoed the views of Johann Christian Claproth and Schmauss. Claproth, another Göttingen natural lawyer, argued that laws are called laws of nature (*Natürliche Gesetze*) when they had their foundation in human nature and the things that surround it. Laws legislated by men were called positive laws. In this way they could be divided according to their origin into human and divine laws.¹⁹⁶ In line with this, the constitution of a republic was permitted by the will of God, yet not by his explicit command. God had not dictated how reason should work. Therefore, since men were reasonable creatures, the direction of reason had been given to men themselves. Breaking with the Aristotelian tradition, several Göttingen natural lawyers believed that the state had to be under constant active composition and change. All domestic affairs were to be organised by the law of rea-

¹⁹⁶ Johann Claproth, *Grundriß des Rechts der Natur* (Göttingen, 1749), pp. 33-34.

son. According to Justi, this was so because reason was in constant flux. Reason, like instincts, had a history. All laws of the state, as positive laws, are mutable, and their mutability should thus be accepted. Natural law, on the other hand, was universal and timeless. The state, its laws and all institutions were each instituted by man, which all were mutable. If the government was successful, it improved the circumstances of the state. This included the improvement of positive laws.¹⁹⁷ From this the proposals for social and political reform made by the cameralists gained their theoretical justification.

The problems Justi encounters regarding the concept of sociability have been interpreted as an indicator of his inability to keep reason and passion, respectively, natural law (*Naturrecht*) and positive law (*Vernunftrecht*) strictly separated. In *Staatwissenschaften, Kameralismus und Naturrecht* (1977) Jutta Brückner argues that in Justi's political thought the transition from instinctual natural being (*Triebwesen*) to a rational being (*Vernunftwesen*) corresponds to the transition from the free state of nature into that of a citizen. In Brückner's view Justi fails in an attempt to unite natural laws of Thomasius and Wolff, an exercise she understands to be Justi's primary aim. She argues that Justi never manages to make clear how this transition truly takes place: It remains unclear at which point natural instinctual man becomes reasonable.¹⁹⁸ But Justi's distinction between natural beings and rational beings is more nuanced. As said, the more reasonable human beings become the more passionate they will be. There is never a simple shift from *Triebwesen* to *Vernunftwesen*. A human being was and remained an instinctual creature, in fact, the human being only becomes more instinctive due to the progress of reason.

The Göttingen School of natural jurisprudence made the theory of the history of civilisation – the study of human nature as a science of man – popular in Germany.¹⁹⁹ The beginnings of the historicisation of instincts and reason were available in Schmauss's natural jurisprudence. As Merio Scattola has convincingly shown, whilst Schmauss made natural law into an empirical science, it was Claproth who picked up Schmauss's idea of

¹⁹⁷ Justi, *Natur und Wesen*, p. 598.

¹⁹⁸ Brückner, *Staatwissenschaften*, pp. 231-232.

¹⁹⁹ Scattola, 'Das Naturrecht der Triebe', p. 249.

the natural instincts as the source of natural law and extended it by historicising the state of nature, that is by historicising the human instincts and reason. In his *Schreiben von den natürlichen Trieben des Menschen* (1743) and *Grundriß des Rechts der Natur* (1749) Claproth's starting point was that the strict distinction Schmauss – as well as Karl Ferdinand Hommel (1722–1781), a follower of Schmauss – made between instinct and reason was untenable. Claproth tied natural law tightly to the history of civilisation and argued that reason emerges only from instincts. By doing this Claproth wanted to question the dividing line between reason and instinct.²⁰⁰ Departing from Schmauss, Claproth stated that human nature, being in constant flux, has only slowly developed to its current state. In so doing Claproth was historicising the state of nature and describing civilisation as progress on the part of humans from instinctive creatures to rational creatures, a view that corresponds with Brückner's interpretation of Justi.

Claproth's move pushed natural law in a still more empirical and historical direction. This development was taken further in Göttingen by Achenwall and in fact Justi, who in his *Natur und Wesen* interpreted the whole history of the progress of human understanding (*die ganze Geschichte der Fortschritte des menschlichen Verstandes*). Once again, it needs to be emphasised that Justi was not slavish in his adoption of Schmauss's and Claproth's theories and his thought contains another original twist. Claproth had assumed that in the progress of civilisation the instincts would be gradually replaced by reason.²⁰¹ Justi for his part recognised the ambivalent character of reason. He admitted that in some cases it could tame the corrupted passions, however, the growing force of reason itself was an inevitable source of new desires and passions, whose satisfaction posed more and more of a challenge. Therefore the history of civilisation was a constant race between growing reason and mounting passions. Human co-operation, which took the form of a process of cumulative learning, created ever more pressing new needs. These needs could only be mutually satisfied through commerce. Justi assumed that the transition from the state of nature to the first free state, where humans were fishermen and hunters, must have

²⁰⁰ Scattola, 'Das Naturrecht der Triebe', p. 246.

²⁰¹ Scattola, 'Das Naturrecht der Triebe', p. 247.

taken a very long time. From fishermen and hunters came herdsmen and peasants, finally scholars, artists and merchants (*Gelehrte, Künstler und Kaufleute*).²⁰² As was more common among the advocates of the so-called “Four-Stages-Theory”, Justi regarded commercial society as the high point of societal development. Sociability was a historical product, paradoxically a social construct itself.²⁰³

In Justi’s view, the will for dominion was also a product of historical development and intimately bound up in a reciprocal relationship with sociability. He held that needs and passion in the original state of nature – meaning the first stage of development – were so meagre that it is unlikely that the will for dominion would have formed. There was no real dominion, the knowledge and concepts of men were not sufficiently developed to achieve such a state. One might be prompted to question how this related to the animal part of nature, that is to say, to the instinctive nature of men. Animals did not possess a sophisticated conceptual apparatus, obviously. Justi admitted that Hobbes was right to argue that some animals pursued dominion over others; would not an uneducated and uncivilised person be capable of the same as the animals? He responded by suggesting that the animal nature of man was that of a predator, a lion, a creature which was neither social nor interested in subduing others. Only after the first society was created did the will for dominion follow.²⁰⁴

For many eighteenth-century theorists – including Justi – the state of nature was not merely an abstract construct or a methodological device.²⁰⁵ For Justi, the state of nature was an actual stage in the development of

²⁰² Justi, *Natur und Wesen*, p. 12.

²⁰³ On the Four-Stages-Theory see Istvan Hont, ‘The Language of Sociability and Commerce: Samuel Pufendorf and the Theoretical Foundations of the “Four-Stages-Theory”’, in *The Language Political Theory in Early-Modern Europe*, ed. Anthony Pagden (Cambridge, 1987), pp. 253-276. See also Hont’s article ‘Commercial Society and Political Theory in the Eighteenth Century: the Problem of Authority in David Hume and Adam Smith’, in *Main Trends in Cultural History*, eds. Willem Melching and Wyger Velema (Amsterdam, 1994), pp. 54-94.

²⁰⁴ Justi, *Natur und Wesen*, pp. 13-23.

²⁰⁵ On the ways in which ‘Enlightenment authors clearly differed over whether the state of nature was an actual state in the development of mankind’ see Schmidt, ‘Unsociable Sociability’, especially page 620.

mankind. It could be studied empirically and historically by making comparisons between existing societies. Indeed, Justi argued that there were plenty of observable examples of the state of nature: a state of nature was apparently visible in the living example of native peoples who had been encountered during voyages of global exploration. In addition, the state of nature was thought to prevail in inter-state relations. The study of the living conditions of native peoples could provide theorists with new information about the nature of men, history and the origins of commercial society; consequently, of the very foundations of natural jurisprudence.²⁰⁶ This was the case for example among the native peoples in the Americas. Therefore the concept of the state of nature responded to historical reality, and even to the reality of Justi's contemporary world.

Justi had had an opportunity to read unpublished letters and notes by Georg Wilhelm Steller (1709–1746), the brother of the medical doctor of the Duchess of Eisenach, and a famous companion to Vitus Bering (1681–1741). Justi was a good friend of Steller's brother, and so had access to Georg Wilhelm's papers. In his periodical *Ergetzungen* Justi described how he had read Steller's description of peoples living in the islands between Kamchatka and America, which described humans living in their original natural state.²⁰⁷ Justi was so fascinated by Steller's notes that he came back to them thirteen years later in his *Natur und Wesen*.²⁰⁸ He in fact hesitated to call the people Steller described human beings, and preferred to use the expression 'creatures of human form' (*Geschöpfe von menschlichen Figuren*). They lived on remote islands, were covered with hair, which Justi thought of as reminiscent of the matted hair of a horse. These people had lived in isolation without any chance of developing their knowledge and ideas in mutual exchange with other nations. There was no dominion or attempt to forcibly bend the will of others to one's own. Thus dominion could not be said to follow from a natural human inclination. Nor was there any need for coercion, since their needs were so limited. Everyone was satis-

²⁰⁶ Justi, *Natur und Wesen*, pp. 9-10. See also Schmidt, 'Unsociable Sociability', p. 623.

²⁰⁷ Johann Justi, 'Zuverlässige Nachricht von dem merkwürdigen Leben und Reisen Herrn Georg Wilhelm Stöllers, der Rußischkaiserl. Akademie der Wissenschaften Adiuncti und Mitgliedes', *Ergetzungen*, vol. 5 (1747), pp. 362-384, see especially pages 376-377.

²⁰⁸ Justi, *Natur und Wesen*, pp. 9-10.

fied with very little. The advent of social life lay in the increase of material needs, not in an implanted instinct. Those tribes that had lived in isolation had not had any possibility of gaining more knowledge through interaction with other tribes or nations. Therefore, their reason (*Vernunft*) had never truly begun to develop, and this explained why the native peoples in America and in Kamchatka were still living in the state of nature.²⁰⁹ They had never become a part of the cumulative learning process of civilisation. For Justi the key to understanding the process of the formation of the state is the growth of reason, which results from the interaction between the different peoples. Although there was no inherent inclination towards society, people noticed that there was a benefit in living together because it was easier to fulfil their needs and desires. On the other hand, the growth of reason produced new passions and needs that could not be satisfied in the state of nature. There was no inclination towards dominion, but when the passions connected with accumulating needs the will for dominion was generated. The state of nature ultimately became a social state dominated by a state of war. The stronger began to coerce the weak, and the state of war was initiated.²¹⁰

True to his historical-empirical methodology, Justi provided historical examples for his theory of the movement from societies to states. Justi suggested that the people (*Volk*) formed a society that can be defined as a group of people inhabiting a certain area on earth. Those who entered into this society decided to unite their forces.²¹¹ In such a society everyone remained perfectly free and equal. There is no authority beyond the members of society. Only the violence of war (*Gewalt des Krieges*) could bind members of the society together: this was the mechanism that led to the state of war. Slowly, corrupted passions and desires emerged and these made human beings evil. Inner disorder, vice and injustice, inevitable companions of every society, were without doubt the first seed for the establishment of a state. Justi described the ways in which householders (*Hausvater*) began to gather in common meetings at which decisions were made. Slowly these meetings started to follow the guidelines of earlier decisions and their ef-

²⁰⁹ Justi, *Natur und Wesen*, pp. 9-10.

²¹⁰ Justi, *Grundriß*, p. 4.

²¹¹ Justi, *Natur und Wesen*, p. 26.

fects become customs. Without noticing it, the members of society moved closer and closer towards the idea of civil constitutions (*bürgerliche Verfassungen*). Most commonly, one of the householders proved to be wiser than the others and became a king. For Justi, Deioeces of Media (699–647 BC) was the prime historical example of a king chosen this way. The most reasonable members of the society became referees (*Schiedsrichter*) and customs (*Gewohnheiten*) began to function as laws. First states took the form of small monarchies, since the supreme power shared by many would have been too complex a concept to be used at so early a stage of human development. Only ‘the misuse of royal power made it necessary for the people to think of other civil constitutions’.²¹² However, Justi maintained, even in the first small monarchies the *Volk* kept the legislative power in its own hands.²¹³ Justi believed mixed government belonged to a higher level of civilisation, as did monarchy. As such, he was outlining his favourite form of government, that of England.

Justi’s conception of different stages of human development has been used to support a recent thesis, according to which in the course of the eighteenth century an important transformation took place among German natural law theorists. Whereas Pufendorf and Thomasius had argued that the creation of a state is necessary in order to leave the miserable state of nature behind, Jan Rolin argues that eighteenth-century German natural law theorists began to emphasise that the state was not primarily founded for the purpose of securing its members livelihoods. Rather, they suggested that the foundation of the state was the culmination of an evolutionary, inevitable and naturally determined process of socialisation. Not hostility, but sociability, they believed, leads the way to the formation of state. This process was determined by human nature. Rolin interprets this theoretical change as a means of justifying the existence of the state in terms progress, and not in terms of the need to terminate the violence of the state of nature.²¹⁴ But there is no need to exclusively accept either the one or the other: the state both

²¹² Justi, *Natur und Wesen*, p. 36.

²¹³ Justi, *Grundriß*, pp. 28–38.

²¹⁴ Jan Rolin, *Der Ursprung des Staates: die naturrechtlich-rechtsphilosophische Legitimation von Staat und Staatsgewalt im Deutschland des 18. und 19. Jahrhunderts* (Tübingen, 2005), pp. 15–25; pp. 56–58.

terminated violence, and also represented social progress. As we have seen, Justi was an advocate of the idea of the progress of civilisation as a result of a cumulative learning process. However, his explanation for the need for state formation differs significantly from the general pattern in eighteenth-century Germany as described by Rolin. First of all, for Justi human beings were not social by nature. It is not the progress of socialisation that enables or leads human beings to found a state. While he understood the formation of the state in terms of progress, he equally returned to the Hobbesian presupposition that it is essentially the state of war that prompted state formation. This happened neither because human nature in its original form was violent, nor as a result of original human instincts, but because of the progress of reason and its interplay with the simultaneous growth of the passions. The foundation of the state was necessary to secure the lives of human beings and enable them to pursue their happiness in society. Here, then, the ambivalent nature of reason became visible. Without the growth of reason, the state would not be needed; the meagre needs of human beings living in the state of nature would be sufficiently satisfied even without state formation. However, state formation would be impossible without certain level of reason. Certain intellectual capacities were therefore a necessary condition for the formation of the state.

Justi's contemporaries recognised his Hobbesian point of departure. His editor, the lawyer Heinrich Gottfried Scheidemantel, argued in his perceptive editorial footnotes to the second edition of *Natur und Wesen* (1771) that Justi abandons Aristotle and joins Hobbes and Pufendorf, in particular the former, in arguing that the animal nature of a human being is that of a predator (*Raubthier*). Justi would have had reason to be afraid of the consequences had he openly admitted that he favoured Hobbes's conception of the state of nature. He therefore sought to distance himself from Hobbes, whom he accused of being guilty of teaching a mistaken view of the law of nature and of placing the whole of mankind in a very shameful light.²¹⁵ People living in the state of nature could satisfy their simple needs without oppressing anyone. Therefore, there was no reason to believe that the state

²¹⁵ Justi, *Natur und Wesen*, pp. 19-21.

of nature had been a state of a war of all against all.²¹⁶ However, as Scheidemantel was eager to point out, Justi shared Hobbes's idea that the state was constructed so as to prevent the state of war; but Justi departed from Hobbes's claim that the wish to coerce belonged to the original state of nature. According to Justi, the desire to coerce was not encouraged by the instincts that God had implanted in men; instead, it was a consequence of the progress of civilising human nature. Hobbes's idea of the state of nature was too rationalistic since it attributed to men certain abstract ideas, such as that of dominion, which they would not have had in a state of nature. Dominion was not unlike sociability, a far too abstract idea to function as the main principle of natural jurisprudence. This was exactly Justi's point. He returned to the topic in one of his later works, in his *Physicalische Betrachtungen* (1769), once again admitting that in many ways Hobbes had it right; nature itself seemed to be fundamentally characterised by conflict (*Streit*). Everyone placed his own self-preservation and happiness before that of others, and this led to conflict.²¹⁷

To conclude, Schmauss and Justi departed from mainstream German natural law theory – that is from metaphysical scholastic rationalism, most prominently advocated by Christian Wolff – when they argued that it was impossible to fashion universal rights unless they arose from the instincts shared by all men. They were advocates of the rights tradition, and as such of a tradition left behind in the history of German natural jurisprudence. Schmauss and Justi argued that even the most barbaric people, who had developed no reason whatsoever, were in possession of universal instincts, which were implanted by God in all men. These instincts were empirically recognisable in everyone and by everyone. Only they could form the basis of universal natural rights. Justi and Schmauss were part of the transformation of German natural law theory that replaced reason-based axioms with empirically observable passions. An important consequence of this move was the dismissal of sociability as the main principle of natural jurisprudence. Instead, for Schmauss and Justi, legitimate self-interest and natural rights provided the starting point for a civil philosophy. Indeed, in many

²¹⁶ Justi, *Natur und Wesen*, p. 21.

²¹⁷ Justi, *Physicalische und Politische*, p. 71.

ways Schmauss's and Justi's position was fuelled by a re-engagement with Hobbes and the concept of self-preservation. The natural right of individuals to preserve themselves was the very foundation of their natural jurisprudence. This self-preservation was built on the passion of self-love and on the affects of fear and hope: they were convinced that the fundamental aim of all men was to seek pleasure and try to avoid pain.

Justi developed the themes of Schmauss's work further and in so doing set himself in opposition to Wolffian abstract natural jurisprudence. Wolffian natural jurisprudence was a conservative pattern of thought that provided the philosophical backbone of the political theory of enlightened absolutism.²¹⁸ Natural jurisprudence equally had a political function in Justi's thought. However, his conception of the state and of the aim of the state was far less conservative than that of Wolff. Justi saw the transformation from the state of nature towards the state as something other than a peaceful evolutionary culmination of sociability. Firstly, the state was necessary for the self-preservation of members of a society that had reached a certain level of civilisation, where dominion became desirable. Here Justi referred directly to Hobbes by pointing out that it is not against human nature to form a *Republique*, to subdue oneself to someone else's authority, if one is unable to defend oneself.²¹⁹ Secondly, and even more importantly, for Justi the state facilitated the pursuit of happiness of its members.²²⁰ Justi assumed an intimate connection between the aims of self-preservation and happiness. He maintained that God had implanted instincts in human beings for the pursuit of self-preservation, whereas reason was given for the pursuit of happiness. According to Justi, the state was founded as a device to remove the obstacles to timely (*zeitliche*) happiness. This could not happen unless every member of the state, each reasonable creature, was secure in the knowledge that the state would promote this task.²²¹

²¹⁸ Diethelm Klippel and Martin Fuhrmann, 'Der Staat und die Staatstheorie des aufgeklärten Absolutismus', in: *Der aufgeklärte Absolutismus im europäischen Vergleich*, ed. Helmut Reinalter and Harm Klueting (Wien, 2002), pp. 223-243, p. 228.

²¹⁹ Justi, *Oeconomische Schriften*, p. 516.

²²⁰ Justi, *Natur und Wesen*, p. 63.

²²¹ Justi, *Grundriß*, p. 55,

In a schema like Justi's self-preservation is a necessary condition for becoming happy. Horst Dreitzel has made the same point with reference to Claproth: 'Claproth is a good example of the relation of self-preservation to a wide spectrum of possibilities for human happiness: self-preservation assumed an important, if subordinate place as a precondition of the more relevant drive for *eudaimonia*.'²²² Individuals could not seek happiness unless they were alive. Justi made the link between self-preservation and happiness by reference to self-love: 'Nature has implanted in each and every man the instinct of self-preservation and hence self-love, thanks to this self-love he enjoys his own being and existence. From here there arises the desire of each and every human being to become happy'.²²³

Justi stated that man, with his capacity to reason, creates the state, and the aim of the state is to make the pursuit of human happiness easier. It is important to keep in mind that for Justi and Schmauss civil laws (*bürgerliche Gesetze*) were just only so far as they do not contradict the primary right of self-preservation. Consultation of natural law in *status civilis* was necessary since it makes righteous legislation possible. In fact, according to Schmauss this was the main function of natural law.²²⁴ As Justi's follower Pfeiffer put it in his review of Justi's *Natur und Wesen*: 'if legislators do not perceive their citizens first and foremost as human beings, they could not promulgate anything but unnatural, cruel and tyrannical laws.'²²⁵ The instinctual right for self-preservation had priority over all civil laws, and any civil law that questioned this would be tyrannical.²²⁶ Justi argued that rights valid in the state of nature remained valid in the state. In other words, there were inalienable fundamental rights. There could be no contradiction between natural rights and the theory of a state.²²⁷ Contrary to several previous accounts, therefore, this chapter has argued that Justi and his disciples posed theoretical limits to the authority of the state.

²²² Dreitzel, 'The Reception of Hobbes', p. 289.

²²³ Justi, *Natur und Wesen*, p. 62.

²²⁴ Schmauss, *Neues Systema*, pp. 532-533.

²²⁵ Johann Friedrich von Pfeiffer, *Berichtigungen Berühmter Staats-Finanz-Polizei-Cameral-Commerz und ökonomischer Schriften dieses Jahrhunderts* (Frankfurt am Main, 1782), vol. 2, p. 176.

²²⁶ Justi, *Natur und Wesen*, pp. 408-410.

²²⁷ Schmidt am Busch, 'Cameratism as political metaphysics'. p. 425.

The principle of rights, shared by Schmauss and Justi, has a second field of application in international relations. The code of conduct, or Golden rule, was also the leading principle in this field. The relationships between states were comparable to those among individuals in the state of nature; as a corollary, the same rights and duties applied to states as to individuals. Furthermore, hope and fear guided conduct in interstate relations. Any injury to a right gave the insulted the right to revenge. The fear of revenge bound nations to the law of nations, understood as applied natural law. This is discussed in more detail in chapter seven.

Justi explained the difference between civil laws and rights and fundamental natural rights with the help of the state body metaphor. A conqueror can destroy the moral body of the state. Such a conqueror may, for example, force the conquered into exile. However, a conqueror does not have the right to kill the people. When the people form the body of the state, they are citizens of the body of the state. If the state is destroyed, their citizen status vanishes; consequently, they no longer have the rights of citizens. Nonetheless, people never stop being humans, and as human beings they must have most fundamental rights of human beings. According to Justi, it follows that they may not be killed or taken as slaves. A conqueror may destroy the rights of a *citizen*, but the *human* rights based on instincts can never be annihilated.²²⁸

Whereas natural law had a formative normative character for both Schmauss and Justi, it is clear that both of them put the main emphasis on other disciplines than natural law. Schmauss even expressed views according to which it was useless to teach natural law, since everyone knew it in their hearts. For Schmauss the study of law should focus upon the practice of public law and the actual practice of the law of nations, meaning the principles, maxims and rules which states followed in their diplomacy. The study of the 'lived law of nations' and of diplomatic experiences was at the core of Schmauss's law of nations. For these purposes Schmauss thought the study of compendia of public law and of European peace treaties necessary. He emphasised the commercial aspects of the law especially in interstate relations, although he did not elaborate this systematically. In many

²²⁸ Justi, *Grundriß*, pp. 44-45.

ways Schmauss was paving the way for the move later made in Göttingen by Johann Stephan Pütter and Georg Friedrich von Martens (1756–1821), from general natural law to a positive law of nations.²²⁹ Justi elaborated an orientation towards commercial society and economic understanding of the workings of international relations, treating the law of nations primarily from the perspective of maritime trade in the context of the Seven Years' War. I will return to this in the final chapter of this book when I discuss Justi's visions of Prussia's future.

In Justi's *kameralistisches Fächergebäude* minimalist natural law founded all the sciences of the state. It served to justify, academicise and scientify cameral sciences. It provided Justi with the conception of human nature that runs through his writings. Historical anthropology served to historicise human nature and orient commercial society, which was the high point of civilisation. The growth of reason and the related growth of instincts posed a threat to the achievement of happiness in commercial society, and so they had to be directed and governed. This was the field of *Policey* and *Policey-Wissenschaften*, which were, Justi thought, the most useful sciences and the true focus of his work. A minimalist law of nature served as a perfect justification and introduction to them.

²²⁹ Gottfried Ziegler, 'Die ersten hundert Jahre Völkerrecht an der Georg-August-Universität Göttingen: Vom Ius naturae et gentium zum positiven Völkerrecht', in *Rechtswissenschaft in Göttingen: Göttinger Juristen aus 250 Jahren*, ed. Fritz Loos (Göttingen, 1987), pp. 32-74.

CHAPTER 4: RETHINKING THE PURSUIT OF HAPPINESS

THE DOCTRINE OF STATE AIMS: FROM SECURITY TO HAPPINESS

In the previous chapter I argued that *Justi* belongs to a tradition of natural jurisprudence that treated passionate human nature as the foundation of natural law and emphasised that the right of self-preservation was immutable. Natural law provided *Justi* with an understanding of historical human nature that explained the birth of commercial society. Commercial society was necessary for the amelioration of the condition of man, but also gave rise to new passions which had to be satisfied or harnessed. Natural law was itself not an answer to the problems created by the progress of human civilisation. *Policey-Wissenschaft* was the discipline that *Justi* thought capable of creating good order, maintaining and increasing the happiness of citizens. In the eighteenth-century context *Policey* meant something different to the nineteenth-century meaning of ‘police’, which was limited to the maintenance of public order and security. Nor did *Policey* have the obvious negative connotations associated with a police state, that is to say, with the maintenance of the inner security of a state by any means necessary. *Po-liceystaat*, police state, in this sense is a creation of the nineteenth century. In the eighteenth-century sense police did not imply force employed by the state to impose law and order; it implied a more general system whose task was to regulate broad aspects of social life. In the eighteenth-century context ‘good police’ meant both good government and the good public order of a town or realm resulting from good government. In a narrower legislative sense police ordinances were enforced by different authorities to regulate broad aspects of societal life: commerce, public health, guilds, prostitution, gambling, public security, poor relief, market trading and so

on.²³⁰ The majority of police ordinances dealt with the economic system and professions.²³¹ The goal of police was to maintain and increase the welfare of the state and its subjects, in other words, to make the state and its subjects happy. Police was a form of administration that aimed at establishing happiness for the community. It was responsible for the maintenance of moral order and security, as well as for the enhancement of national resources.

Justi was the chief police commissioner (*Ober-Policey-Commissar*) of Göttingen, responsible for the good public order of the town; and we know from the sources that he was perhaps too eager to maintain this order. Unlike other *Policey-Director* he wanted to have the right to arrest beggars personally.²³² However, as an academic Justi's vision for the needs of the *Policey-Wissenschaften* went far beyond the town of Göttingen, since he was concerned about the backwardness of the German economy. For Justi the most miserable situation for a state was to be dependent on foreign powers, and so the state was obliged to prevent this by ensuring its own strength and independence. The freedom, strength and independence of a state were the cornerstone of the happiness of a state and of its citizens.²³³

a state without enough strength could never become completely secure in external affairs. [---] And as the external security is exactly related to the internal, and property cannot be gained without external and internal security, a state never can achieve this end use, i.e. the state of general happiness (*Glückseligkeit*), if it is not powerful at the same time.²³⁴

²³⁰ Jørgen Mührmann-Lund, "'Good Order and Police': Policing in the Towns and the Countryside during Danish Absolutism (1660-1800)", *Scandinavian Journal of History* 41 (2016), pp. 71-90. See page 71.

²³¹ Toomas Kotkas, *Royal Police Ordinances in Early Modern Sweden: The Emergence of Voluntaristic Understanding of Law* (Leiden, 2013). Preu, *Polizeibegriff*; Thomas Simon, 'Gute Policey': *Ordnungsleitbilder und Zielvorstellungen politischen Handelns in der Frühen Neuzeit* (Frankfurt am Main, 2004); Andrea Iseli, *Gute Policey: Öffentliche Ordnung in der Frühen Neuzeit* (Stuttgart, 2009).

²³² Wakefield, *The Disordered Police State*, p. 71.

²³³ Marcus Sandl, 'Development as Possibility: Risk and Chance in Cameralist Discourse', in *Economic Growth and the Origins of Modern Political Economy: Economic Reasons of State, 1500–2000*, ed. Philipp R. Rössner (London, 2016), pp. 139-155, pp. 140-141.

²³⁴ Quoted from Sandl, 'Development as Possibility', p. 141. Quotation is from Johann Heinrich Gottlob von Justi, "Die Rede von dem unzertrennlichen Zusammenhänge

Power and strength were the presupposition and consequence of a well-functioning state economy (*Staatswirthschaft*). Power and strength meant, in the cameralist sense, constructing the economy and mobilising all sources to make best possible use of them.²³⁵ This was the task of economic policy (*wirtschaftliche Policy*).

Justi had an increasingly economic understanding of the state and society. Whereas the previous generation of thinkers, most importantly Pufendorf and Thomasius, were primarily interested in establishing the fundamental constitutional architecture of the state in the framework provided by the Westphalian treaties and settlements,²³⁶ Justi moved beyond this by concentrating on the political, economic and administrative domain whose concern was *Policy* in the early modern meaning of the word. In other words, once the structure and stability of the sovereign territorial state had been relatively settled it then became possible to constitute economic policy. The shift from establishing constitutional order to augmenting the economic policy of the state (*Policy*) can be followed in the changes to the so called 'doctrine of state aims' (*Staatszwecklehre*) occurring in the second half of the eighteenth century. Whereas for Pufendorf the aim of the state was security, for Wolff and Justi it was happiness (*Glückseligkeit*).

The tasks of a political commonwealth had been discussed since antiquity and continued to be of vital interest in the Aristotelian tradition of *bonum commune* and *beatitudo civilis*. However, it was not until the seventeenth century that the doctrine of state aims was reformulated in the context of the modern concept of the state as laid down by Thomas Hobbes and Samuel Pufendorf. The doctrine of *summum bonum* came to prominence with the rise of seventeenth and eighteenth century natural law.²³⁷ Whereas

eines blühenden Zustandes der Wissenschaften mit denjenigen Mitteln, welche einen Staat mächtig und glücklich machen", in Johann Justi, *Gesammlete Politische und Finanzschriften über wichtige Gegenstände der Staatskunst, der Kriegswissenschaften und des Cameral- und Finanzwesens* (Kopenhagen, 1761–1764), vol. 2, pp. 128–175, at p. 147.

²³⁵ Sandl, 'Development as Possibility', pp. 141–142.

²³⁶ On the thinkers of the previous generation and their natural law see Hunter, 'The Law of Nature and Nations', pp. 562–573.

²³⁷ Ulrich Engelhardt, 'Zum Begriff der Glückseligkeit in der kameralistischen Staatslehre des 18. Jahrhunderts (J.H.G von Justi)', *Zeitschrift für Historische Forschung* 8 (1981),

Pufendorf understood the aim of the state predominantly in terms of the maintenance of social peace, for the majority of the eighteenth-century thinkers, Justi and Wolff included, the state was responsible for a broader spectrum of activities. Pufendorf's *De jure naturae et gentium* was published in 1672, only twenty-four years after the end of the horror of the Thirty Years' War, and a clear response to that. The prevention of religious wars was the leading issue for Pufendorf, as also for Thomasius.²³⁸ Justi's most significant publications appeared during the Seven Years' War, against the backdrop of the conflict between Prussia and Austria. All discussion of government intervention occurred in the context of Prussia's and Austria's respective needs to raise ever-greater sums of money from their economies. The struggle was not merely over whether citizens would have rights, but also about the most effective way of encouraging economic growth, since such growth could finance wars. Therefore, happiness – meaning security, freedom and wealth – was not a mere philosophical issue for Justi. From this perspective the reform and cultivation of state power were closely connected. Justi sought to promote the augmentation of the state's population, but also the power of the state in relation to that of other states.

As Justi's successor in Vienna, Joseph Sonnenfels, stated: 'The first to subordinate state sciences under a general principle was G.H. von Justi [sic], and he assumed this principle to be the promotion of the general happiness.'²³⁹ The purpose of the state was to facilitate a comfortable civil life, something that was understood in primarily economic terms. Justi was primarily interested in material welfare. The aim of the religious laws was to lead human beings into true happiness in their future life (*zu der wahren Glück des künftigen Lebens*), a form of happiness that would follow only

p. 41.

²³⁸ Although it needs to be noted that Thomasius became increasingly interested in *oeconomia* as a discipline at the end of his career and he demanded the foundation of chair in cameral sciences in Prussia. See for example Brückner, *Staatswissenschaften*, p. 195 and Rüdiger, *Staatslehre*, pp. 156-157.

²³⁹ Joseph von Sonnenfels, *Grundsätze der Polizey, Handlung und Finanzwissenschaft* (Wien, 1765), p. 21. 'Der Erste, der die Staatswissenschaften mit allen ihren untergeordneten Wissenschaften zu einem allgemeinen Grundsatz zurückführt, war Herr G. H. von Justi, und er hat hierzu die Beförderung der allgemeinen Glückseligkeit angenommen.'

after death. Hence moral laws aimed at the true happiness of the inner condition (*Glückseligkeit ihres innerlichen Zustandes*) of human beings. The aim of civil laws was the happiness of their external condition (*Glückseligkeit ihres Äußerlichen Zustandes*). In this fundamental distinction Justi was echoing Thomasius's differentiation of eternal from temporal happiness (*beatitudo aeterna, beatitudo temporalis*), which he had presented already in his *Introductio ad Philosophiam Aulicam* (1688). Furthermore, the mature Thomasius distinguished between external and inner happiness (*äußerlicher Glückseligkeit, innerlicher Glückseligkeit*) in his *Kurtzer Entwurf der politischen Klugheit* (1707). Theology was responsible for the issues relating to eternal happiness, whereas philosophy was concerned with the questions of inner, temporal happiness.²⁴⁰ External happiness was by contrast the remit of the sciences of state. Whereas Wolff relativised the distinction between eternal and earthly happiness, Justi pointed to its centrality, while minimising the difference between inner and external happiness. And true to his practical orientation, he gave priority to the external condition, since a flourishing external condition was a precondition for a flourishing inner condition: 'The perfection of a thinking being is closely bound up with the state of the bodily machine in which it finds itself.'²⁴¹ In sum, there were two distinctions, one between temporal and eternal, the other between internal and external. There could be both internal and external aspects to our temporal happiness, while only our internal state can relate to our eternal life. Justi was primarily interested in the 'temporal-external' condition of man.

It is often argued that, due to his notion of happiness, Wolff was the true founder of the 'cameralistic welfare state'.²⁴² Christian Wolff was certainly the most famous and influential eighteenth-century German political theorist who advocated the view that the aim of the state was happiness. For him, happiness was equal to unhindered progress towards higher per-

²⁴⁰ Frank Grunert, 'Die Objektivität des Glücks: Aspekte der Eudämonismus Diskussion in der deutschen Aufklärung', in *Aufklärung als praktische Philosophie: Werner Schneiders zum 65. Geburtstag*, eds. Frank Grunert and Friedrich Vollhardt (Tübingen, 1998), pp. 351-368, pp. 353-359.

²⁴¹ Justi, *Die Grundfeste*, vol. 2, pp. 208-209.

²⁴² Alexander Kaufman, *Welfare in the Kantian State* (Oxford, 1999) pp. 57-58.

fection. The aim of the state was to secure the common good through the most effective pursuit of perfection and happiness. The state was responsible for perfecting the good of the mind, of the body and also that of a suitable life (*tranquilitas, securitas, vitae sufficientia*). As Knud Haakonssen has argued ‘Wolff sets about explaining how the state should provide for its citizens in all three areas, and the result is an extraordinary welfare state. There is no theoretical limit to the state’s pursuit of the welfare of its citizens’.²⁴³ The concept of happiness was an indicator of the growing belief in the state’s ability to produce welfare and bring happiness to its citizens. Simultaneously this aim was monopolised in the hands of the state.²⁴⁴ The Wolffian conception of happiness was enormously broad and wide-spread. It included everything from external condition to the moral well-being of the subjects.

In Wolff’s political philosophy individuals were unable to perfect themselves without outside guidance. In essence, Wolff formulated a political theory of a tutelary interventionist state.²⁴⁵ As Frank Grunert has argued, Wolff’s theory builds on dual absolutisms. The theoretical absolutism of Wolff becomes a political absolutism, in that the philosopher is asked to provide proper insight into the truth of the *bonum commune*. True knowledge would be implemented as real, rightful policy. Ultimately, even natural law could be subordinated to the aim of the state, which itself was defined by philosophers.²⁴⁶ Thus for Wolff the concept of happiness func-

²⁴³ Haakonssen, ‘German Natural Law’, p. 273. On Wolff’s concept of happiness see the seminal study Clemens Schwaiger, *Das Problem des Glücks im Denken Christian Wolffs: Eine quellen-, begriffs- und entwicklungsgeschichtliche Studie zu Schlüsselbegriffen seiner Ethik* (Stuttgart, 1995).

²⁴⁴ Engelhardt, ‘Zum Begriff der Glückseligkeit’, p. 43. Engelhardt is of the view that practically all cameralists adopted Wolff’s idea of a welfare state and that Wolff was the philosopher who influenced the majority of cameralists’ views on human nature, and indeed played the greatest role in shaping their general worldview.

²⁴⁵ Moggach, ‘Freedom and Perfection’, pp. 1004-1009. Moggach argues that ‘Wolff’s affinities with the theory and practice of cameralism are apparent’ (p. 1008).

²⁴⁶ Frank Grunert. ‘Absolutism(s): Necessary Ambivalences in the Political Theory of Christian Wolff’, *Tijdschrift voor Rechtsgeschiedenis* 73 (2005), pp. 141-152; Frank Grunert, ‘Vollkommenheit als (politische) Norm: Zur politischen Philosophie von Christian Wolff (1679-1754)’, in *Politische Theorien des 17. und 18. Jahrhunderts: Staat und Politik in Deutschland*, eds. Bernd Heidenreich and Gerhard Göhler (Mainz,

tioned as the principle of a paternalistic state prepared to make far-reaching moral interventions into the lives of individual citizens. Under a paternal government subjects were only obliged to behave passively and rely on the judgments of the head of the state regarding the way in which they ought to achieve happiness. Hence, it was ultimately the ruler who decided how subjects ought to be happy, and indeed what happiness consisted of. In a paternalistic government (*väterliche Regierung, imperium paternale*) citizens were treated as immature children. Wolff wrote explicitly that ruling persons were to their subjects as fathers to their children. The task of the ruler was the same as that of fathers, providing their children with the means necessary for advancing the perfection of their internal and external condition.²⁴⁷

Yet, this is only the Wolffian part of the story. Those scholars who have argued that the doctrine of state aims (*Staatszwecklehre*), founded upon the concept of happiness, underwrote absolutism suggest that Wolff was representative of all German political thought during the second half of the eighteenth century. According to this interpretation, happiness as the aim of the state served to justify almost any action of the state in the name of security or happiness. In addition, the security and happiness of a state were tightly intertwined with that of the ruler. It has often been argued that the happiness of the state, ruler and subject existed harmoniously, without any conflict of interests. Consequently, the role and freedom of an individual or citizen were subordinated to that of state and ruler. Jan Rolin has asserted that the doctrine of the civil state and its purpose, happiness, did not involve any restriction of state power. Quite the contrary, almost any action could be legitimised in the name of the happiness of the state and its citizens. The older *Staatszwecklehre* – to the very end of the eighteenth century – had therefore a profoundly hostile attitude towards freedom (*freiheitsfeindliche Haltung*).²⁴⁸ According to this view, in a society organised by the state there existed no noteworthy free sphere for the *Bürger* from

2011), pp. 164-184.

²⁴⁷ Christian Wolff, *Vernünfftige Gedancken von dem gesellschaftlichen Leben der Menschen und insonderheit dem Gemeinen Wesen* (Frankfurt, 1736), §264, pp. 200-201. For a more extensive discussion see Grunert, 'Absolutism(s)', p. 148.

²⁴⁸ Rolin, *Der Ursprung*, p. 52.

which rulers were excluded. Not unlike Rolin, Diethelm Klippel has argued that by individualising the aim of the state, the notion of *Glückseligkeit* justified an extension of state activity not only theoretically, but also in terms of the practice of statecraft.²⁴⁹ This is said to be because the maintenance and support of freedom was not included among the aims of the state. In Klippel's view, *Justi* is one of the representatives of the older German natural law, which dominated until the end of the eighteenth century; only at the end of the eighteenth century was the role of the state reduced to the provision of security, and it was at this point that the first critiques of the older *Staatszwecklehre* were published.²⁵⁰ Klippel argues that the school of natural jurisprudence that emphasised the rights of citizens over their duties had little or no impact in Germany until the very end of the eighteenth century. Moreover, he maintains that in eighteenth-century German political theory the distinction between state (*Staat*) and state of nature (*Naturzustand*) was central, yet the aim of the contract as the basis of the state was not to secure the rights of individuals in the state, unlike in the English tradition of natural law, for example in Locke's thought. In other words, in Germany the social contract served merely as a tool undermining individual freedom. Neither the making of the contract nor of its content was in the power of the people. Therefore, the social contract neither ensured the minimal rights of individuals, nor did it set limits to the power of the sovereign.²⁵¹

The above mentioned interpretations of state aims doctrine in the mid-eighteenth century are compatible with the view of Wolff presented above. However, in this chapter I draw attention to the fact that things were different with *Justi*. *Justi* differs from Wolff in several respects. Firstly, as discussed in the previous chapter, together with Schmauss *Justi* was one of the advocates of the school of natural jurisprudence that emphasised rights over duties. In *Justi*'s political thought it is the theory of a contractual foundation

²⁴⁹ Diethelm Klippel, 'Reasonable Aims of Civil Society: Concerns of the State in German Political Theory in the Eighteenth and Early Nineteenth Centuries', in *Rethinking Leviathan: The Eighteenth-Century State in Britain and Germany*, eds. John Brewer and Eckhart Hellmuth (Oxford, 1999), pp. 71-98, p. 78.

²⁵⁰ Klippel, 'Der liberale Interventionsstaat', p. 77ff.; Michael Stolleis, 'Staatszweck', pp. 80-84.

²⁵¹ Klippel, 'Reasonable Aims', p. 78.

of the state that sets the limits for state authority. As such Justi distanced himself from Pufendorf and Thomasius, who argued that citizens were not in a position to evaluate the politics that are practised because it was up to the sovereign to decide whether to act according to natural law or not. Citizens had no right to pass opinions on these matters. Justi argued that natural rights were prior to civil legislation, whatever the state of positive law might be.²⁵² Therefore any act by the government that went against the natural right of a man to preserve himself was illegitimate.

Secondly, Justi represented an exception to the rule that the maintenance and support of freedom was not included among the aims of the state prior to the end of the eighteenth century. As I will argue in the following sections, the concept of freedom is the key to understanding Justi's doctrine about the aim of the state. Justi argued that civil freedom was an indistinguishable part of the aim of the state. Maintenance and the support of civil freedom were high on his agenda from the late 1750s onwards. In 1760 he stated that every government was obliged to interfere in the natural liberty of its subjects (*die natürliche Freyheit ihrer Unterthanen*) as little as possible. The best government is that which managed to serve the ultimate aim of the commonwealth without jeopardising natural freedom.²⁵³ For Justi the latter consisted of the freedom enjoyed in the state of nature, within which the only laws men had to obey were the laws that they had given themselves. Of course, this was not possible once the state had been established, yet Justi's point was that the number of laws should be kept to a minimum. As far as was possible, everyone should lead himself to happiness. Men were to be active, above all in economic affairs. Justi's 'good order' promoted the freedom of privileged men like him who were active in trade and commerce (*Handel und Gewerbe*). According to Justi, 'Freedom is the soul of all commerce' and therefore it was more important to promote the con-

²⁵² Johann Justi, *Rechtliche Abhandlung von denen Ehen, die an und vor sich selbst ungültig und nichtig sind (de Matrimonio putativo et illegitimo). Wobey zugleich von dem Wesen der Ehe und dem großen Einflusse der Ehegesetze in die Glückseligkeit des Staats gehandelt wird* (Leipzig, 1757), pp. 104-105.

²⁵³ Justi, *Natur und Wesen*, p. 40.

ditions for commercial development instead of controlling and regulating it.²⁵⁴

Thirdly, in contrast to the views of Wolff Justi did not equate the happiness of the ruler and of the state with the happiness of the citizen. In Justi's conception there can be a conflict of interest between these, and the freedom of the citizen was not subordinated to that of the prince. In fact, in Justi's political thought collective happiness is always traceable back to the happiness of individual households.²⁵⁵ His starting point is the individual *pater familias*. Here Justi embodies a major shift within the tradition of cameralism that occurred at a conceptual level: the main focus of interest was not the economy of the ruler, but the political economy (*Staatswirtschaft*). In line with this I argue that, unlike many of his predecessors, Justi granted citizens the right to evaluate the policies of a given government. In his view, if the ruler was not advancing the good of the economy he was neglecting his duties. Justi argued that there are limits, at least theoretical limits, for the authority of the state as represented by its sovereign. Contrary to a common misconception, Justi did not see citizens as immature children who needed to be guided towards happiness. Indeed, he advocated the interests of a *Bürger* conceptualised as a *Hausvater*, and was willing to grant a broad private sphere to this figure. The issue of individual household freedom is therefore important. However, for Justi this freedom is viewed through the optic of its role in fostering the flourishing of population and commerce, rather than as a natural right. Justi was concerned with freedom, but his concept of freedom is best contextualised within concerns for his police and economic management.

ECONOMIC POLICY

If one is tempted to view cameralism as a political theory of a tutelary interventionist state, police and police science seem to offer the broadest

²⁵⁴ Justi, *Grundsätze der Policey-Wissenschaft*, pp. 136-137; Franz Hederer, *Im Zog des Egalitären: Ökonomisches Denken und der Wandel gesellschaftlicher Ordnungsvorstellungen in der Sattelzeit* (Göttingen, 2014), p. 236; Kotkas, *Royal Police Ordinances*, p. 190

²⁵⁵ Schmidt am Busch has drawn a similar conclusion, 'Cameralism as "Political Metaphysics"', p. 414.

spectrum of arguments. Indeed, the centrality of *Policey* and police sciences in the Holy Roman Empire has been interpreted as an indication of the apolitical nature of the German Enlightenment, representative of an escape from politics to bureaucracy. Again, this has tended to be juxtaposed the developments in Anglophone contexts. However, the renewed interest in the study of the concept of police can be viewed as an indicator of changing historiographical perspectives. Earlier, police was understood as central to European political thought, but alien to the English context, which supposedly never possessed a comparable concept or system. This assumption is now challenged.²⁵⁶

At first sight, the claim that Justi was both an advocate of freedom and the main theorist of police sciences might appear to be contradictory. The centrality of police to German political thought has been understood as indicating the hostility of German political thought to the idea of the freedom of the citizen. Such a view would support a view of the German Enlightenment as a politically disengaged project, and moreover one which undermined the freedoms of citizens. Often this concept has been connected with the rise of social disciplining and of the centralised state. No lesser figure than Michel Foucault has connected the development of policing with the process of rationalisation within a state. Foucault argued that the relationship between rationalisation and the excesses of political power is clear. For him the two most important historical examples of the rationality and excess of state power were the reason of state doctrine and the theory of police, even if in the case of police it remained only a ‘great disciplinary dream’.²⁵⁷ Foucault’s thinking about policing is substantially informed by his reading of Justi. According to Foucault, Justi clearly defined the central paradox of police, indicating that on the one hand, police enabled the state to increase its power and exert its strength to the fullest; while on the other police must keep the citizens happy, with happiness understood as the survival, maintenance and improvement of human life. Foucault asserted that Justi defined the aim of the modern art of government, or state rationality

²⁵⁶ F. M. Dodsworth, ‘The Idea of Police in Eighteenth-Century England: Discipline, Reformation, Superintendence, c. 1780–1800’, *Journal of the History of Ideas* 69 (2009), pp. 583–604, p. 584.

²⁵⁷ Mührmann-Lund, “‘Good Order and Police’”, p. 72.

in an exemplary manner. The task of police was to develop those elements constitutive of individuals' lives in such a way that their development also fostered that of the strength of the state. Foucault well recognised that Justi took the individual as a starting point, but he equally maintains that this only led to a further strengthening of the power of the state. In this way the state was both individualising and totalitarian, since the intervention into individuals' lives that police represented could be regarded as totalitarian.²⁵⁸

Several historians of police science and of eighteenth-century German political thought have developed interpretations comparable to that of Foucault. Peter Preu interprets Justi's conception of *Policey* as stately welfare care (*staatliche Wohlfahrtspflege*), with the inner strength of the state as its final aim. This reading sees *Policey* as the tool of the welfare state and suggests that Justi's emphasis on the welfare of an individual member of the state often results in a restriction of individual freedom and serves to further reinforce the power of the state.²⁵⁹ Diethelm Klippel equally understands police and Justi's conception of it as signifying a serious expansion of the power of the state. According to this view, the state instrumentalised individuals for its own purposes. The individualisation of happiness legitimated intervention in lives of individuals, constituting a violation of what would nowadays be referred to as the individual sphere.²⁶⁰

In a completely different vein, Uwe Wilhelm has suggested that Justi's conception of *Policey* was exceptionally narrow and that he sought to reduce the tasks of the state. Wilhelm bases this account on Justi's claim that the task of the police was to align as accurately as possible the happiness of separate families with general happiness in all affairs of the state. This is therefore understood as the most effective means of safeguarding the inner strength of the state. According to Wilhelm, this was indeed the sole task of police.²⁶¹ In a comparable way, Unruh has emphasised that every state

²⁵⁸ Michel Foucault, "'Omnes et Singulatim": Towards a Criticism of 'Political Reason', in *The Tanner Lectures on Human Values* (Salt Lake City, 1981), vol. 2, pp. 224-254. p. 226, 242, 251, 254.

²⁵⁹ Preu, *Polizeibegriff*, p. 151.

²⁶⁰ Klippel, *Politische Freiheit*, p. 62f.; Klippel, 'Der liberale Interventionsstaat', p. 81.

²⁶¹ Justi, *Natur und Wesen*, p. 585; Justi, *Grundfeste*, vol. 1, preface. Wilhelm, 'Das Staats- und Gesellschaftsverständnis', p. 432.

has to be a ‘police state’ if it wants to protect the rights and freedom of its citizens. Good administration, ‘*gute Policey*’, was necessary in order to secure the rights and freedom of individuals.²⁶²

To assess these interpretations we have to look more closely at Justi himself. There are a number of tensions between Justi’s conception of freedom and his theory of police. Partly these dissonances result from the differences between Justi’s books. The Justi we find in *Grundsätze der Policey-Wissenschaft* (1756) is considerably more conservative than the writer of *Grundriß einer guten Regierung* (1759), *Natur und Wesen der Staaten* (1760) or *Grundfeste zu der Macht und Glückseligkeit der Staaten* (1760–1761). To clarify the discrepancies between the different interpretations of the role of the police one needs to study Justi’s concept of police in a more detailed manner. I argue here that Justi’s conception of civil freedom and his conception of police are not contradictory. In many ways they are mutually compatible.

Justi was anxious to preserve the patriarchal and traditional communal order at the level of family and town.²⁶³ However, Justi’s demand for freedom is not at odds with his demand for social control. Freedom and order are not mutually exclusive. The question is rather: whose freedom are we talking about? Characteristic for the Prussian Enlightenment was that it favoured emancipation for certain elites: Scholars and merchants were the high point of civilisation and were to enjoy freedom. As Michael Sauter has argued, ‘the Enlightenment in Prussia was not merely about the expansion of human freedom, but also about the cultivation of effective measures of social control’.²⁶⁴ This explains why paeans of freedom could be combined with calls for social control. Tension stemmed from the fact that, whilst Justi allowed a private sphere for the citizens (*Hausvater*), he was equally the champion of *Policey* often interpreted as the actual framework for state intervention.²⁶⁵ Within this theory, at the level of local government *Policey*

²⁶² Georg-Christoph Unruh, ‘Polizei, Polizeiwissenschaft und Kameralistik’, in *Deutsche Verwaltungsgeschichte*, ed. Kurt Jeserich (Stuttgart, 1983), vol. 1, pp. 388–427, p. 417.

²⁶³ On the role of police in maintaining patriarchal and communal order see Mührmann-Lund, “‘Good Order and Police’”.

²⁶⁴ Michael J. Sauter, *Visions of the Enlightenment: The Edict on Religion of 1788 and the Politics of the Public Sphere in Eighteenth-Century Prussia* (Leiden, 2009), pp. 7–11.

²⁶⁵ See for example Douglas Moggach, ‘Schiller, Scots and Germans: Freedom and diver-

was responsible for harmonising individual happiness with the common good. Here Justi, as a police commissioner himself, hinted at his belief that the increasing passions caused by an advancing economy should be given limits. Discipline was not created for its own sake or to serve an authoritarian government, rather it served to provide a framework for the developing economy of the German states.

In terms of his understanding of police, Justi believed himself to be following Xenophon, Plato, Aristotle, Bodin, Lipsius and Montaigne. Each of these authors, he thought, presumed that police involved all internal institutions and constitutions of a state.²⁶⁶ Early cameralists would have argued that police aimed at the enrichment of the prince; Justi associated state institutions and constitutions with the aim of preserving and accumulating state wealth (*Vermögen*). The shift from riches (*Reichtum*) to wealth (*Vermögen*) and 'inner strength' (*innerliche Stärke*) had a direct impact on Justi's conception of the tasks of police. For him, the role of police was the promotion of the 'internal strength' of the state through the cultivation of land, the improvement of working conditions and the maintenance of moral order in the community. Secondly, *Policey* served *Staatskunst* in maintaining inner security. Inner and external security were considered to be the task of *Staatskunst*. Following these lines, Justi suggested that *Policey* could be understood on at least two levels. In the wider meaning *Policey* was economic policy (*wirtschaftliche Policey*). To this part belonged all measures in the internal affairs of the country through which the general wealth (*Vermögen*) of the state might be consolidated and increased. All commerce, the economy of the cities and rural areas (*die Stadt- und Landöconomie*) as well as

sity in the Aesthetic Education of Man', *Inquiry* 51 (2008), pp. 16-36, especially page 25.

²⁶⁶ Justi, *Die Grundfeste*, vol. 2, preface, 'Ich habe in diesem Werk keinen andern Begriff von der Policey zum Grunde geleyet, als den alle vernünftige Völker und Schriftsteller zu allen Zeiten davon gehabt haben. Nach diesem Begriff sind alle innere Verfassungen und Einrichtungen eines Staats, welche das besondere und gemeinschaftliche Wohl zum Augenmerk haben, und mithin fast die ganze innere Landes-Regierung, mit dem Rahmen der Policey belegt worden. Dieses ist der Begriff den Xenophon, Plato, Aristoteles von der Policey zu erkennen haben; und nach Wiederherstellung der Wissenschaften haben Bodinus, Lipsius und Montagne, und alle andere gründliche Schriftsteller, derselben keine andere Gränzen angewiesen.'

forestry and similar subjects were equally a part of *Policey*, to the extent that the government extended its care over them for the purpose of securing the general welfare of the state.²⁶⁷

In its narrower sense Justi also understood *Policey* to constitute everything that is required for the good ordering of civic life, especially the maintenance of good discipline and order (*Zucht und Ordnung*) among subjects, and the promotion of all measures for the comfort of life and the growth of the economy.²⁶⁸ Since the skills and capacities of its subjects formed a part of this wealth, the state was to promote these as well, and accordingly the accumulation of the skills and mental capacities of the members of the state was part of Justi's vision for Germany.²⁶⁹ While Justi considered dancing and plays to be acceptable, he nonetheless warned that young people should be saved from gambling, fornication, rapturous pleasures, drunkenness, extreme swearing and similar bad habits.²⁷⁰ Begging and idleness were also to be prohibited, since they hindered diligence and were bad for the economy. Justi maintained that all members of the state should be reasonable, useful and compliant members of the commonwealth (*vernünftige, nützliche und nicht überlästige Mitglieder des gemeinen Wesens*).²⁷¹ In his *Natur und Wesen* Justi makes a further distinction and points out that there is the third, narrowest concept of *Policey*, used for instance by Montesquieu that could be called *Stadtpolicey*. In this sense *Policey* took care of the tidiness and order of the city, made sure that weights and measures were appropriate, sought to forestall accidents in the city and kept an eye on craftsmen and on the quality of food.²⁷²

According to Justi, the pursuit of discipline and order were necessary to educate economically active agents, and provide incentives which would make all members of society reasonable, useful and not troublesome to the commonwealth. Once citizens had become economically active the state should interfere as little as possible with their actions. Unlike in Wolff's

²⁶⁷ Justi, *Grundsätze der Policey-Wissenschaft*, 1759, p. 4.

²⁶⁸ Justi, *Grundsätze der Policey-Wissenschaft*, 1759, p. 4-5.

²⁶⁹ Justi, *Grundsätze der Policey-Wissenschaft*, 1759, p. 6; pp. 11-12.

²⁷⁰ Preu, *Polizeibegriff und Staatszwecklehre*, pp. 149-157.

²⁷¹ Justi, *Grundsätze der Policey-Wissenschaft*, 1759, p. 12.

²⁷² Justi, *Natur und Wesen*, p. 582.

case, Justi's focus is not on the moral improvement of citizens; he was not interested in the inner self of individuals. He believed for example that citizens should be allowed to use their own judgment regarding their own inner religious beliefs, while the public practice of religion was best guided by the state.

Justi believed that the institutional framework for a well-functioning German economy did not yet exist. As a result of the lack of capital in German lands the state would need to play a major role in the creation of this framework. As Ulrich Adam has suggested, it was the duty of the state to create a stable and competitive economy. The implementation of police was thought to be something needed only for a transitional period.²⁷³ Once the political and economic framework had been built that enabled citizens to guide themselves there would be little need for police. Justi's account of the state support for new manufacturing enterprises is an example of his reasoning:

Yet once they [manufacturers and factories] are set up and running and can maintain themselves he [the monarch] must hand them over to private persons if he wants to act according to sound principles.²⁷⁴

A close reading of the economic reforms Justi suggests in his *Grundfeste zu der Macht und Glückseligkeit der Staaten* (1760–1761), his most extensive work in the field of police science, dispels the notion that Justi was in favour of an authoritarian or totalitarian order. Among the many reforms he suggests are the abolition of guilds, monopolies, and tax farming. In addition, he opposed sumptuary laws and was in favour of unlimited luxury, especially when it was based on domestic products, on the grounds that it would be enormously beneficial to domestic consumption. Furthermore, Justi wanted to abolish protective tariffs. He encouraged the organisation of lotteries and supported the mobility of capital, goods and labour. In order to enhance the efficiency of agriculture he suggested the abolition of serfdom.²⁷⁵

²⁷³ Adam, *The Political Economy*, pp. 187–188.

²⁷⁴ Justi, *Manufakturen und Fabriken*, vol. 1, p. 73. Translation by Adam, *The Political Economy*, p. 211

Justi defined the main task of police as increasing the inner strength, or capital (*Vermögen*), of the state. In this context he referred explicitly to mild government, civil freedom and freedom of conscience as the preconditions for the growth of the economy of individual householders and of the state. Justi granted the *Hausvater* a wide spectrum of activities free from state intervention, an act presumably helpful for police in the sense that the state is likely to become much stronger if citizens are allowed to guide themselves to happiness, and become economically active. As such, freedom was one of the state aims (*Staatszweck*). In Justi's political thought every improvement has to take place in the family, and as such the happiness of families had priority over the happiness of the state.

Still for Justi, police does not become redundant even after providing the suitable framework for a well-functioning economy. First of all, as Keith Tribe has shown, Justi's political economy was not optimistic regarding the existence of a natural order, a *selfish system* that would be completely self-regulative.²⁷⁶ Indeed, while he favoured a free economy, Justi believed that it could not survive wholly without guidance. Secondly, Justi did recognise the corruptive nature of 'capitalism'.²⁷⁷ Wealth and freedom could render members of a given society useless for it. Justi's doctrine was not a doctrine of freedom in the sense that he believed that freedom would create good automatically. Freedom, economic freedom included, could also be dangerous. Whilst Justi considered commercial society to be the highest level of civilisation, it was constantly under threat of corruption. The task of police was to militate against the prospect of falling back into an earlier stage of civilisation. Police tackled the negative results of commerce; and it was this aspect of police that was especially emphasised in England, for

²⁷⁵ The economic reforms Justi suggested have been studied in detail by Adam. See Adam, *The Political Economy*, pp. 187-231.

²⁷⁶ Here my interpretation is in accordance with Keith Tribe and Horst Dreitzel. See Dreitzel, 'Justis Beitrag', pp. 171-172 and Tribe, 'Natürliche Ordnung und Ökonomie', p. 294. Adam speaks in Justi's case of a framework of far-ranging self-regulation – see Adam, *Political Economy*, p. 237. However, not even Adam suggests that Justi would see the economy as a totally self-regulating system. Some direction from the state was necessary. See also Simon, 'Gute Policy', pp. 542-547.

²⁷⁷ Dreitzel, 'Justis Beitrag', pp. 171-172.

example by Henry Fielding.²⁷⁸ In Justi's eyes, the fact that England was so successful in its commerce meant that it was constantly in danger of falling back into barbarism.

SECURITY, INNER STRENGTH, FREEDOM

It is important to keep in mind that Justi's views on political and economic order changed considerably between the years 1755 and 1757, the period he spent in Göttingen. Indeed, Klippel's interpretation of Justi's conception of the aim of the state is largely tenable if it is read against the background of Justi's first major treatise *Staatswirthschaft* (1755). There Justi defines happiness in terms of the sufficient wealth and security of a state. The happiness of subjects (*Glückseligkeit der Unterthanen*) was not possible without the construction of a state in which everyone could strive after the moral and earthly goods appropriate to a member of the social rank (*Stand*) to which that person belonged.²⁷⁹ As such, the state figured as an instrument to provide subjects with security and wealth. Justi argued in his earlier writings that security and wealth were intertwined; a state that enjoyed peace was much more likely to enjoy wealth than a state that was constantly at war. And besides, a wealthy nation was more likely to enjoy peace, or would at least have a better chance of succeeding in wars than a poor one. The element still missing from Justi's notion of happiness in the first edition of *Staatswirthschaft* (1755) was freedom.

The books Justi wrote after 1757 all presume a slightly different position. More so than earlier, Justi in these writings focused on the individual citizen, and asks: when is a human being happy? According to him, every human being can consider himself happy (*glücklich*) when he enjoys freedom (*frey ist*), lives comfortably (*in guten äußerlichen Umständen sich befindet*) and enjoys security (*Sicherheit*). Nature had given all human be-

²⁷⁸ F. M., Dodsworth, 'Civic Police and the Condition of Liberty: The Rationality of Governance in Eighteenth Century England', *Social History* 29 (2004), pp. 199-216.

²⁷⁹ Justi, *Staatswirthschaft* (1755), p. 56. 'Ich verstehe demnach hier unter der Glückseligkeit der Unterthanen, eine solche gute Einrichtung und Beschaffenheit eines Staats, daß jedermann durch seinen Fleiß vermögend sey, sich diejenigen moralischen und zeitlichen Güter zu erwerben, die nach seinem Stande zu einem vergnügten Leben nöthig hat.'

ings the desire for self-preservation, and self-love to strengthen this desire. Due to this self-love everyone pursues his or her own happiness.²⁸⁰ Since every human being wanted to become happy there could be no ultimate aim (*Endzweck*) for the state other than the happiness of the state and its people.²⁸¹ In Justi's political thought the social order was justified by reference to individual ends, to the will of the citizens who formed the state. States had been formed to facilitate the pursuit of happiness by making it quicker and easier to achieve with a reduced employment of power. Just like the happiness of a citizen, the happiness of the state and its subjects rested on freedom (*Freyheit*), inner strength or good circumstances (*innerliche Stärke, oder guten Umständen*) and security (*Sicherheit*). From this it is clear that two things shifted in Justi's notion of happiness in the period between 1755 and 1757. Firstly, freedom was now included as an aim of the state; a certain level of civil freedom was necessary for a successful economy. Secondly, wealth was replaced by a more abstract concept: 'inner strength'. Both of these shifts in Justi's thought can be traced to the writings of Montesquieu.

What remains essentially the same in Justi's notion of happiness is the concept of security, which he divided into the security of the state (*die allgemeine, oder die Sicherheit des Staats*) and the security of the citizen (*die besondere Sicherheit des Bürgers*). The security of the state was further divided into inner and external security. The former required the maintenance of peace against any kind of upheaval, revolt or destruction within the state. External security was safeguarded by adequate fortification against possible foreign attack. Wise conduct towards foreign powers, that is to say, a prudent foreign policy, was another necessity for the maintenance of peace. Within the latter, the inner security of the state, Justi placed the notion of social peace, which he believed was easy to maintain as long as the supreme

²⁸⁰ Justi, *Natur und Wesen*, p. 62. 'Die Natur hat einem jeden Menschen den Trieb der Selbsterhaltung und mithin die Eigenliebe eingepflanzt, vermöge deren er an seinem Wesen und Daseyn einen Gefallen findet, und solches vorzüglich hochschätzt. Daraus entstehet bey einem jeden Menschen das Verlangen glücklich zu seyn; und die Glückseligkeit ist mithin der Endzweck unsers Wesens.'

²⁸¹ Justi, *Natur und Wesen*, p. 61. 'Dieser Endzweck kann kein anderer seyn als das allgemeine Beste, die Wohlfahrt aller und jeder Familien, die sich solchergestalt mit einander vereinigen, kurz, die gemeinschaftliche Glückseligkeit des gesammten Staats.'

power retained authority. As long as this was the case the constitution of the state was sustainable. A central factor in maintaining social peace was the sanctity of private property. Here the link between the security of the state and the security of the citizen becomes apparent. As long as the security of a citizen's private property was respected he was unlikely to question the authority of the state. Consequently, Justi defined the security of the citizen as the protection against any injustice, malice or violence in relation to the person and property of the citizen.²⁸² In order to maintain the security of the state it was prudent to respect the security of the citizen.

In *Grundriß einer guten Regierung* (1759) and *Natur und Wesen der Staaten* (1760) wealth was replaced by 'inner strength' (*innerliche Stärke*). This shift reflects Justi's changing conception of power. Following Montesquieu, Justi now argued that power was always relative and difficult to measure. It consisted not only of money but also of a sufficient population endowed with suitable skills, a surplus of goods, and the wisdom of rulers and ruled. This notion represents a development towards a more 'modern' concept of power, famously present in Montesquieu's *Spirit of Laws*.²⁸³ In this context qualitative factors, such as the *Genie* of the rulers and ruled, became more central. Implicit to this argument was that good administration was crucial for the success of the state. It was not enough to have quantitative power; one should also know how to use it. Ultimately 'inner strength' was a relative concept, since it was always measured against the resistance presented by other states.²⁸⁴ What Justi described here was one way of expressing the challenge of the 'jealousy of trade': to survive the growing competition between states the economy had to be strong. Moreover, a strong economy was no longer understood exclusively to be measured only in money, for now it also required economic administration and

²⁸² Justi, *Grundriß*, p. 95. '[d]ie besondere Sicherheit des Bürgers aber ist der Schutz, den er in Ansehung seiner Person und Vermögen, wider alle Ungerechtigkeit, Bosheit und Gewalthätigkeit genießet.'

²⁸³ Grete Klingenstein, "'Jede Macht ist relativ": Montesquieu und die Habsburger Monarchie', In *Festschrift Othmar Pickl zum 60. Geburtstag*, eds. Herwig Ebner [et al.] (Graz, 1987), pp. 307-324.

²⁸⁴ Justi, *Physicalische und Politische*, p. 71. 'Die Macht der Völker ist allemal nur ein relativischer Begriff, der sich auf die Stärke der übrigen benachbarten, und in diesen Welttheile wohnenden Völker bezieht.'

qualified workers and rulers. Justi's changing conception of power had serious consequences for his understanding of the dynamics of international relations, as I make clear in chapter six. The relativity of power and the emphasis on its qualitative aspects were central to Justi's arguments against the balance of power theory.

Equally central to Justi's political thought was the concept of freedom. Justi argued that the natural freedom man had enjoyed in the state of nature was not fully possible in the state. In a state man was also obliged to follow laws other than those he had set himself. The types of freedom that existed in a civil society were the freedom of state itself, and also the freedom of the citizen. It is nonetheless somewhat confusing that Justi calls the freedom of the state 'political freedom' (*politische Freiheit*). The state was thought to be free when it was independent, when it was neither being subordinated to another state nor was dependent on the will of a more powerful state. An independent state was able to follow its own will. I will come back to the problem of the will of the state later. At this point it is sufficient to note the importance of the links between the security of the state, its 'inner strength', and its political freedom. Adequate defence measures and robust 'inner strength', a strong economy, were necessary preconditions for the political freedom of a state. A state with a weak economy and without defence would not be able to maintain its independence.²⁸⁵ Justi understood how inner reforms of the state related to and were dependent upon foreign politics. Internal reforms were a key to more successful foreign policy, and as such took inspiration from books IX and X of Montesquieu's *Spirit of Laws*.

The second form of freedom was the freedom of the citizen (*bürgerliche Freyheit*).²⁸⁶ According to Justi, a citizen (*Bürger*) is free when he can follow his will without restrictions. The only exceptions to this rule were

²⁸⁵ Justi, *Grundriß*, p. 72 ff.; Justi, *Natur und Wesen*, p. 92.

²⁸⁶ Justi, *Natur und Wesen*, pp. 92-93. 'Die Freyheit ist zweyerley, die Freyheit des Staats und des Bürgers. Die Freyheit des Staats verstehet sich in Ansehung seines Verhältnisses gegen andere Staaten, und beruhet auf dessen Unabhängigkeit. Man nennet dieses die politische Freyheit, die Freyheit des Bürgers, oder die bürgerliche Freyheit, welche der Absicht der Völker bey Entstehung der Republiken so gemäß ist, kommt auf die Einrichtung der Grundverfassung und auf die Beschaffenheit der bürgerlichen, insonderheit aber der peinlichen Gesetze an.'

just laws.²⁸⁷ Justi's conception of freedom was clearly inspired by Montesquieu.²⁸⁸ The idea that individuals might have the right to do everything the law allows represented a new way of thinking about law. Freedom consisted no longer of the freedom of estates, the privileges of corporations or other political bodies. Instead, freedom was beginning to be understood as the freedom of individuals. The concept of freedom thus denoted the absence of arbitrary power. Here again, Justi's position presents a significant conceptual shift. He moved from the corporate liberties of the estates (*Stände*) towards civil freedom. This shift echoed his belief that the freedom of citizens, especially their economic freedom, would be the best means of encouraging the economy of a state to flourish. The happiness of the citizens, their security, 'inner strength' and freedom were necessary for a flourishing society, and especially for the success of economy:

It is generally remarked that in many things a wise government does not need to arrange any special means of supporting commerce and the *Nahrungsstand*, other than it should do no more than clear away obstacles present in the constitution of the state and in the condition of the commonwealth. When human beings have the freedom to act according to their insight and find no obstacles thereby, they are inclined to support their happiness.²⁸⁹

²⁸⁷ Justi, *Grundriß*, p. 20. 'Der Staat ist frey, wenn er unabhängig ist, das ist, wenn er weder einem andern Staate unterworfen, noch dem Willen eines andern Staats wegen dessen Obermacht, der er nicht widerstehen kann gemäß leben muß. Der Bürger aber ist frey, wenn er seinen Willen ungehindert erfüllen kann. [- - -] folglich ist der Bürger frey, wenn er keine andre Einschränkungen seines Willens, als durch die Gesetze zu erleiden hat.'

²⁸⁸ Charles de Secondat de Montesquieu, *De l'esprit des lois*, ed. V. Goldschmidt (Paris, 1979), Book 11, Chapter 3, p. 292. 'Dans un État, c'est-à-dire dans une société où il y a des lois, la liberté ne peut consister qu'à pouvoir faire ce que l'on doit vouloir, et à n'être point contraint de faire ce que l'on ne doit pas vouloir.'

²⁸⁹ Justi, *Politische und Finanzschriften*, vol. 1, p. 187. 'Es ist eine allgemeine Anmerkung, daß eine weise Regierung in vielen Dingen zur Aufnahme der Commerciën und des Nahrungsstandes überhaupt keine besonderen Beförderungsmittel anzuordnen nötig hat, sondern daß sie weiter nichts thun darf, als die Hindernisse aus dem Weg zu räumen, die in der Verfassung des Staates und in dem Zustand des gemeinen Wesens vorhanden sind. Wenn die Menschen die Freiheit haben, nach ihren Einsichten zu handeln und dabei keine Hindernisse Vorfinden, so sind sie geneigt, ihre Glückseligkeit zu befördern.' See also Dreitzel, 'Justis Beitrag', p. 169.

Thus for Justi, it is not the ruler who guides the citizens to happiness. Citizens as reasonable beings (*verständige Wesen*) have the right to guide themselves to their own happiness (*so haben sie unstreitig das Recht ihre Glückseligkeit selbst zu leiten*).²⁹⁰

Let us stop for a moment to contextualise Justi's conception of freedom. Fania Oz-Salzberger has argued that, prior to the French revolution, there were two prevailing conceptions of political liberty in Germany. First, liberty was articulated by the defenders of the ancient rights of the estates. These figures demanded their traditional corporate freedoms be upheld, either on the imperial level, as propagated most prominently by Johann Jacob Moser (1701–1785) or on the local principality level, the view advocated by Justus Möser (1720–1794). As we have already seen, Justi was not in favour of this conception of freedom. On the contrary, he challenged the corporative freedoms and privileges of the estates. Oz-Salzberger identifies another idea of freedom in eighteenth-century Germany in the form of the centralised state, a form which is often described as enlightened absolutism. The meaning it gave political liberty referred to the subject's personal freedom from tyranny and oppression, guaranteed by laws and by the ruler's benevolence. She considers Justi to be a major representative of this conception of freedom, since Justi defined citizens' freedom in terms of their obedience to good laws, laws which promote the common welfare.²⁹¹ In Oz-Salzberger's interpretation Justi supported the centralising efforts of the state, and as such may be counted among the advocates of enlightened absolutism.

However, Justi was not a political theorist of enlightened absolutism. The idea is applicable to the extent that, for Justi, the freedom of the citizen (not political freedom because by this Justi meant the freedom of the state) was guaranteed by just laws. However, he did not presume the benevolence of the ruler. This is not to deny that Justi was in favour of the centralising efforts of the German princes; but this does not make him an absolutist. Fundamental laws, as I will later demonstrate, also limited the actions of the

²⁹⁰ Justi, *Politische und Finanz-Schriften*, vol. 2, p. 185.

²⁹¹ Fania Oz-Salzberger, 'Scots, Germans, Republic and Commerce', in *Republicanism: A Shared European Heritage*, eds. Martin van Gelderen and Quentin Skinner (Cambridge, 2002), vol. 2, pp. 215-216.

ruler. The absence of tyranny was guaranteed by laws, not by the benevolence of the ruler. For Justi, freedom was freedom from arbitrary will, be it the will of a single ruler, or of corporate estates.

Building on the work of Horst Dreitzel, I here instead position Justi among the exponents of a 'civic school' (*bürgerliche Schule*) in Germany. To develop this interpretation I will elaborate Justi's concept of a citizen. Justi defended the role of free citizens in the sense of *Wirtschaftsbürger*, and above all in the building of a strong economy. The reforms Justi suggests were to provide citizens with a broader spectrum of possibilities. He wanted to abolish guilds and serfdom, secure a low level of taxation, and guarantee the sanctity of private property and the independence of the judiciary.²⁹² Justi was interested in creating a free sphere for the *Bürger* where they could act according to their own will.

There is no denying that in one sense Justi's political thought is very paternalistic. This is particularly striking in terms of the way he understood the concept of citizen. For Justi a citizen was the head or father of the family, this is to say a *Hausvater*. The free citizen was male, and his primary task was to govern his family and direct it towards its happiness. It was the wills of family heads that were united in the process of state formation. The wills of families, hence the wills of *Hausväter*, were united into one will which manifested itself as the general will.²⁹³ *Hausvater* is an approximate translation of the Latin *pater familias*,²⁹⁴ the master of the household. Justi explained male domination in the family by reference to the physical strength of men; in his view, the authority of a male over a female is demonstrated everywhere in nature, where the weaker is governed by the stronger, the provider.²⁹⁵ The unequal society of a family was confirmed by contracts, first of all by the marriage, which Justi considered a pure civil contract (*ein*

²⁹² Justi, *Grundriß*, pp. 25-26.

²⁹³ Justi, *Grundriß*, p. 6

²⁹⁴ Marion W. Gray, *Productive Men, Reproductive Women: The Agrarian Household and the Emergence of Separate Spheres during the German Enlightenment* (New York, 2000), p. 51. On Justi see pp. 98-111.

²⁹⁵ Justi, *Natur und Wesen*, p. 521. 'Die Herrschaft des Mannes über seine Frau ist in der Natur gegründet, weil uns die Natur allenthalben zeigt, daß der Schwächere von dem Stärkern, und derjenige, der ernähret wird, von demjenigen, so ihn ernähret, abhängen muß.'

bürgerlicher Vertrag) and not a spiritual matter (*keine geistliche Sache*). According to Justi, Catholics made a great error in turning marriage into a sacrament. Marriage was a contract that creates an unequal society (*ungleiche Gesellschaft*) in which by nature the male has the power (*Herrschaft*). Children and servants also belonged to the family, and are in turn also subordinated to the power of the *Hausvater*, the former by nature and the latter by contract.²⁹⁶ Male and female servants (*Knecht / Magd*) were not to be regarded as citizens; to regard them as such would impede the *Hausvater* in the fulfillment of his task, making governing the family more complicated. Furthermore, Justi argued that while servants were beyond doubt free people (*freye Leute*), they belonged to the family whom they served, according to their contract (*Dienstzeit*). They were subordinated to the will of the *Hausvater*. Therefore they were not fully-fledged citizens, precluded from becoming members of civil society. For Justi, male servants had the potential to become *Bürger*, but only after they had established themselves and founded a household.²⁹⁷

Only the *Hausvater* enjoyed privacy, a sphere of male domination primarily over women, secondarily over children and servants. It was not the private sphere of the family itself, but of husband, father and housefather.²⁹⁸ Justi argued that in real world the *Hausvater* had the last word, and not only in the state of nature; the *Hausvater* must enjoy unchallenged authority and power in order to govern the family. If civil law were to take this authority and the *Hausvater*'s power away he would be left with no means to govern and guide a family to its happiness.²⁹⁹ Justi sought to strengthen his

²⁹⁶ Justi, *Rechtliche Abhandlung*, pp. 34-49.

²⁹⁷ Justi, *Natur und Wesen*, p. 416. '[--] doch so lange zur Familie, worinnen sie dienen, als ihre Dienstzeit währet, und sie sind nichts weniger als Bürger und Mitglieder der bürgerlichen Gesellschaft. Diese werden sie erst, wenn sie sich selbst etablieren und ihre Haushaltung anrichten. Das Gesinde als Bürger zu betrachten und zu verlangen, daß die häuslichen Streitigkeiten vor die bürgerlichen Gerichte gebracht werden sollen, das heißt die Ordnung und die Natur der Dinge umkehren.'

²⁹⁸ Isabel Hull, *Sexuality, State, and Civil Society in Germany, 1700-1815* (Ithaca, N.Y., 1996), p. 190.

²⁹⁹ Justi, *Natur und Wesen*, p. 415. 'Die Familien, ohngeachtet sie sich in bürgerlichen Gesellschaften befinden, bleiben dem ohngeachtet Familien: und die Häupter derselben müssen ein gewisses Ansehen und Gewalt haben, um dieselben zu regieren. Wenn ihnen die bürgerlichen Rechte dieses Ansehen und alle Gewalt nehmen; so entziehen

argument with historical examples from ancient Greece and Rome, polities within which, he argued, the authority of the *Hausvater* was never questioned.

Isabel Hull has demonstrated how Justi imposed radical limits on state interference in relation to the family. Justi stressed that

If the peace and quiet [*Ruhe und Ordnung*] that families require for their happiness is to take place, then neither the government [*Regierung*] nor especially the police must interfere with the government [*Regierung*] of the families ... Having the authorities govern the family could not occur without uncovering the inner affairs of every family, which is the worst of all despotisms and contradicts every reasonable concept of civil freedom [*bürgerlichen Freyheit*] ... instead of peace and quiet [this interference] would always cause the opposite, because it would halt all subjection [*Unterwürfigkeit*], without which no peace and quiet is possible. Therefore the only thing that police and civil laws can and should do is to support and encourage domestic government.³⁰⁰

Justi pleaded for freedom of conscience, freedom of the press and of the domestic 'private sphere'. Each of these freedoms were necessary preconditions for a flourishing economy:

One must especially underscore that a kind and mild government [*eine gütige und Gelinde Regierung*], allowed a reasonable freedom to citizens to engage in innocent actions irrelevant [to the good of civil society], and complete freedom of conscience must be made room for in a city, if one wants to encourage its expansion and growth. These are not necessary means to encourage population, but are also necessary to accomplish a blooming manufacture. One can have little hope of growth for a city in which everybody [*jedermann*] does not enjoy complete civil freedom and freedom of conscience.³⁰¹

Freedom helped establish the inner strength of the state, which as mentioned earlier meant for Justi a skilled population, a surplus of goods, and the wisdom of rulers and ruled. He emphasised the qualitative aspects of power, a point of departure which his earlier writings never fully endorsed. Each of these aspects of inner strength was related to the others, since if the

sie ihnen die Mittel, ihre Familie zu regieren und ihre Glückseligkeit zu befördern.'

³⁰⁰ Justi, *Die Grundfeste*, vol. 2, pp. 102-103. The translation is from Hull, *Sexuality*, p. 190.

³⁰¹ Justi, *Grundfeste*, vol. 1, pp. 330-331.

economy were to be improved by skilful government, manufactures would be promoted, the population would grow, commerce will flourish and the temptation to emigrate will be removed.³⁰² Prudent and well-intentioned policy, improving the country's economy, and providing wise and beneficial government, would place the country in a flourishing condition.

Justi made numerous reform proposals, aimed at eliminating contemporary commercial restrictions in favour of the interests of the *Hausväter*. These were primarily directed against aristocratic privilege, but they also tackled the fiscal irresponsibility of the state and agricultural stagnation.³⁰³ In his view, the main means for improving commerce and manufacturing were the removal of trade restrictions, the abolition of price-fixing, guild reform and the specialisation of labour.³⁰⁴ The Holy Roman Empire was particularly reliant on agriculture and the need to make agriculture more efficient was pivotal for Justi, as it was for other reformers. Justi believed that to effect this reform it was necessary to restructure the peasants' pattern of life, transforming the nuclear peasant village into one based on the English model, with lower taxation and greater freedom for peasants: personal interest would be most effective in motivating the industriousness of peasants.

However, Justi's clearest critique of the circumstances prevailing in the Holy Roman Empire (and even his own Prussia) was directed towards serfdom. For Justi, the freedom of the citizen and all members of the state (*die Freyheit des Bürgers und aller Mitglieder des Staats*) was the first essential character of any civil constitution, this is to say of any state. A state where one *Stand* or class is forced to live in subservience and in serfdom has a monstrous constitution that must have its roots in the period of barbarism. In a civilised and reasonable state such a constitution cannot be upheld

³⁰² Hermann Wellenreuther, 'Contexts for Migration in the Early Modern World: Public Policy, European Migrating Experiences, Transatlantic Migration, and the Genesis of American culture', in *In Search of Peace and Prosperity: New German Settlements in Eighteenth-century Europe and America*, eds. Hartmut Lehmann [et al.] (Penn, 2000), pp. 3-35. On Justi see pages 13-20.

³⁰³ Iseli, *Gute Polickey*, pp. 29-31.

³⁰⁴ Reill, *The German Enlightenment*, p. 151.

without shame.³⁰⁵ In effect, this meant that the ‘constitution’ of Prussia and most German principalities was shameful.

Justi’s enthusiasm for the freedom of the citizen and even for the other members of a state was inspired by his belief that free persons would work harder and be more useful for the economy. Even the freedom of press was partly justified through its usefulness. As one of the few German satirists of this period, Justi sought to emphasise the importance of subjecting political ideas to irony. Satire could warn of the mischievous behaviour of ministers and important *Bürger*. Only if human beings were not seen as members of the civil society would they be denied the right to express their views. He had little sympathy for the counter-argument that the mob could be agitated by satires, pointing out that the mob seldom or never read satires, and that the latter were as such simply echoes of the thoughts of reasonable people (*Verständigen Leute*). A satirical critique of government was simply a reflection of sentiments (*Empfindungen*), and even when satires were forbidden the sentiments remained, they cannot simply be forbidden.³⁰⁶ For Justi,

³⁰⁵ Justi, *Die Grundfeste*, vol. 1, p. 150. ‘Die Freyheit des Bürgers und aller Mitglieder des Staats ist gleichsam die erste wesentliche Eigenschaft aller bürgerlichen Verfassungen; und Staaten, worinnen ein Stand, oder Classe des Volkes den andern mit Unterthänigkeit, oder Leibeigenschaft verwandt ist, haben eine monströse Verfassung, die nur in denen allerbarbarischen Zeiten hat entstehen können, die aber gesittete und vernünftige Zeiten ohne Schande nicht fortsetzen können.’

³⁰⁶ Justi, *Scherzhafte und satirische*, vol. 1, preface, ‘Man kann dannenhero die allgemeine Anmerkung machen, daß eine Monarchie, welche die Satyren durch eine große Strenge auszurotten suchet, allemal schon halb despotisch ist, und daß eine vermischte Regierungsform, welche die Satyrenschreiber stark verfolgt, allemal schon auf der Seite der Aristocratie den Ausschlag hat. In allen Staaten hingegen, wo eine vernünftige Freyheit Statt findet, die denen Rechten der Menschheit und dem Endzweck der bürgerlichen Verfassungen so gemäß ist, duldet man die Satyre und sieht ihr etwas nach. Es ist sogar der Natur der Democratie und einer vermischten Regierungsform, wo das Volk and der Regierung Antheil hat, gemäß, der Satyre eine grosse Freyheit zu gestatten, damit das Volk allemal einen Weg frey läßt, wegen des Betragens der Ministers, oder der vornehmsten Bürger, gewarnt zu werden: und die Athenienser übten diese Maxime sehr wohl aus. Ein weiser und glücklicher Monarch aber ist viel zu großmüthig, als daß er wegen eines versteckten Tadels, der die Regierung treffen kann, seinen Unterthanen eine Freyheit entziehen sollte, die man ihnen nicht absprechen kann, so lange man sich dieselben als denkende Wesen und als Mitglieder einer bürgerlichen Gesellschaft vorstellt. Er ist blos das Echo der verständigen Leute: und wenn er selbst von der

it was crucial to highlight the need for persons to express their thoughts in public, since forbidding this would come close to a denial of thinking, which would be against the nature of reasonable creatures (*verständige Wesen*). The prohibition of freedom of expression was comparable with the prohibition of speaking and asking questions. The only motive for prohibition could be the lack of willingness to answer questions. Thus for Justi, only those forms of government which failed to appreciate the rights of humanity (*Rechte der Menschheit*) and the ultimate aim of civil societies i.e. happiness, are enemies of satires. Here Justi was referring to what he believed to be the state of censorship in Sweden.³⁰⁷ Censorship was as equally unsustainable for the progress of the sciences as it was for the progress of society in general. In this field Justi had substantial experience as a member of the censorship commission in Vienna.³⁰⁸ The growth of knowledge could come to a halt if the freedom of sciences were restricted, putting an end to the progress of civilisation.

The extent to which Justi saw everything from an economic perspective is clear in his views on being a good Christian. Justi argued that if everyone were a good Christian the state economy would be ruined. If humans were only interested in eternal goods this would cause enormous problems, especially in respect of the willingness of people to work.³⁰⁹ Personal religion was a matter for every individual *Hausvater*: the state owed to its citizens freedom of conscience and freedom of faith. Each may believe whatever they want in their own house, organising their devotion according to their own will.³¹⁰ In this respect citizens remained in the state of nature. They were not obliged to follow any other laws than those given by to themselves. Justi identified a further problem for the general happiness and economy in

Beschaffenheit der Regierung urtheilet; so geschiehet es nach Empfindungen.'

³⁰⁷ Justi, *Scherzhafte und satirische*, vol. 1, preface, 'In der That sind auch allemal diejenigen Regierungsformen, welche die Rechte der Menschheit und den Endzweck der bürgerlichen Gesellschaften am meisten unterdrücken die heftigsten Feinde der Satyren.'

³⁰⁸ Justi, *Grundfeste*, vol. 1, p. 57.

³⁰⁹ Dirk Fleischer, 'Kirchenverständnis aus polizeiwissenschaftlicher Sicht: Johann Heinrich Gottlob von Justis Verständnis der Kirche', in *Christentum im Übergang: Neue Studien zu Kirche und Religion in der Aufklärungszeit*, eds. Albrecht Beutel [et al.] (Leipzig, 2006), pp. 71-83, p. 77.

³¹⁰ Justi, *Natur und Wesen*, p. 470.

the hatred between representatives of different religions. He discussed this problem in his essay on whether the hatred between religions is reasonable or not.³¹¹ He argued that religious toleration should be encouraged. The only condition he stipulated was that religion must serve the final aim of the state. In fact, Justi argued that the Catholic religion seemed to be the most unsuitable religion for this purpose. The monasteries stole potential productive labour and affected the birth rate negatively. Here Justi's views oriented towards 'temporal-external' happiness become perceivable. Religion had its place in the compound body of the state as long as it promoted general happiness. If one were to follow the teaching of the church the pursuit of self-interest – personal benefits, wealth, honour and higher positions – all of which encourage diligence, would become baseless. This would have a catastrophic impact on the economy. Usually this was not a problem since religion had a positive impact upon the welfare of the state, encouraging inhabitants to cultivate the land, and providing them with incentives to reproduce.³¹² In the background of Justi's views on religion was his attempt to individualise politics and economics. By no means should they be built on a religious basis.

One explanation for Justi's growing interest in the life of *Bürger* relates to a broader shift within the science of cameralism during the eighteenth century. As the fiscal basis of the state changed from pure domain management into political economy, citizens assumed a new centrality for the territorial state, and cameralists began to write about this in new ways. Rather than focus upon the ruler's domains, the entire population and territory now formed their theoretical object.³¹³ The private economy of the ruler was distinguished from the economy of the entire state, the *Staatswirthschaft*. Books about economic issues that had formerly primarily addressed rulers now began to appeal directly to citizens.

The importance of the *Hausvater* in Justi's thought might easily mislead readers into believing that his conception of the state was similar to his understanding of the family. One of the most popular analogies employed

³¹¹ Justi, 'Ob der Religions-Haß vernünftig sey?', in Justi, *Moralische und Philosophische Schriften*, vol. 1, pp. 68-82.

³¹² Justi, *Politische und Finanzschriften*, vol. 3, p. 144.

³¹³ Tribe, 'Cameralism and the Sciences of the State', p. 527, 531.

by seventeenth and early-eighteenth century cameralists was to compare the role of the prince in a state with that of a father. The economy of the family, or householding, was in the hands of the prince. Indeed, in the long tradition of German economic literature there is a distinct body of writing devoted to this theme: *Hausväterliteratur*. Perhaps the most prominent representative of this literature is the political theorist and canonical cameralist Wilhelm von Schröder (1640–1688), who like so many of his contemporaries understood *Oeconomia* to be synonymous with householding. According to Schröder ‘A prince is really like a father (*Hausvater*), and his subjects are, insofar as they have to be governed, his children’.³¹⁴ A prince was comparable to a father, who guided his family towards happiness and security; and like the father, the prince was a paternalistic figure guiding his subjects towards happiness. The practice of equating citizens with adolescent children, a strong tradition in cameralism, was later explicitly criticised by Kant in his political philosophy,³¹⁵ underscoring the persistence of the metaphor in German political thought throughout the 18th century. We have already seen how Wolff compared rulers with the fathers of children. Simultaneously there was no limit set to the possibilities of intervention into the lives of subjects.³¹⁶

In sum then, Justi was a paternalist in the sense that he understood the family sphere to be dominated by men. However, his understanding of the role of a ruler in a state differs significantly from that of Schröder and Wolff. For Justi, rulers did not have the same rights in the state as *Hausvaters* within a family. The key distinction between a ruler’s ‘private economy’, within which the prince is a *Hausvater*, and the economy of the state (*Staatswirtschaft*) helped Justi to set limits to the rights of the prince over the domains of the citizens. The argument of the older cameralists who were only interested in administering princely domains was that the interest of the ruler was in harmony with the interest of all other members of the state. Justi attacked this principle by pointing out that, while they were often related, conceptually they are separate. A prince might mistreat

³¹⁴ Wilhelm von Schröder, *Fürstliche Schatz- und Rent-Kammer* (Leipzig, 1686), preface, §II, p. 21; Tribe, ‘Cameralism and the Sciences of the State’, p. 529.

³¹⁵ Kant, ‘Über den Gemeinspruch’, pp. 290–291.

³¹⁶ Grunert. ‘Absolutism(s)’. pp. 147–148.

his subjects in the name of his own fiscal interest.³¹⁷ Justi emphasised that the happiness of the ruler should be distinguished from that of the state,³¹⁸ which manifested itself as the happiness of those families that populated the territory of the state. The happiness of rulers formed part of that happiness because in his 'private economy' he was a *Hausvater*. However, this should by no means be equated with the happiness of the state. The happiness of the ruler was merely a by-product of the happiness of the state. In Justi's political thought the happiness of the state was de-personalised: it was no longer the happiness of the ruler. According to Justi, a ruler who puts his personal happiness and his personal will above that of others is a despot.³¹⁹ In other words, the ruler should be able to separate his private will as a *Hausvater* from his will as a ruler. As we will later see, Justi separated the will of the ruler from the united will of the people. The united will of the people manifested itself through laws, and the ruler was also bound to follow these laws.

Justi argued that a wise government should be able to take various different kinds of happiness into account simultaneously. Here the professional administrator, the universal-cameralist takes the stage. A universal cameralist was, according to Justi, the proper person to explore and explain how general happiness could be promoted. For Justi the hero, the 'real patriotic cameralist', is brave enough to tell the prince if he is not acting for the general good. Justi argued that princes had long sought to convince their people that the purpose of the state was the welfare and interest of the prince. It would however be mistaken for the whole of mankind to believe that subjects existed only for their ruler's sake, as a means for their pleasure, self-interest, passions, and desires. Unfortunately, Justi went on, rulers and administrators who acted on this assumption were numerous.³²⁰

³¹⁷ Justi, *Natur und Wesen*, pp. 77-79.

³¹⁸ Justi, *Natur und Wesen*, p. 69. 'Der Despote und eine jede Regierung, welche die Unterthanen bloß nach ihrem Willkühr und Eigensinn zwinget, übet also eine wahre Tyraney aus, weil er sich einer Gewalt anmaßet, die man ihm niemals anvertraut hat, und welche den Willen und Endzweck, weshalb die Menschen in bürgerlichen Verfassungen leben, gerade entgegen ist.'

³¹⁹ Justi, *Natur und Wesen*, pp. 76-82.

³²⁰ Justi, *Natur und Wesen*, p. 72. 'Denn so sehr hat weder ein Schriftsteller noch Staatsmann das menschliche Geschlecht noch verunehret, daß er öffentlich gelehret und be-

However, a wise ruler should have learned from experience that an underpopulated land with oppressed subjects is not capable of enhancing his or her riches. In this way Justi was trying to persuade rulers of the need for proper management of state economy. A poor ruler usually governed a poor country with a weak economy. Therefore, every ruler should encourage the population of his country, nourish commerce and encourage the founding of manufactures to strengthen the economy.³²¹ Freedom of citizens was an essential part of this reform. Justi emphasised that citizens were not like sheep waiting to be shorn; it was not right that subjects were merely a secondary purpose (*Nebenzweck*) in a ruler's pursuit of personal happiness. This would hardly flatter subjects.³²² Nor were subjects like horses, or the cows or sheep of a peasant, for whom the peasant cares only because he knows that they are going to make him richer. A peasant seldom gives the happiness of his cattle a second thought; according to Justi, a ruler's greatness, prestige and welfare should be secondary, and not primary, purposes. They were possible only if the state economy was flourishing.³²³ The patriotic cameralist, who truly loved his prince, his state and the common good, taught the prince that there is no cameral interest separate from the

hauptet hätte, die Unterthanen wären um der Regenten willen vorhanden, und die Republiken wären deshalb errichtet worden, um den Eigennutz, das Interesse, die Lüste und Leidenschaften eines einzigen, oder derjenigen, so der Regierung vorstehen, zu vergnügen; ob es gleich zuweilen Regenten und Staatsleute gegeben hat, welche also verfahren haben, als hätten sie einen solchen Endzweck der Republiken vorausgesetzt.'

³²¹ Justi, *Natur und Wesen*, p. 74. 'Man hat aus der Erfahrung befunden, daß ein entvölkertes Land und auf das Äußerste gedrückte Unterthanen einen Fürst nicht mächtig machen; daß ein verarmtes und von Nahrung entblößtes Land auch die Armuth seines Regenten nach sich ziehe. Man ist dannhero allenthalben bedacht, die Länder mehr zu bevölkern, Commerciem und Manufakturen darinnen einzuführen und den Nahrungsstand blühend zu machen.'

³²² Justi, *Natur und Wesen*, p. 74.

³²³ Justi, *Natur und Wesen*, p. 75. 'Das Wesen der Republiken und die Absicht bey ihrer Entstehung erfordern, daß sich die Sache ganz umgekehrt verhalte, daß der gemeinschaftliche Wohlstand und Glückseligkeit des Staats der Hauptzweck der Republiken und folglich auch aller Maaßregeln der Regenten, die Größe, das Ansehen und der Wohlstand des Fürsten und seines Hauses aber nur der Nebenzweck, oder die Folge aus der Erreichung des Hauptzwecks seyn muß.'

common good.³²⁴ Among the authors from the same background as Justi Claproth held a similar view. For him the status of the prince was not a privilege; it was an obligation, and if the ruler set himself above others he would violate his duties.³²⁵

By adopting the concept of happiness as the starting point of all the cameral sciences Justi provided an instrument for assessing practical policy.³²⁶ If policy did not support the happiness of state and people it was not following the truths of the science of the state. Justi thereby developed the cameral sciences into a critical instrument. These were the arguments of the new *Staatswissenschaften*, and in no way were they restricted to mere fiscal propaganda. For Wolff, happiness was the central concept of his all-encompassing welfare state. For Justi it was a concept which enabled the assessment and criticism of government based on a set of principles every government should respect. Here lies the critical potential of the concept of happiness, and this is the reason why Justi has been considered to be a major figure in the politicisation of the German Enlightenment.³²⁷ As Dreitzel states: ‘Justi moved from the teaching of politics to an evaluation of politics’.³²⁸ Paradoxically Justi, who has been described as a representative

³²⁴ Johann Justi, *System des Finanzwesens. Nach vernünftigen aus dem Endzweck der bürgerlichen Gesellschaften und aus der Natur aller Quellen der Einkünfte des Staats hergeleiteten Grundsätze und Regeln abgehandelt* (Halle, 1766), pp. 29-30. ‘Er muß ein wahrer Patriot seyn, das ist, seinen Fürsten, den Staat und das gemeinschaftliche Beste aufrichtig lieben. [- -] So bald also etwas das Interesse des Fürsten zu seyn scheint, welches dem Nahrungsstande, dem Wohlstande der Unterthanen und dem gemeinschaftlichen Besten nachtheilig ist; so kann er auf das gewisseste versichert seyn, daß dieses nichts weniger als ein wahres Interesse des Fürsten, sondern nur ein scheinbares Interesse ist. Ein ächter Cameralist muß also dasjenige, was dem gemeinschaftlichen Besten unstreitig gemäß ist, allemal auch dem scheinbaren Interesse des Fürsten vorziehen. Er kennt also kein von dem gemeinschaftlichen Besten abgesonderstes Cameral-Interesse.’

³²⁵ Claproth, *Grundriß des Rechts*, pp. 195-196. ‘Er [Monarch] handelt daher wider seine Pflicht, wenn er sich selbst als den Mittelpunkt ansieht, zu dessen Vergnügen alles abzielen soll. Es ist der Unterthanen wegen da, und nicht die Unterthanen seinetwegen. Ein despotischer Herr im Gegentheil hat das traurige Recht über seine Sklaven erworben, alles nach seinem eigenen Vergnügen zu lenken.’

³²⁶ Dreitzel, ‘Justis Beitrag’, p. 172.

³²⁷ Bödeker, ‘Das Staatswissenschaftliche Fächersystem’, p. 152.

³²⁸ Dreitzel, ‘Justis Beitrag’, 167.

of an escape from politics to administration,³²⁹ was thoroughly political in his intentions.

Justi argued that there were five principles that any ruler was obliged to follow. First of all, he or she should protect civil liberty, without which the state would never flourish economically. Self-interested individuals working for their own benefit were the most effective stimulus for the economy. Secondly, the sanctity of citizens' private property should be guaranteed. Thirdly, the ruler should not interfere with the judiciary, which should be independent. The fourth principle was a steady, sustainable level of taxation. Taxes that are too high suffocated the economy; there was no justification for especially high taxes collected to support the luxurious lifestyle of a ruler. Most devastating for the state economy were wars. Hence the fifth principle was that a ruler should never initiate offensive wars. Justi argued that in the worst cases rulers had started offensive wars with only the future of their royal lineage in view, or purely from a desire to conquer new territories.³³⁰ Justi was highly critical of the bellicosity of eighteenth-century Europe. In one of his war pamphlets, *Wohlgemeynte Vorschläge* (1759), he emphasised that the belligerents were always convinced that they could improve their circumstances through war. This was however a delusion. He pointed out that the avoidance of war was always to be preferred, for if the same amount of money invested in wars was instead invested in commerce and manufactures it would result in wiser and greater conquests than wars could ever achieve. This alternative investment would improve circumstances, the inner-strength of the states concerned would grow; this indeed would be a remarkable conquest. Justi believed that wars weakened the countries that engaged in them far more frequently than they caused them to become stronger.³³¹ Instead he emphasised a focus on internal development. This was also because he understood the growing importance of trade. A trading nation that understood its own best interests would keep itself out of wars, since conflict simply served to complicate or suffocate foreign commerce. This had to be the case, since the success of manufac-

³²⁹ Gay, *The Enlightenment*, pp. 488-489.

³³⁰ Justi, *Grundriß*, pp. 25-27; Justi, *Vergleichungen*, pp. 129-143.

³³¹ Justi, *Wohlgemeynte Vorschläge*, pp. 5-6.

turing was also to a great extent founded on foreign trade. Moreover, even the most successful wars will result in the decline of consumption.³³²

To conclude, the key actor in Justi's political thought is an active economic citizen, the *Hausvater*. The 'liberal moments' of Justi's thought are partly explained by the restriction of economic freedom in the male-dominated family. When it comes to political participation, Justi is indecisive. In his hesitation to advocate broader political participation and political freedom in this sense³³³ it often seems that Justi advocates that participation by citizens be replaced by the participation of cameralists. But Justi was a crucial figure in introducing the concept of freedom into eighteenth century German political thought, although it would make no sense to speak of ethical liberalism in relation to Justi. Self-interest was at the centre of Justi's political and economic thought, according to which the desires and needs of individual house-fathers support the happiness and welfare of everyone. Justi still maintained however that these individual needs and desires required direction, since he did not believe in any kind of mechanism of 'invisible hand'.³³⁴ This direction was provided by the police, the economic administration. The framework for a successful economy had to be created, and much of it had to be provided by the state.

³³² Justi, *Grundriß*, p.427. 'Der Krieg stürzet zugleich allemal die auswärtigen Commerciën darnieder; man weis aber, daß die innländischen Manufacturen und Gewerbe ihren Flor hauptsächlich auf die auswärtigen Commerciën gründen; und der Verfall des gesammten Nahrungsstandes ist also eine unausbleibliche Folge auch der glücklichsten Kriege.'

³³³ Justi's position was rather common in eighteenth-century Germany. See Jörn, Garber, *Spätabsolutismus und bürgerliche Gesellschaft: Studien zur deutschen Staats- und Gesellschaftstheorie im Übergang zur Moderne* (Frankfurt am Main, 1992).

³³⁴ Keith Tribe, 'Natürliche Ordnung und Ökonomie', *Aufklärung* 13 (2001), pp. 283-302, p. 294.

CHAPTER 5: STATE

THE STATE MACHINE AS A METAPHOR FOR CENTRALISED AUTHORITARIAN ORDER?

For Justi the issue of individual freedom for households was important because it had a pivotal role in fostering a successful economic order, population and commerce. Justi set limits to the exercise of the sovereign power, but also emphasised the need to abolish the structures of the corporate state (*Ständestaat*) so that the state economy might better function. In Justi's conception of police social, economic and commercial freedoms furthered the optimal management of economy and society. The aim of this chapter is to draw the consequences of Justi's conception of freedom for his conception of the state. Unlike the previous generation of authors – Pufendorf and Thomasius – Justi had in view a secularised territorial state. The question was how the state should be conceived as both instrument and object of *Policey*. Justi's *Staatslehre* maintained that the state was formed by the united will of the people in order to promote their happiness. But he also viewed the state as a machine in which people were passionate parts. Justi did not look at the state from a public law perspective, but primarily from the perspective of the *Policey-Wissenschaften*. The ideal order of the state machine was a matter of political theory (*Staatskunst*) and of *Policey*, not jurisprudence.

Justi's 'political theory of the economic state' is best understood through his favourite metaphor, that of the state as a machine. In 1761 Gottfried Achenwall, Professor of *Naturrecht* and *Politik* in Göttingen, argued that the task of the political scientist (*Politicus*) was to study rules according to which the artificially-composed state machine was best constructed and governed. According to Achenwall, the degree of perfection of the machine

related to its durability, and how well it served the final aim of happiness.³³⁵ Justi pointed out that since there was no consensus on the best type of state machine, it was reasonable to discuss the matter; and he therefore appealed for the freedom to explore different forms of governments and constitutions. He asked how constitutions (*Grundverfassungen*) could be improved if one was not even allowed to discuss them.³³⁶ Justi argued that the increasing knowledge of enlightened (*verleuchtet*) times was a precondition for building an ever-more perfect machine. But he conceded that the growth of this knowledge could be very dangerous for the people, since knowledge of *Regierungskunst* would enhance rulers' capacity to increase their power, and so keep subjects increasingly dependent on themselves. At the same time, subjects were aware that resistance tended to cause civil wars and turmoil. The threat of an emerging despotism was evident.³³⁷ The political theorist thus faced a challenge. Right reason enabled the construction of a perfected state machine. Corrupted reason made it potentially more despotic.

For Justi, 'governmentalising' the people and integrating the organic collectivity of people into parts of the state machine capable of an optimal performance was his principal focus. The state machine as an object of the sciences of the state (*Staatswissenschaften*) was created from the perspective of the *Policy-Wissenschaften* and the functions performed by the people who formed its component parts. This metaphor set limits to political intervention, and served to justify state intervention. According to Justi:

The *Nahrungsstand* is the driving engine of the great machine of the state. Each occupation must assume its proper place therein and contribute as much to the movement of the whole as the well-being of the commonwealth demands. Each type of occupation (*Nahrungsstand*) must constantly serve to support and further the others, and none may be detrimental or burdensome to the others. In order to

³³⁵ Gottfried Achenwall, *Die Staatsklugheit nach ihren ersten Grundsätzen* (Göttingen, 1761), preface §12-§15.

³³⁶ Justi, *Grundriß*, p. 440.

³³⁷ Justi, *Vergleichungen*, pp. 210-211.

maintain this crucial coherence of the *Nahrungsstand*, many laws and regulations are necessary; and these laws are the object of police.³³⁸

The economy was the driving engine of the state, and as we have seen in the previous chapter, promoting economy was the main task of *Policey*. What then is the task of *Staatskunst* in Justi's system of cameral sciences? His answer is to be found in the in the preface of his *Grundfeste*. Justi there defines *Staatskunst* as the art of maintaining good order between the different classes of the state, between those who command and those who obey. In addition, every state is in a certain relationship to other free powers. The task of *Staatskunst* is to promote the inner connection of the state and its relation with the other states so that the state aim, happiness, will be achieved. This requires that a constant eye be kept on the inner strength and relative power of the state; hence the purpose of *Staatskunst* is the inner strength and relative power of the state.³³⁹ From this it is clear that in Justi's thinking *Staatskunst* and *Policey* are closely linked.

The political implications of Justi's theoretical innovations in the fields of *Policey-Wissenschaften* and *Staatskunst* are at times difficult to unpick because Justi's proposals for an ideal state were at times contradictory. One common thread that goes through Justi's writings is his critique of aristocracy as a form of government, and as a class unable to live up to its functions in the machine of state. Justi divided occupations into the producing

³³⁸ Quoted from Wakefield, *The Disordered Police State*, pp. 33-34. Quotation is from Johann von Justi, *Göttingische Policey-Amts Nachrichten* (Göttingen, 1755–1757), p. 89.

³³⁹ Justi, *Grundfeste*, preface. 'Ausser der Uebereinstimmung der Wohlfahrt der einzelnen Familien mit dem gemeinschaftlichen Besten, muß eine jede bürgerliche Gesellschaft eine gute Ordnung und Zusammenhang in allen ihren Theilen haben; nämlich die verschiedenen Claßen des Volkes, die Regierenden und Gehorchenden, müssen in ihren gerechten Verhältniß gegen einander stehen. Ein jeder Staat befindet sich auch allemal in einem gewissen Verhältniß gegen die übrigen freyen Mächte. Sowohl dieses innerliche, als äusserliche Verhältniß muß beständig so eingerichtet werden, daß die Glückseligkeit des Staats, als dessen erster und allgemeiner Endzweck, dadurch erreicht wird. Wenn dieses geschehen soll; so müssen die Regierenden beständig, sowohl auf die innerliche Stärke des Staats, als auf seine relative Macht gegen auswärtige Staaten zurück sehen, und beyde zur Glückseligkeit des Staats zu vergrössern suchen. Dieses innerliche und äusserliche Verhältniß, diese innerliche und relative Macht des Staats sind also der eigentliche Gegenstand der Staatskunst; und man kann also auch vor diese Wissenschaft die Gränzen gar wohl bestimmen.'

(*produzierende*) and trading (*handeltreibende*) classes, and added to them the learned professions and academics (*Gelehrtenstand*). A class that was not part of a fully functional state machine was a burden on the others; an example for Justi was the hereditary aristocracy who refrained from any involvement with commerce. For Justi, if nobility was to exist then it had to be commercially engaged, as we can see from his intervention in French debates about *thèse royale* and *noblesse commerciale*. A class of noblemen who would not participate in trade would be a hindrance to trade, industry and the general happiness of the state. In this sense Justi could not have been further from Montesquieu, who sought the revival of aristocratic political power.³⁴⁰

Most commonly Justi has been seen as a major theorist of enlightened absolutism, most likely a product of his admiration for China. This interpretation draws on Justi's admiration for a paternalistic Chinese government that fits with his critique of hereditary nobility. However, China was fundamentally different to European states since there was no hereditary noble class whose interests might clash with those of the emperor.³⁴¹ By contrast, I argue that Justi's admiration of China is simply a sign of his sense of political reality. China as an ideal exemplified the reformed absolutism that Justi hoped to see in Germany. Furthermore, although Justi refers to China as an unlimited monarchy, his use of the concept of unlimited monarchy was somewhat unconventional. According to Justi, natural law and fundamental laws bound even the most unlimited monarch. What Justi describes as unlimited monarchy corresponds then with the more conventional use of the concept of a limited monarchy (*eingeschränkte Monarchie*). This chapter demonstrates that Justi's ideal form of government was a mixed government (*vermischte Regierung*), comparable to that of eighteenth-century England. Indeed, Montesquieu's interpretation of the mixed constitution of England is quite monarchical, and it was precisely this feature that attracted

³⁴⁰ Ulrich Adam, 'Nobility and Modern Monarchy: J.H.G. Justi and the French Debate on Commercial Nobility at the Beginning of the Seven Years War', *History of European Ideas* 29 (2003), pp. 141-157, p. 154.

³⁴¹ Stefan Gaarsmand Jacobsen, 'Limits to Despotism: Idealizations of Chinese Governance and Legitimizations of Absolutist Europe', *Journal of Early Modern History* 17 (2013), pp. 347-389, p. 351.

Justi. In his view, England's constitution contained all the positive aspects of a commercial monarchy, whilst simultaneously continuing to check and control the monarch.

Before offering a more detailed appraisal of Justi's ideal form of government it is first crucial to return to a central feature of his political thought: the recurrent metaphor of the state as a machine. One of the strongest arguments that has been used to support the interpretation of Justi as an absolutist and authoritarian thinker centres on his belief that the state is best described as a moral body (*moralischer Körper*) or as a moral machine (*moralische Maschine*).³⁴² Describing the state as a machine has been taken as further proof that Justi and his compatriots were in favour of an authoritarian order and rationalist metaphysics that would undermine the role of the individual and passions as the starting point of any political considerations. According to this view, human beings were merely interchangeable parts of a machine that functioned free of emotional influences.³⁴³ I suggest this position is based on a misunderstanding of the role of the individual in the state machine metaphor. Justi's use of the state machine metaphor is more nuanced than has been previously thought: he was an advocate of *iatromechanics*, a form of medicine which conceived of the human as a machine. This explains why Justi uses metaphors of the state machine and the state body interchangeably. It also shows that the director of the mechanical body was placed outside of the machine. If the machine was working perfectly there was no need for him or her to intervene and Justi applied this insight to the role of the governors of the state. As long as there was no need to intervene the state machine should be allowed to run by itself. In fact, Justi's position is anti-authoritarian. He does not equate the state with the body of the sovereign. Nor does Justi refer to any divine origin of the power of the ruler. The state was a civic creation whose institutions were created by men to serve the aim of happiness.³⁴⁴

³⁴² See for example Justi, *Grundriß*, p. 68, pp. 391-392 and Justi, *Vollständige Abhandlung von denen Manufakturen und Fabriken*, 2 vols (Kopenhagen, 1758-1761), vol. 1, p. 30.

³⁴³ Klippel and Fuhrmann, 'Der Staat und die Staatstheorie des aufgeklärten Absolutismus', pp. 235-237.

³⁴⁴ See the following discussion on moral entities that are imposed by men on pages 138-139.

The mistaken idea that the state machine metaphor necessarily connotes an authoritarian order has a long history. Opposition to a state machine that is seen to be inherently cold and emotionless is apparent, for example, in the writings of Johann Gottlieb Fichte (1762–1814) and Johann Gottfried Herder (1744–1803). Herder developed this interpretation – which became highly influential – in his *Ideen zur Philosophie der Geschichte der Menschheit* (1786). According to Herder, political scientists (*Staatslehrer*) claimed that every state had to be a well-organised machine directed by a single authority. With playful irony, Herder wondered whether there could be any greater form of happiness than to serve as an unthinking member of such a machine,³⁴⁵ framing the state machine metaphor as the state encroaching on individuality.

Herder's view of the state has had a great influence on subsequent scholarly perspectives on eighteenth century German and Continental political thought in respect of the machine metaphor. In these accounts the state machine metaphor stands accused of moulding individuals into machines, or at very least, as requiring a machine-like obedience from subjects. Otto Mayr, a historian of technology, has argued that the concept of machine was employed as an argument for hierarchical authoritarian order, in particular in Central Europe. In this context there prevailed a symbiotic relationship between an authoritarian order and the mechanical clock.³⁴⁶ Mayr identifies Justi as one of the main examples of the clock as a metaphor for the authoritarian state.³⁴⁷ He argues that the choice of metaphor was suggestive, indicating the difference between Continental and Anglophone thought and practice. In France and Germany self-regulating machines were rejected, not only as metaphors, but also in practice. For example, French peasants were so accustomed to manually turning their windmills into the wind that attempts to introduce the fan-tail windmill seem to have been entirely unsuccessful. Nor was the fan-tail mill the only self-regulating machine. The most famous of such devices were Cornelius Drebbel's (1572–1633) ther-

³⁴⁵ Johann Gottfried Herder, *Ideen zur Philosophie der Geschichte der Menschheit*, Zweiter Theil (Riga, 1786), p. 245.

³⁴⁶ Otto Mayr, *Authority, Liberty and Automatic Machinery in Early Modern Europe* (Baltimore, 1986), p. 199.

³⁴⁷ Mayr, *Authority*, p. 111.

mostat and James Watt's (1736–1819) centrifugal speed governor for steam engines.³⁴⁸ The self-regulating machine maintained its own balance. Mayr suggests that, whilst in Germany the preference for authoritarian order was expressed with the help of a clock, in Anglophone countries the pool of metaphors relating to state machinery was largely rejected in the name of freedom. The notion of a 'liberal order' was fundamentally guided by the ideal of the self-regulating balance; the rapid diffusion of self-regulating machines characterised by what we would call feedback mechanisms began to gain ground from clockwork metaphors in political and economic thought.³⁴⁹

Stollberg-Rilinger argues that the use of mechanical metaphors, that is to say of clock metaphors, coincides with what historians have come to refer to as enlightened absolutism. The heyday of mechanical metaphors was the second half of the eighteenth century. The appeal of this rhetorical device derived from its capacity to define the limits and possibilities of the absolute principality. Thus the state was understood as a means to an end (*Mittel-Zweck*). The simple and mechanical function of the machine, with the prince as the controller, himself obliged to respect the ultimate aim – *salus publica* – reflected the political theory of enlightened absolutism. Stollberg-Rilinger identifies Justi as the principal representative of this theory, and the figure who did most to consolidate its impact on eighteenth century political thought in Germany.³⁵⁰ Unlike Mayr, who emphasises merely the authoritarian character of the mechanical clock metaphor, Stollberg-Rilinger illustrates the ways in which this metaphor helped to set theoretical limits to the action of the ruler. In so doing, she highlights a crucial distinction between absolutism and enlightened absolutism.

Klippel and Fuhrmann make the most radical connection between the state machine metaphor and authoritarian order, arguing that the image of

³⁴⁸ Mayr, *Authority*, pp. 190–197.

³⁴⁹ Mayr, *Authority*, p. 122 ff.

³⁵⁰ Barbara Stollberg-Rilinger, 'Der absolute deutsche Fürstenstaat als Maschine', in *Il potere delle immagini – Die Macht der Vorstellungen: Die politische Metapher in historischer Perspektive*, eds. Walter Euchner, Francesca Rigotti and Pierangelo Schiera (Bologna, 1993), pp. 266–273; Barbara Stollberg-Rilinger, *Staat als Maschine: Zur politischen Metaphorik des absoluten Fürstenstaats* (Berlin, 1986), p. 105 ff.

a machine was an expression of an omnipotent, omnipresent and benevolent police state. Central concepts in this interpretation include planning, control, discipline, civilisation and rationalisation. The politics of the state came to be understood as a rational process open to planning. Consequently the lives of subjects could be planned, controlled and regulated down to the most minute detail. Individuals were little more than interchangeable cogs in the state clock. The function of the state was not to serve the individual; on the contrary, human beings ought to serve the state. According to Fuhrmann and Klippel, key elements of the political theory of the German Enlightenment were unequivocally opposed to any ideology of freedom. Not unlike Mayr, they see Justi as the most central representative of this authoritarian order.³⁵¹

However, interpreting the state machine metaphor as a concept indicative of authoritarian order proves to be yet another retrospective interpretation. In the context of the mid eighteenth-century ‘machine’ was not a concept that would have automatically connoted cold and emotionless functioning. This was just one of its possible uses; and moreover, not the predominant one. In the language of the time, a machine was understood as a device that made the accomplishment of a task easier. *Zedlers Universal-Lexicon* (1739) defines a machine as an artificial tool that can be used for advantage, so that one can move greater loads in a shorter time and using less power.³⁵² Zedler’s definition can be understood in terms of the way in which the term was adopted by the German language. The German concept of a *Maschine* was taken from French. In the seventeenth century, it referred to a war or siege machine.³⁵³ By Justi’s time a variety of machines had been in use for centuries. Watermills, handmills and windmills, different kinds of pumps, ramps, lathes and firearms were widely diffused from the Middle Age onwards. Although these machines were central for the everyday understanding of mechanical processes, without any doubt the paradigmatic

³⁵¹ Klippel and Fuhrmann, ‘Der Staat’, pp. 235-237.

³⁵² Johann Heinrich Zedler, *Großes Vollständiges Universal-Lexicon aller Wissenschaften und Künste*, 68 vols., (Halle, 1732–1754), vol. 19, p. 1907.

³⁵³ Hans Blumenberg, *Paradigmen zu einer Metaphorologie* (Frankfurt am Main, 1998 [1960]), p. 94.

machine for those using mechanical metaphors was the clock.³⁵⁴ There was widespread excitement about the different kinds of machines and automata constructed to amuse the court and a wider audience. In court and market place the public had the opportunity to admire automata that imitated the motions of animals and human beings. The most famous automata was without doubt Jacques Vaucanson's (1709–1782) mechanical duck. This duck was supposed to be able to quack, eat and even digest. In general, the first half of eighteenth century in particular was dominated by an enthusiasm for all kind of machines. The machine was by no means immediately associated with a loss of freedom or slavery, as later became the case.³⁵⁵

It is equally important to remember that at the time Justi published his treatises the human body was still widely perceived as a mechanical machine. For instance, for many of Justi's contemporaries the definition of organism in *Zedlers Universal-Lexicon* (1740) was still valid:

Organism [Organismus], is nothing else than the arrangement of the parts of an organic body. It is little or not at all different from a mechanism [Mechanismo]. Even less can it be opposed to mechanism, as some say.³⁵⁶

Justi's use of the state body and machine metaphors echoes this intertwined history. According to him nothing is more similar to a machine than the great body of the state.³⁵⁷ This analogy was possible because of Justi's mechanical conception of the human body. He argued that:

The life of our body consists mainly of the movement of the machine. It can easily happen that a coincidence takes place, that disturbs the movement, without injuring anything in the body. Just as a clock becomes jammed, without one single small part of the clock being injured.³⁵⁸

³⁵⁴ Bernd Remmele, 'Maschine', in *Wörterbuch der philosophischen Metaphern*, ed. Ralf Konersmann (Darmstadt, 2007), pp. 229-230.

³⁵⁵ Vanessa Albus, *Weltbild und Metapher: Untersuchungen zur Philosophie im 18. Jahrhundert* (Würzburg, 2001), p. 307.

³⁵⁶ Zedler, *Großes Vollständiges Universal-Lexicon*, vol. 25 (1740), p. 1868.

³⁵⁷ Justi, *Vollständige Abhandlung*, p. 30. 'Nichts ist einer Maschine so ähnlich als der große Körper des Staats.'

³⁵⁸ Justi, *Moralische und philosophische Schriften*, vol. 2, (Berlin, 1760), p. 133.

The quotation above is revealing in two ways. First, it shows that Justi compares the human body to a clock, and it indicates that for him this was the paradigmatic machine. Secondly, it points to Justi as a supporter of iatromechanics, the notion that life consists of movement and that all living beings – human beings included – are machines.³⁵⁹ The focus on life as movement contrasted with other, later accounts, for example Théophile de Bordeu's (1722–1776) view that life consisted instead of sensitivity. From all of these points it may be concluded that the strict dualism between organism and mechanism must be approached with care in the history of political thought.³⁶⁰ An advocate of the body politic metaphor is not always a republican, while the use of the machine metaphor does not imply absolutism. The one and the same author can often, without further qualification, employ both metaphors.

For my own account of Justi's political thought, it is important to note that the use of a state machine metaphor does not necessarily equate men with emotionless machines. Nor is it the case that thinkers who use the state machine metaphor necessarily favour an authoritarian interventionist state. A case in point here is Wilhelm von Humboldt (1767–1835). A household name in any history of liberalism, in *On the Limits of State Action* (1792) Humboldt nonetheless refers to the state as a compound and intricate machine.³⁶¹ At the same time, he warns of the danger of viewing men as mere machines:

As State interference increases, the agents to which it is applied come to resemble each other, as do all the results of their activity. And this is the very design which State have in view. They desire comfort, ease, tranquillity; and these are most readily secured to the extent that there is no clash of individualities. But what man does and must have in view is something quite different – it is variety of activity ...

³⁵⁹ Sergio Moravia, 'From Homme Machine to Homme Sensible: Changing Eighteenth-Century Models of Man's Image', *Journal of the History of Ideas* 39 (1978), pp. 45–60, p. 47.

³⁶⁰ The famous German philosopher and great innovator in the field of *Metaphorologie*, Hans Blumenberg, emphasised this crucial point. See Blumenberg, *Paradigmen*, p. 94.

³⁶¹ Wilhelm von Humboldt, *Ideen zu einem Versuch, die Grenzen der Wirksamkeit des Staats zu bestimmen* (Stuttgart, 2010) [1792], pp. 30–31. It is worth mentioning that Adam Smith is also famous for his use of the machine metaphor for the state, although in fact he happily switches to something more organic in places.

[Those who do not understand this] may justly be suspected of misunderstanding human nature, and of wishing to make men into machines.³⁶²

My aim is not to deny that the machine metaphor could be used to support a military authoritarian political order where one person truly dictated. The author of *Politisches deutsches Glossarium* (1757), who was most likely satirising Frederick II, clearly shows how an authoritarian Prussian order could be characterised with the help of a mechanical metaphor: the entire state (*Staatswesen*) is defined as a simple machine consisting solely of the army. Everything in the state, from ploughman to head of state, belong to the machine, to the army. The mainspring of the whole state machine, and therefore of all its individual parts, is coercion.³⁶³ The organising principle and sole motivational force of the state was therefore coercion. This was however only one of the possible uses of the state machine metaphor.

Klippel and Fuhrmann are right to observe that Justi never tired of emphasising the importance of the political and social order for the happiness of the state and its members. However, the order Justi had in mind was not the same as that of the author of *Politisches deutsches Glossarium*. Justi was highly critical of authoritarian military forms of order. As Horst Dreitzel has argued, in contrast to later developments beginning around 1800, 'lawfulness' in nature and state was not perceived as a limitation, but as a precondition for the freedom of individuals.³⁶⁴ For Justi and his contemporaries the state machine metaphor did not inevitably imply coercion. Only later in the 'science of living organisms', what we might currently call 'biology', did it become commonplace to treat the concepts of organism and

³⁶² Wilhelm von Humboldt, *The Limits to State Action*, ed. J. W. Burrow (Cambridge, 1969), p. 24; David F. Lindenfeld, *The Practical Imagination: The German Sciences of State in the Nineteenth Century* (Chicago, 1997), pp. 48-49.

³⁶³ [Friedrich II., der Große, König von Preußen], *Politisches deutsches Glossarium*, von D. Johan Volkna, *Gemeinen Lehrer der politischen Teutschen Wohlredenheit, in dem Gymn. polit. zu Berlin, ad instructionem privatam verfertiget, und mit Königl Preussischer und Chur-Sächsischer depositarischer Erlaubnis. Doch die Exemplarien nur den Schülern, und insgeheim zuzustellen. Gedruckt in unserem Gymnasio politico, wegen seiner Außerordentlichkeit nachgedruckt* (Utopien, 1759), pp. 137-138.

³⁶⁴ Dreitzel, *Absolutismus*, p. 106.

mechanism as alternatives. Once they were, however, the positive connotations of the machine metaphor became hard to recognise.³⁶⁵

THE PASSIONATE PARTS OF THE MACHINE: BALANCING MAINSPRINGS

What distinguishes Justi from the author of *Politisches Deutsches Glossarium* is that the anonymous author proceeds from the unity of the whole, in his case from the army, to the parts. The unity of the whole was prior to the individual parts, which only existed as a part of the whole. This sequence had been inverted by the most famous, and perhaps the first, theorist to analyse the functions and structure of state in mechanical terms: Thomas Hobbes. Hobbes's interpretation of the state as a machine was mediated through a mechanical understanding of the human body, yet Hobbes deviated from authors who had earlier employed the state-body metaphor. In contrast with Aristotelian body metaphors, Hobbes regarded the parts of the machine as more 'original' than the body itself. In Aristotelian politics the unity of the whole, 'societas civilis' is necessarily prior to the parts. According to Aristotle, human beings were naturally social and found their existence in a society. Bodily metaphors were used to exemplify this hierarchy; first came the body that functioned as a unity. For Hobbes, as also later for Justi, this order was reversed. Men were the matter, the constructors of the machine. As Hobbes put it: 'First, the *Matter* thereof, and the *Artificer*, both of which is *Man*.'³⁶⁶

³⁶⁵ Dietmar Peil, *Untersuchungen zur Staats- und Herrschaftsmetaphorik in literarischen Zeugnissen von der Antike bis zur Gegenwart* (München, 1983), p. 490. In his discussion of mechanism and organism Justi was of course touching upon the grand themes of living matter, especially vitalism. This is not the place to go into these wider themes in any detail, but it seems that seeing the growth of vitalism as a watershed between early and later Enlightenment can be placed in question. Justi would seem to be a case where Reill's sharp distinction between mechanism and vitalism lacks purchase. See Peter Hanns Reill, *Vitalizing Nature in the Enlightenment* (Berkeley, 2005). For general discussion on this matter see Ann Thomson's *Bodies of Thought: Science, Religion, and the Soul in the Early Enlightenment* (Oxford, 2008) and Simone De Angelis' *Von Newton zu Haller: Studien zum Naturbegriff zwischen Empirismus und deduktiver Methode in der Schweizer Frühaufklärung* (Tübingen, 2003).

³⁶⁶ Thomas Hobbes, *Leviathan*, ed. Richard Tuck (Cambridge, 1991) [1651], p. 10; Susanne Lüdemann, 'Körper, Organismus', In *Wörterbuch der philosophischen Meta-*

For Justi the machine metaphor conveyed the internal differentiation of parts, which function harmoniously together. He took as his starting point the heterogeneity of occupations, and sought equilibrium among them.³⁶⁷ Like Hobbes before him and arguing in line with modern natural law, Justi maintained that human beings create their government through artifice. They are also those who are governed. Consequently, the question Justi asked was: how can a perfect construct be made from such poor and fragile material?³⁶⁸ He concluded that in planning the best possible state machine human beings had to be taken ‘as a whole’, with full account taken of all passions and inclinations. The strongest of all human passions was the desire for benefits, or the desire for honour and fame.³⁶⁹ The only solution was to build a machine that could overcome human weakness by making use of the strongest passions.³⁷⁰

It is puzzling that Justi has been interpreted as a theorist who undermines the passionate side of human nature. There has been a tendency to emphasise the authoritarian aspects of Justi’s thought, which seems dismissive of the passions or feelings of human beings as components of a machine. However, Justi wrote that the state consists of passionate creatures, and therefore anyone who wishes to become a specialist of the sciences of state had to be an expert on human nature. He suggested that, not unlike human beings, the state is moved by passions, since the state consists of passionate parts, of human beings:

phern, ed. Ralf Konersmann (Darmstadt, 2007), p. 175.

³⁶⁷ Lindenfeld, *The Practical Imagination*, p. 33.

³⁶⁸ Justi, *Grundriß*, p. 184. ‘Wie kann aus dieser geringen und zerbrechlichen Materie ein höchst vollkommenes Werk zusammengesetzt werden?’.

³⁶⁹ Justi, *Grundriß*, pp. 184–185. ‘Die größte Geschicklichkeit und Weisheit des Werkmeisters wird darauf ankommen, daß er die Begierden und Leidenschaften der Menschen als Mittel brauchet; um das Gebäude des Staats stark und dauerhaftig und die Einwohner glücklich zu machen. [- -] so ist die stärkste unter allen menschlichen Leidenschaften, die Begierde nach dem Vorzuge, oder die Ehr- und Ruhmbegierde. Diese Leidenschaft ist es demnach hauptsächlich, welche man in einem weisen Entwurf einer Staatsverfassung am meisten nutzen muß, um dadurch den Staat stark, dauerhaftig und glücklich zu machen.’

³⁷⁰ Justi, *Grundriß*, p. 392.

The human beings, of whom every state consists, act by passions. That is the moral foundation of all their actions. A moral body cannot have any other cause of movement than the moral cause of movement that all of its individual parts have, of which it is composed. Consequently we have to look for the cause of movement of every single state in the passions of human beings.³⁷¹

Justi's place in the history of the machine metaphor is an intermediate position between *homme machine* to *homme sensible*;³⁷² Emotions challenged the machine metaphor of the human body, because emotions were the dimension of the self that placed in question the possibility of formulating a mechanical conception of the body. The deconstruction of machine metaphors began with the perception of humans as simultaneously passionate and mechanical.³⁷³ Whereas emotions were later perceived to be faults, irregular or inexplicable within the machine, Justi saw the role of the passions and emotions differently. Study and use of the passions was necessary to build a successful state machine that would be able to provide happiness to its members. Justi conceptualised this using the idea of a mainspring (*Triebfeder*). The greatest skilfulness and wisdom of the artificer, he noted, was that he used human passions as a tool to render the machine of state durable and its inhabitants happy. The artificer based his knowledge on *Staatswissenschaften*. The greatest task of the sciences of state, itself very difficult to achieve, was to understand the manner in which human passions intermeshed; to recognise the interconnectedness of everything. This was possible only if one was able to recognise how the cogs and the dynamic of the state machine were connected. For Justi, the problem of the proper mainsprings, of the inner motivations of the citizens and rulers, became a central constitutional question.³⁷⁴

³⁷¹ Justi, *Natur und Wesen*, pp. 225-226.

³⁷² Moravia, 'From Homme Machine to Homme Sensible', p. 47.

³⁷³ Otniel E. Dror, 'The Emotion in the Machine', in *Begriffsgeschichte der Naturwissenschaften: Die historische Dimension naturwissenschaftlicher Konzepte*, eds. Ernst Müller and Falko Schmieder (Berlin, 2008), pp. 275-286. See page 275; Ere Nokkala, 'The Machine of State in Germany: The Case of Johann Heinrich Gottlob von Justi (1717-1771)', *Contributions to the History of Concepts* 5 (2009), pp. 71-93.

³⁷⁴ On mainsprings in Justi's political thought see Justi, *Natur und Wesen*, pp. 225-271; Dreitzel, *Absolutismus*, p. 112, Footnote 31. See also Ere Nokkala, 'Triebfeder und Maschine in der politischen Theorie Johann Heinrich Gottlob von Justis (1717-1771)', in

The mediator between the state machine metaphor and the passions was the concept of mainspring (*Triebfeder*).³⁷⁵ In the eighteenth century the notion of a mainspring was mainly understood as a winding wheel in a clock. According to the Grimm dictionary, *Triebfeder* meant either the metal spring that kept a machine in motion, or alternatively put it into motion. In addition, the term could be used to refer to the driving force within an organism. It entered into common usage in the eighteenth century and rapidly entered figurative use.³⁷⁶ Justi's use of the concept of mainspring was inspired by Montesquieu's concepts 'principe de gouvernement' and 'ressort'. Justi conceived the study of these mainsprings – passions that motivate men to act – as the principal object of the sciences of state. Following Montesquieu, he believed that the intrinsic motivations of individual citizens could be conceived as mainsprings, the true moving forces of the state.³⁷⁷

The concept of 'Trieb/Treib', or drive, has its origin in 'non-mechanical' world, in the verb 'treiben'. According to Grimm's dictionary, 'Treib' replaced the earlier concept 'trift' during the thirteenth century. The original meaning of this word was to drive cattle (*das Treiben von Vieh*). Since the end of the seventeenth century it had also begun to connote an inner compulsion (*innerer Drang*), or urge (*Antrieb*). For the mainspring (*Triebfeder*, *Triebfeder*) metaphor the inner urge, power, or energy of human beings is mechanically formulated and then later transferred back to the body, above all in relation to the passions. Indeed, Justi's use of the term 'Triebfeder' opened up metaphorical language centred on the trope of a mechanical organism. Since the state consisted of individual human beings it was inevitably a collection of individual mainsprings (*Triebfeder*).

As Albert Hirschman has argued in *The Passions and the Interests*, new theories of passions and the idea of balance within a political common-

Wissenschaftsgeschichte als Begriffsgeschichte: Terminologische Umbrüche im Entstehungsprozess der modernen Wissenschaften, eds. Michael Eggers and Matthias Rothe (Bielefeld, 2009), pp. 157-173.

³⁷⁵ Nokkala, 'Triebfeder und Maschine in der politischen Theorie Johann Heinrich Gottlob von Justi', p. 166.

³⁷⁶ Jacob & Wilhelm Grimm, *Deutsches Wörterbuch* (1952), vol. 11, section 1, part 2, pp. 452-454.

³⁷⁷ Dreitzel, *Absolutismus*, p. 112, footnote 31.

wealth were closely linked. The word ‘interest’ came to be used as a generic term for passions that served to counterbalance one another. The idea that passions could create a balance in this way culminated in what Hirschman calls the constitutional engineering performed by the founding fathers of the United States.³⁷⁸ In this context, the construction of a balanced state was seen to be dependent on the appropriate orchestration of mainsprings. These were equated with passions that could be set one against another in order to create a balance. The issue of passions and balance, often argued to have been absent in eighteenth-century German political thought, is in fact very much present in Justi. Seminal for Justi’s conception of the state was his view of human nature as that of a self-interested being, inclined to pursue power. Everyone, even the wise and virtuous, seeks to extend their power. Everyone will go as far as they can in the absence of restraint.³⁷⁹ In Justi’s eyes, such self-interest should not be discouraged, since it is beneficial to the state and economy. However, it has to be balanced; passions required direction. Indeed, Justi did not aim to neutralise or abolish the passions, rather he believed they should be manipulated.

In the comparison of different forms of government Montesquieu undertook to establish their principles of movement he proposed that the principle of monarchy was honour, of aristocracy moderation, of democracy equality and of despotism fear. While Justi accepted Montesquieu’s conclusions regarding the first three, he differed considerably in terms of his conception of despotism. Unlike Montesquieu, Justi was unwilling to consider despotism to be a form of government. He did not accept Montesquieu’s contention that in a despotic state coercion functions as a mainspring, since he thought that coercion and fear were inadequate mainsprings, or no mainsprings at all. Despotic states were characteristically states in which human beings were reduced to puppets animated by coercion or fear, not unlike the puppets on the stage of a village theatre.³⁸⁰ In despotic states people

³⁷⁸ Albert O. Hirschman, *The Passions and the Interest: Political Arguments for Capitalism before its Triumph* (Princeton, 1996 [1977]), p. 28.

³⁷⁹ Justi, *Natur und Wesen*, p. 127.

³⁸⁰ Justi, *Natur und Wesen*, pp. 270-271. ‘Nein! er wird bloß durch einen Leitriemen, durch eine Lenkkette, oder durch einen eisernen Drath regieret; so wie man die hölzernen Puppen auf der Dorf-Schaubühne lenket. Dieser Leitriemen ist der Zwang, oder die

were wooden marionettes devoid of their own will. He argued that only in despotism, and to some extent in aristocracies, were human beings treated like machines without ability or reason.³⁸¹ Every sentient being should govern himself, since to be governed by others requires no reason. The great challenge was to build or invent a system in which the demand for order did not clash with the claim for freedom.

Justi's conception of human beings as passionate parts of the machine of state strongly resembles the views of the famous Göttingen historian and political scientist (*Statistiker*) August Ludwig Schlözer (1735–1809). Schlözer revisited Justi's key points in one of his principal works, his *Statistlehre* (1793). He held that the state was indeed a machine, but infinitely different from all other machines in that it cannot run by itself. The state is driven by human beings who are passionate creatures, and as such decidedly un-machinelike.³⁸² Schlözer emphasised that human beings should never be treated like mindless machines, and that it was wrong to expect from them machine or animal-like obedience. To do so would simply discourage them from becoming diligent and skilful. Given these views of Justi and Schlözer, Herder's later critique, that all users of the machine metaphor treated the parts of the machine mindless elements, misses the point.

Furcht. Gewiß eine unglückliche Triebfeder, wenn sie je davor angesehen werden kann.' Cf. Justi, *Politische und Finanzschriften*, vol. 1, pp. 85–86. 'Wenn man den Untergang einiger Familien vermeiden wollte; so müßte der Regente gleichsam einen Marionettenspieler vorstellen, der alle seine Unterthanen wie Maschinen bewegte, und zugleich die Beschaffenheiten ihres Beutels und ihres Vermögens stündlich von Augen hätte.'

³⁸¹ Justi, *Vergleichungen*, p. 189. 'Die Despotischen Regierungen, und in verschiedenen Betracht auch die Aristocrastien, sehen ihre Unterthanen als bloß thierische Wesen an; [---] Diese Regierungen lassen sich weder einfallen, daß ihre Unterthanen denkende und mit Fähigkeiten zur Vernunft versehene Wesen sind, noch ist es ihren Absichten gemäß, daß ihre Unterthanen sich ihrer Denkens- und Verstandskräfte in Absicht auf die Befehle der Regierung gebrauchen sollen. Sie verlangen nichts als einen Maschinenmäßigen oder thierischen Gehorsam.'

³⁸² August Ludwig von Schlözer, *Allgemeines StatsRecht und StatsVerfassungsLere (Stats-gelartheit nach ihren HauptTheilen* (Frankfurt am Main, 1793), p. 157. See also Stollberg-Rilinger, *Der Staat als Maschine*, p. 193.

THE STATE AS A CIVIC CREATION

Justi was aware that he was using an older metaphorical trope when he deployed the metaphors of state machine and state body, yet he was also seeking to distance himself from earlier users. Justi did not describe the moral body of the state as a natural human body that could be cured by direct medical intervention. In fact, he rejected Montaigne's reference to bloodletting as a way of showing the occasional necessity of unjust actions – such as starting a war in order to maintain social peace within the state. Justi rejected outright the idea that an unjust action could be legitimised in the name of the happiness of the state. Besides, he argued, bloodletting did not injure anyone's rights.³⁸³ Killing people did injure the primary right of self-preservation. Therefore, curing the state body through the bleeding of innocent blood could not be justified, it was a violation of natural law. Montaigne provided another problematic usage of the metaphor, arguing in his *Essais* that states were born, flourish and then wither, just like human beings. Justi noted that Herodotus and Cicero had used this same metaphor; but that if the difference between human and state bodies was not made clear, this was an empty comparison, since the comparison was not based on the general and essential qualities of the compared entities. Justi emphasised that unlike the human body, the body of the state decays, not because of its nature, but because of failures in construction, defects, disorders and coincidences. Unlike the human body, the state body was a moral machine, whose construction, moral institutions and qualities were not subject to wear. These constructions and institutions were civic creations.³⁸⁴

Justi argued that the crucial difference between the state body and the human body was that the human body was primarily a physical entity, whereas the body of the state was built on imposed, moral qualities that could be built to last forever. His account was motivated by a deep faith in progress and in the notion of human beings as artificers who could compete with God. Many earlier thinkers had been more sceptical. François Fénelon (1651–1715) emphasised that as long as human nature remained corrupt

³⁸³ Justi, *Grundriß*, p. 68.

³⁸⁴ Justi, *Grundriß*, pp. 391-392.

and imperfect all forms of government would carry within themselves the seeds of inevitable corruption.³⁸⁵ Justi's disciple Pfeiffer maintained similarly that there was no doubt that moral and physical bodies are also subject to destruction.³⁸⁶ Charles Davenant (1656–1714) and Rousseau were more positive. Davenant believed that humans could at least prolong the ageing and death of the state,³⁸⁷ arguing that

Men were worn out with diseases, aged, crazy, and when besides they have mala stamina vitae, may be patched up for a while, but they cannot hold out for long; for life, though it is shortened by irregularities, is not to be extended by any care beyond such period. But it is not so with the body politic, wisdom and conduct that is to be made long-lived, if not immortal, its distempers are to be cured, nay its very youth is to be renewed, and a mixed government grows young and healthy again, whenever it returns to the principles upon which it was first founded.³⁸⁸

Justi shared Davenant's optimism that the state could be so constructed as to last forever.³⁸⁹

To Justi the state is a moral entity; with all its attributes and modes it is a civic creation, a status imposed by man to serve a certain aim (*Staatszwecklehre*). He emphasised that the state was a reasoning entity (*verständige Wesen*) that was directed by its will.³⁹⁰ Whereas in Pufendorf the aim of the state was the promotion of security, Justi transformed this aim into happiness, following in the footsteps of Thomasius and Claproth. The state took its shape from the purpose for which it had been imposed. The conceptual scheme, of a physical nature upon which moral entities are imposed by human action, is Pufendorfian.³⁹¹ In agreement with Pufendorf, Justi

³⁸⁵ George Armstrong Kelly, 'Mortal Man, Immortal Society? Political Metaphors in Eighteenth-Century France', *Political Theory* 14 (1986), p. 16.

³⁸⁶ Pfeiffer, *Berichtigungen*, p. 213.

³⁸⁷ Armstrong, 'Mortal Man', p. 18.

³⁸⁸ Charles Davenant, *The Political and Commercial Works of that Celebrated Writer Charles D'avenant*, ed. Sir Charles Whitworth, 5 vols. (London, 1771), vol. 2, p. 294.

³⁸⁹ Seminal for this topic is Pasi Ihalainen, 'Towards an Immortal Political Body: The State Machine in Eighteenth-Century English Political Discourse', *Contributions to the History of Concepts*, 5 (2009), pp. 4–47.

³⁹⁰ Justi, *Natur und Wesen*, p. 56.

³⁹¹ J.B. Schneewind, *The Invention of Autonomy: A History of Modern Moral Philosophy* (Cambridge, 1998), pp. 120–121; Hunter, *Rival Enlightenments*, pp. 162–163.

emphasised that for the state not to be fictional it had to be founded on God-given physical foundations. In Justi's view the physical foundations from which the state was constructed consisted of families and the surfaces (*Oberfläche*) that the families inhabited. In other words, commonwealths (*Republik*) consisted of families, and families were their prime foundation. Since every state was formed out of families, all improvement had to take place within the latter. Having physical foundations as a starting point might at first sight appear quite trivial. It had, however, serious implications. Following from these principles, Justi argued that the Jews could not form a state, because they lacked a surface in the world.³⁹² The same requirement would also prevent pirates from forming a state.³⁹³ Such groups could have supreme power over themselves, but their lack of surface means they could never form a state. Just like Caligula's horse as a senator, a pirate state would have a merely fictional existence.

In Justi's political thought the state was created by families; chiefly by the heads of families, as was commonly argued in natural law theories of the state. He believed that housefathers united their forces and wills in order to foster general happiness. The unity of wills and the unification of the powers of citizens were, for Justi, the moral foundations of the state. According to Justi, the powers could be united without the formation of a state. First, families might form a society by unifying their forces. Thus already before the foundation of the state, families who formed a society together were able to form a unit that served a certain purpose. Society as such already had 'a collective identity'. Nonetheless, Justi maintained that the unification of powers was not sufficient to found a state, since it may take place in a society still in the state of nature.³⁹⁴ What seals the formation of the state, and what truly makes the state, is the unification of multiple wills into one. This was necessary in order to end the state of war hindering the pursuit of happiness within a society.³⁹⁵ It was Justi's conviction that a united will could not be directed towards anything other than the happiness of the state and its citizens; otherwise the motive behind the unification of wills would

³⁹² Justi, *Natur und Wesen*, pp. 41-46.

³⁹³ Justi, *Grundriß*, p. 6.

³⁹⁴ Justi, *Natur und Wesen*, p. 55.

³⁹⁵ Justi, *Grundriß*, pp. 4-5.

be betrayed. He thought that both forms of unification occurred through contracts. They could not occur through decrees or decisions, because they could not be binding before the existence of the supreme power, state authority. The state was consequently founded on two contracts. However, Justi added that the unification of wills and powers could have happened tacitly, without anyone really noticing.³⁹⁶

Justi's use of the concept of *Volk* is central to his notion of the process of state formation. He is not quite sure what to call those societies that have united their forces, but have not yet united their wills. Sometimes he states that it is the *Volk* that unites its forces and wills, that in other words, *Volk* is the main subject in the state formation. On other occasions he defines *Volk* as a society of human beings that have unified their wills, suggesting that the society in question becomes a *Volk* only after the formation of the state.³⁹⁷ By the same token the second physical foundation of the state, the surface that the *Volk* inhabits, becomes a country (*Land*).³⁹⁸

The use or administration of these united forces constituted the supreme power of the state. Justi's usage of the concept of the supreme power is surprisingly flexible. He held that concepts such as *Majestät*, *Majestätsrechte*, *oberherrliche Gewalt*, *Landeshoheit* were essentially synonymous.³⁹⁹ He was at pains to emphasise that supreme power was not synonymous with the state. Everything belonged to the state: the land, the people, their mental capacities, skills, lives and even their freedom. However, these were not owned by the supreme power (*oberste Gewalt*), which was only responsible for the administration of the unified powers.⁴⁰⁰ The people (*Volk*) owned the unified powers. According to Justi, every *Volk* owned sovereignty (*besitzt die Majestät, oder die Majestätsrechte*).⁴⁰¹ Nonetheless, Justi's use of concepts can be misleading: the *Volk* had foundational power in the state (*Grundgewalt des Volkes*), while the administration of this power is called the supreme power (*oberste Gewalt*).

³⁹⁶ Justi, *Grundriß*, p. 8; Justi, *Natur und Wesen*, p. 39.

³⁹⁷ Justi, *Grundriß*, pp. 6-7.

³⁹⁸ Justi, *Grundriß*, p. 6.

³⁹⁹ Justi, *Natur und Wesen*, p. 97.

⁴⁰⁰ Justi, *Natur und Wesen*, p. 108

⁴⁰¹ Justi, *Natur und Wesen*, p. 97.

Justi emphasised that there was no doubt that the majesty and all power in the state originates with the people (*alle Gewalt im Staate vom Volke her-rühret*). To prove his point, he referred to the controversy between Danish Lutheran court-chaplain Hector Gottfried Masius (1653–1709) and Thomasius about the source of *summa potestas*.⁴⁰² In his anti-Calvinist book *Interesse principium circa religionem evangelicam* (1687) Masius had formulated a doctrine of the divine origin of sovereignty, a specifically Lutheran theory of sovereignty. Lutheranism could secure public order and at the same time legitimise absolutism. Thomasius reviewed Masius's book in his *Monatgespräche*. He accepted no intermediate authority – such as the Lutheran Church – and emphasised that God was only indirectly the source of *summa potestas*. Sovereignty was vested in the people, who surrendered it to the ruler under contract.⁴⁰³ The result of the controversy was that Thomasius's books were burned in Denmark and the Danish King, Christian V, expressed his unhappiness with Thomasius to the Elector of Saxony. Thomasius was ordered to submit his works to censorship before publication, and was forbidden to write any other tracts against Masius. He was then forced to leave the University of Leipzig and move to Halle.⁴⁰⁴

According to Justi, times had changed, and anyone with any ideas about the essence of commonwealths would welcome Thomasius's argument. In other words, all power in the state originated with the people. In line with this Justi argued that only a tyrant or a foreign conqueror could destroy the power of the people that was the essence of the state. People had foundational power (*Grund-Gewalt*) in the state. It was the people who issued directives regulating the use of supreme power. These were the fundamental laws in which the will of the people and of the united housefathers was manifested. Men made fundamental laws because God did not hand them down

⁴⁰² Justi, *Natur und Wesen*, pp. 98-99.

⁴⁰³ Hochstrasser, *Natural law theories*, pp. 81-83.

⁴⁰⁴ Thomas Ahnert, *Religion and the Origins of the German Enlightenment: Faith and the Reform of Learning in the Thought of Christian Thomasius* (Rochester, NY, 2006), pp. 11-12. Frank Grunert, 'Zur aufgeklärten Kritik am theokratischen Absolutismus: Der Streit zwischen Hector Gottfried Masius und Christian Thomasius über Ursprung und Begründung der *summa potestas*', in *Aufklärung als praktische Philosophie: Werner Schneiders zum 65. Geburtstag*, eds. Frank Grunert and Friedrich Vollhardt (Tübingen, 1998), pp. 51-78.

from heaven. When the people made fundamental laws they decided on the form of government, which related to the manner in which the supreme power was practised and governed. Thus it was fundamental laws or traditional customs which decided the manner of administration of the supreme power.⁴⁰⁵ The definition of supreme power did not itself indicate whether this use was to be in the hands of one or several families; whether the use of supreme power was in the hands of one *Hausvater*, or several of them.⁴⁰⁶

Justi held that the two most important tasks for the supreme power were to legislate and to execute legislation. The former expressed the general will. Executive power was the use of united force respecting the general will.⁴⁰⁷ When powers were divided they were limited (*eingeschränkt*).⁴⁰⁸ If legislative and executive power were in the hands of one person, in the hands of a senate or collegium (*Senat oder Collegium*), or a particular class of the people (*Classe des Volkes*), power was unlimited (*uneingeschränkt*). If the legislative and executive power were in the hands of a one person only it was called a simple monarchy (*einfache Monarchie*), and if power was in the hands of a senate, collegium or a particular group of the people, this form of government was called a simple aristocracy (*einfache Aristocratie*).

Quite in the spirit of Montesquieu, Justi argued that it was dangerous to consign all powers into the hands of one person, since this would present an inevitable threat of despotism. Because the will of every ruler was to extend his power as far as possible it was not advisable for the *Volk* to entrust the administration of supreme power to one set of hands. Justi emphasised that the people (*Volk*) should always have a role in the administration of the supreme power. He pointed out that since the people were thinking beings, and a thinking being can never surrender the care of his happiness blindfold, people should have a role in all states.⁴⁰⁹

Justi's conviction was that every thinking being ought to govern himself, and following the definition of governing oneself, he stated that the people should always have at least a part in legislative power. To elucidate

⁴⁰⁵ Justi, *Natur und Wesen*, p. 137.

⁴⁰⁶ Justi, *Natur und Wesen*, p. 97.

⁴⁰⁷ Justi, *Grundriß*, pp. 8-9.

⁴⁰⁸ Justi, *Natur und Wesen*, p. 117.

⁴⁰⁹ Justi, *Grundriß*, p. 18.

this point he turned to an analogy regarding the unlimited power of a father over his children. Beyond doubt, he stated, the father had unlimited power over his children, but this control was only for the limited period during which the children lacked reason (*unverständlich*) and were immature (*unerwachsen*). Once the children had themselves become reasonable beings (*verständige Wesen*) Justi was clear that they had the right to guide themselves to their own happiness (*so haben sie unstreitig das Recht ihre Glückseligkeit selbst zu leiten*).⁴¹⁰ It is noteworthy that Justi discussed this in his essay *Betrachtungen über die Monarchien und Aristocratien*, which deals with simple monarchies and aristocracies. It was here that he concluded that it was never in the interest of any people to hand the unlimited power to anyone.⁴¹¹ The fact that there were unlimited governments on earth could only be explained by the will to dominion on the part of rulers, and by their desire to become great conquerors.⁴¹² Here Justi made an explicit attack on authoritarian forms of government that refused to concede to the citizen the right to guide himself to happiness. This is an important point for our later discussion of Justi's ideal state.

Justi's definition of unlimited power has a further, hitherto neglected, distinction. According to Justi, natural rights and fundamental laws remained central even in the most unlimited state formation, fundamental laws binding even the most unlimited monarch;⁴¹³ although their power was undivided, it could still be limited by various measures. No ruler had power over fundamental laws. He thought this was obvious: how could one have power over something that had been the foundation and source of his own power; and it was illogical that citizens might be obliged to respect a contract made with the ruler if the ruler would not him or herself be so bound. This runs counter to the idea that, prior to the end of the eighteenth century, in Germany natural law and social contract theory served only to justify absolutism: that the social contract had been formed in order to guarantee order by sacrificing liberties, not to guarantee natural liberties. The argument runs that from 1770's onwards this kind of legitimation of absolutism

⁴¹⁰ Justi, *Politische und Finanz-Schriften*, vol. 2, p. 185.

⁴¹¹ Justi, *Politische und Finanz-Schriften*, vol. 2, p. 182.

⁴¹² Justi, *Politische und Finanz-Schriften*, vol. 2, pp. 189-190.

⁴¹³ Justi, *Natur und Wesen*, p. 99.

underwent a change.⁴¹⁴ However, for Justi fundamental laws continued to constitute the most important conditions of the contract; he belonged to a group of writers who found room for contractual fundamental laws. In so doing, Justi reversed Hobbes's priorities and set the sovereign will of the people above both ruler and constitution.⁴¹⁵ The will of the people was the will that guided the state body. Justi's starting point was that it was necessary to distinguish between the active supreme power (*thätige oberste Gewalt*) and the foundation of this power, *Grundgewalt des gesammten Volkes*. He was of the view that the latter remained passive unless the state or the fundamental laws were in danger.⁴¹⁶

In Justi's view fundamental laws were positive laws, laws of men, open to change by the will of the people. To argue that the ruler was subject to men's laws was an idea radical enough to become a matter of debate in the Holy Roman Empire. One of Justi's opponents, Jakob Friedrich von Bielfeld (1717–1770), argued that rulers were not subject to civil laws.⁴¹⁷ Justi responded by noting that this was not the only mistake Bielfeld made in his book *Institutions Politiques*. Justi claimed that Bielfeld had erroneously equated the will of the state with that of the sovereign, which would be the case only in despotism, for which Bielfeld seemed to be preparing the way. A further claim made by Bielfeld was that the ruler was only the first magistrate; Justi held this to be in contradiction with Bielfeld's previous point, questioning what kind of a magistrate was not bound by law? Even if it was not so, he continued, Bielfeld was still wrong. The first argument leads to tyranny, and the second was the doctrine of the *monarchomachs*. Justi pointed out that the idea that the ruler is the first magistrate is a doctrine that places the people in the position of a judge superior to the ruler, and opens the door to rebellion.⁴¹⁸

⁴¹⁴ On the sea-change in German natural law theory from around 1780 see Diethelm Klipfel, *Politische Freiheit und Freiheitsrechte im deutschen Naturrecht des 18. Jahrhunderts* (Paderborn, 1976); See also Anthony La Vopa, *Fichte*, p. 84.

⁴¹⁵ Martyn P. Thompson, 'The History of Fundamental Law in Political Thought from the French Wars of Religion to the American Revolution', *American Historical Review* 91 (1986), pp. 1103–1128, p. 1112 and pp. 1117–1118.

⁴¹⁶ Justi, *Natur und Wesen*, pp. 99–100.

⁴¹⁷ Justi, *Fortgesetzte Bemühungen*, vol. 3, pp. 413–415.

⁴¹⁸ Justi, *Fortgesetzte Bemühungen*, vol. 4, pp. 571–572. On theories of resistance see Mar-

Instead, Justi defended the right to civil disobedience rather than the right of active resistance. Although he criticised the practices of absolutism, he by no means encouraged his compatriots to any kind of revolutionary activity.⁴¹⁹ To raise arms against a ruler would lead to bloodshed. Under tyrannical rule the oppressed subjects need only to express their will (*nur ihren Willen äußerten*), stating that they did not want to follow unjust laws. Tyrants were able to maintain their rule because failure to rule might encourage a lack of concord among their subjects.⁴²⁰ Justi's ideas about disobedience towards a tyrannical ruler drew substantially on Étienne de La Boétie's (1530–1563) *La Servitude Voluntaire*, written in 1552/1553. Boétie, a poet, classicist and close friend of Montaigne, had sought to find an explanation for why people who were born free remained oppressed by tyranny. Why had people chosen to obey instead of being free?⁴²¹ Directly commenting on *La Servitude Voluntaire*, Justi agreed with la Boétie, that petty, vicious, greedy, tyrannical and corrupted persons surrounding the ruler benefitted from tyranny, and it was in their interest to support it. A lack of virtue and concord among the people made such tyranny possible. The authority of even the most powerful tyrant was based on consent; it was founded upon general popular acceptance.⁴²² Mass withdrawal of consent would be enough to end tyranny. For Justi, the state was a civic creation held together by the will of the people; thus it was the consent of the people that held the state together and supported the power of the sovereign.

Justi emphasised that the foundational power of the people did not allow them to take the ruler to court.⁴²³ Nor did he believe that this was necessary: mass withdrawal of popular consent would be sufficient. Justi stressed that it was a mistake to imagine that the people could give commands to the acting supreme power. The acting supreme power was not the

tin van Gelderen, "'So merely humane': Theories of Resistance in Early Modern Europe", in *Rethinking the Foundations of Modern Political Thought*, eds. Annabel Brett and James Tully (Cambridge, 2006), pp. 149-170.

⁴¹⁹ Justi, *Fortgesetzte Bemühungen*, vol. 3, pp. 413-415.

⁴²⁰ Justi, *Natur und Wesen*, pp. 373-377.

⁴²¹ Nannerl O Keohane, 'The Radical Humanism of Étienne de la Boétie', *Journal of the History of Ideas* 38 (1977), pp. 119-130.

⁴²² Justi, *Natur und Wesen*, pp. 373-377.

⁴²³ Justi, *Natur und Wesen*, p. 102.

servant of the basic power of the people. It was subordinate to laws, not directly to the people. In short, Justi argued that although *monarchomachs* were right in their teaching regarding the power of the people (*Grundgewalt des Volkes*), they drew incorrect conclusions from it.⁴²⁴ However, if a ruler were to break the contract his supreme power could be usurped by means of disobedience. We might here recall that Justi, as an official of the Austrian censorship commission, had had the opportunity to acquaint himself with monarchomach literature, but here unfortunately he does not mention specific books by name.⁴²⁵

THE CHINESE MACHINE

In his *Vergleichungen* Justi referred constantly to China as a perfect example of a state machine that had defied weakness. According to Justi, China had demonstrated its durability simply by existing for thousands of years.⁴²⁶

⁴²⁴ On monarchomachs see Martin van Gelderen, 'Aristotelians, Monarchomachs and Republicans: Sovereignty and Republica Mixta in Dutch and German Political Thought, 1580–1650', in *Republicanism: A Shared European Heritage*, eds. Martin van Gelderen and Quentin Skinner, vol. 1 (Cambridge, 2002), pp. 195–218. See also Skinner, *Foundations*, vol. 2, pp. 302–348.

⁴²⁵ Justi, *Natur und Wesen*, pp. 104–105.

⁴²⁶ Justi, *Vergleichungen*. Justi was constant in his admiration of China, which was by no means unusual among eighteenth-century thinkers. In 1754 Justi published two essays on the Chinese civil service. In 'Die Notwendigkeit einer genauen Belohnung und Bestrafung der Bedienten eines Staates' Justi argued for the establishment of a system of rewards and punishments for state officials; an example of which already existed in China. The other essay, 'Vortreffliche Einrichtung der Sineser in Ansehung der Belohnung vor die Staatsbedienten', is a translation of Claude Lambert's article in *Recueil d'observations curieuses* (1749). Justi read the German edition of Du Halde's laudatory account of China, *Ausführliche Beschreibung des Chinesischen Reichs und der grossen Tartarey* (Rostock, 1747–1750). He also referred to *Allgemeine Historie der Reisen zu Wasser und zu Lande; oder Sammlung aller Reisebeschreibungen, welche bis itzo in verschiedenen Sprachen von allen Völkern herausgegeben worden, und einen vollständigen Begriff von der neuern Erdbeschreibung und Geschichte machen: Worinnen der wirkliche Zustand aller Nationen vorgestellt, und das Merkwürdigste, Nützlichste und Wahrhaftigste in Europa, Asia, Africa und America [---] enthalten ist* (Leipzig, 1747–1774) and François Marie de Marsy's *Neuere Geschichte der Chineser, Japaner, Indianer, Persianer, Türken, und Russen [---] als eine Fortsetzung von Rollins ältern Geschichte* (Berlin, 1755–1779).

The admiration for China that Justi shows in his *Vergleichungen* constitutes his most developed work on the political theory of modern monarchy. In the first chapter Justi wrote that he found it ridiculous that the people took no measures against a possible misuse of monarchical power. Nevertheless, he did not believe that limiting the power of a monarch would lead to improvement. This was because attempts to limit the power of the monarch had always led to bad results, as had been demonstrated in Poland and Sweden. In fact, not even England had benefited from limiting the power of the king, because this had caused restlessness and bloodshed that resulted from monarchical attempts to dispense with limitations.⁴²⁷ Justi's thinking seems contradictory. On the one hand, he argued that unlimited power should never be given to the monarch; on the other, he suggested that limiting the power of the monarch would lead to misery. Justi was perfectly aware of the fact that this might sound contradictory to his readers. However, he believed that there was a 'third way' (*Es giebt noch einen dritten Weg*) open to the people. They could allow the king unlimited power but 'limit it by such circumstances and give it such mainsprings' that kings would become good and wise regents of their own volition.⁴²⁸

In Justi's 'third way' unlimited state power was given to the ruler. However, the ruler was a 'philosopher on the throne' or even 'first farmer of the state'. During this period, one much-touted example of a well-functioning patriotic kingdom was China, with a kindly philosopher father-figure on throne.⁴²⁹ By the time Justi wrote his most extensive piece on the 'third way', *Vergleichungen* (1762), admiration of China had already established

⁴²⁷ Justi, *Vergleichungen*, pp. 5-9.

⁴²⁸ Justi, *Vergleichungen*, pp. 8-9. 'Es giebt noch einen dritten Weg, dessen sich die Völker bedienen können; nämlich, daß sie zwar ihren Königen alle uneingeschränkte Gewalt lassen; aber sie in solche Umstände setzen, und ihnen solche Triebfedern geben, daß sie aus eigener Bewegung alle ihre Kräfte anwenden, um mit Güte und Weisheit zu herrschen und ihre Völker glücklich zu machen. Alsdenn werden alle nachtheiligen Folgen, welche sowohl die uneingeschränkte Gewalt der Könige, als die eingeschränkten Regierungsformen zu begleiten pflegen, glücklich vermieden. Alles kommt demnach darauf an, ob es solche mächtige Triebfedern giebt, welche die Könige vermögen können, daß sie aus eigener Bewegung gütige und weiße Regenten werden.'

⁴²⁹ Justi, *Vergleichungen*, p. 29; Richter, 'Pater patrie sinensis', p. 65. See also Susan Richter, *Pflug und Steuerruder: Zur Verflechtung von Herrschaft und Landwirtschaft in der Aufklärung* (Köln, 2015) and there on Justi especially pages 219-286.

itself in Germany. Many German scholars made comparisons between European and non-European states. In fact, as Friedrich Carl von Moser noted in 1766, whereas in the times of Grotius and Lipsius it had been customary to refer to the Greeks and Romans, in 1766, 'if one wanted to get cited, one had to refer to China, Japan, Africa and America'.⁴³⁰ The study of Chinese government was particularly popular among German political thinkers. Since the beginning of the seventeenth-century the majority of German scholars had gained their knowledge of China mainly from the writings of the Jesuit scholars. Unlike many of their French colleagues – Montesquieu and Rousseau included – Leibniz, Wolff and Justi did not believe that the negative reports written by Western merchants in China were reliable. Whereas the merchants emphasised the corruption and xenophobia of the Chinese, the Jesuits depicted China as an ideal philosophical state, in which ethics were based on reason, and where civil life was well-ordered.⁴³¹

The most well-known German sinophiles were Leibniz and Christian Wolff. Wolff famously delivered his public lecture *Oratio de Sinarum philosophia practica* (Discourse on the Practical Philosophy of the Chinese) after being appointed vice-chancellor (*Protektorat*) at the University of Halle in 1721. In his speech Wolff praised the practical rational philosophy of the Chinese, with the result that he was accused of atheism by leading pietists. Wolff was dismissed from his position as an advocate of religious heterodoxy in 1723. He had argued that Confucius had been able to discover the principles of morality without any reference to religion. This implied that atheists and pagans could be morally virtuous as long as they followed right reason. Wolff's position was in accordance with his intellectualist ethics; from right reason would follow just moral actions. The same intellectualism functioned in Wolff's political philosophy. A philosopher king – using the Wolffian deductive method – would make only rightful

⁴³⁰ Friedrich Carl von Moser, *Reliquen* (Frankfurt am Main, 1766) pp. 333-334; Nicholas Vazsonyi, 'Montesquieu, Friedrich Carl von Moser, and the "National Spirit Debate" in Germany, 1765-1767', *German Studies Review* 22 (1999), pp. 225-246, p. 229.

⁴³¹ Eun-Jeung Lee, 'Anti-Europa': *Die Geschichte der Rezeption des Konfuzianismus und der konfuzianischen Gesellschaft seit der frühen Aufklärung. Eine ideengeschichtliche Untersuchung unter besonderer Berücksichtigung der deutschen Entwicklung* (Münster, 2003), p. 39, p. 68. On Justi's reception of Confucianism see pages 110-131.

decisions. This is exactly the idea that Wolff developed further in his second lecture on Chinese philosophy, which he delivered in Marburg in 1730. This lecture was later translated into English under the title *The real happiness of a people under a philosophical King demonstrated* (1750). In this lecture Wolff stated with a reference to Plato that ‘a Community will be happy, when either Philosophers rule, or they that rule are Philosophers’. For Wolff, the kings of China were men of this ‘philosophical Turn’⁴³², a term indeed used by Wolff himself. Philosophers were able to collect material on the subject of rule and fashion it into a coherent system that functioned systematically as a machine. It must be noted that Wolff’s interpretation of Chinese ethics and philosophy was strongly coloured by his own ethical and political theory.

Chinese government had a quality that aroused admiration more broadly in Germany; the Chinese state had proven its durability, one of the main criteria for the perfection of a state machine. It had existed for many thousands of years. Bielfeld called the durability of the Chinese state a ‘political phenomenon’ (*ein politisches Phänomenom*). This political phenomenon needed to be explained and if possible, emulated. There were several factors that explained why human weaknesses never gained the upper hand in China. In his comments on the ‘Chinese phenomenon’ Bielfeld argued in accordance with Wolff that philosophers, or rather, the philosophical spirit, governed China. Instead of being based on prejudices, Chinese principles were founded on reason and truth. For example, although the ‘philosophical spirit’ respected the prevailing religion, it did not allow this to influence state affairs.⁴³³ The Chinese concept of an enlightened monarch, or philosopher king, was essential for the success of the country.

Justi was no less explicit than Wolff or Bielfeld in his admiration of China. He argued that the durability of the Chinese state was not, as had sometimes been claimed, due to its remote position, but that it was instead the result of China’s appropriately-constructed constitutions and institutions. Justi held that although human weaknesses were always present within the state, the ‘constitutions’ and ‘institutions’ of the latter could be

⁴³² Christian Wolff, *The Real Happiness of a People under a Philosophical King demonstrated* (London, 1750), p. 1, §1.

⁴³³ Jakob Friedrich von Bielfeld, *Lehrbegriff der Staatskunst* (Breslau, 1761), p. 549.

built in such a manner that human weaknesses could not ruin the state. In fact, a state could become a strong machine that could overcome weakness. He made use of an optimistic analogy to the effect that, whereas the human body is bound to die because it is a bodily machine (*körperliche Maschine*), the state machine can be built to last forever.

Central to Justi's position in *Vergleichungen* is the notion of the Chinese monarch as a king who had been educated to become a ruler. In this context Justi regarded wickedness and restlessness on the part of the ruler as a consequence of a poor education. Moreover, he suggested that this was something from which the Chinese emperor did not suffer, because he used his power very moderately. He had been educated to act according to reason. Justi maintained that rulers should not only have the will to govern, but the knowledge, ability and skills to accomplish their duties.⁴³⁴ In an ideal case the successful education of the heir to the throne could result in monarchy, which combined unlimited authority with moderation in its exercise.⁴³⁵ In the preface of *Vergleichungen* Justi stated that his intention was to 'awaken concern for the people and general happiness in the European states'. The European states should, in his view, be reformed following the example of China. At first sight this would seem to make Justi an advocate of enlightened absolutism.

At this point, it is important to recall that Justi understood unlimited power as a government in which legislative and executive powers were in the hands of one person, or a small group. By no means was this an argument for unlimited absolutism. As was typical for Justi and his contemporaries, treating the monarch as unconstrained implied only that he had legislative and executive powers in his hand. Thus Justi was referring to a simple monarchy. However, Justi argued that even the most unlimited monarchy was limited by natural law and fundamental laws. These were not limitations that arose from the separation of powers. A state in which the supreme power was separated was called a limited state, in opposition to an unlimited state.⁴³⁶

⁴³⁴ Justi, *Vergleichungen*, p. 333.

⁴³⁵ Johanna M. Menzel, 'The Sinophilism of J.H.G. Justi', *Journal of the History of Ideas* 17 (1956), pp. 300-310, p. 305.

⁴³⁶ Justi, *Natur und Wesen*, p. 117.

A closer study of Justi's conception of the Chinese monarchy reveals that cultivating the reason of a monarch was not the only measure that supported moderation in the use of supreme power. In fact, Justi was of the opinion that hoping for a ruler who had perfect reason was like waiting for miracles from heaven. He believed that even a ruler's actions were based on passions, as opposed to reason. This line of thought is reflected in his *Natur und Wesen der Staaten* and *Grundriß einer guten Regierung*, and perhaps most poignantly in his chimera-pamphlets concerning the balance of power in Europe. There Justi was explicit that rulers were human beings and as such bound by passions.⁴³⁷ Nonetheless, he thought that the passionate and selfish nature of rulers had been admirably taken into account in China. The Chinese monarchy addressed the passions of the ruler with measures that Justi supported. The imperial bureau of historians made notes based on the behaviour of the monarch, and a board of censors and citizens were also able to criticise the monarch. In addition to this, the monarch was encouraged to act justly by his or her desire for glory, even in posterity.⁴³⁸ After dealing with the passions of a ruler Justi turned to the passions of the subjects. Justi argued that in China, as in all other monarchies, the main moving principle was honour, which gave exceptional vigour to every movement of the state. This was because monarchy was adept at making use of the strongest passion of the subjects, the desire for one's own benefit, honour and fame. This passion was strong enough to be taken into consideration in the plan of a perfect state, when aiming at the strongest, most durable and happy state.⁴³⁹

The advantages of monarchy that Justi emphasised were many. Above all, he believed that monarchy represented the most efficient form of state, and that had proved itself most successful in promoting trade. Justi even believed that Montesquieu's critique of monarchies should be read as a hidden satire: because Montesquieu could not criticise the French monarchy directly, he had instead chosen to criticise the structure of monarchy.⁴⁴⁰ Justi considered the monarchical state to be the simplest, most powerful, most

⁴³⁷ Justi, *Die Chimäre des Gleichgewichts von Europa*, pp. 2-8, p. 91.

⁴³⁸ Justi, *Vergleichungen*, p. 21; Menzel, 'The Sinophilism', pp. 305-306.

⁴³⁹ Justi, *Grundriß*, p. 185.

⁴⁴⁰ Justi, *Grundriß*, p. 425.

durable and least artificial machine. The monarch could further strengthen and streamline the institution of monarchy through his actions: he was well placed to 'give fire to all parts of the machine'.⁴⁴¹ The monarch as the governor of the machine of the body of the state (*der Regierer von der Maschine des Staatskörpers*) guaranteed that the machine was in order, and that all parts of the machine were in right relation (*Verhältnis*) and in harmony (*Übereinstimmung*). The monarch was the force who wound and directed the springs of the machine. Nothing else was needed in a machine, since a machine that was in perfect order would function fully by itself. The first task of a ruler was to create order where it did not yet exist, and to improve it where it appeared deficient. Justi regarded the direct participation of the monarch in economic affairs to be a mistake, since the monarch was only the *Directeur*.⁴⁴² The monarch was not a part of the machine itself. This point can be interpreted as guarded criticism of government by the monarch alone. In Justi's view, participation in minor issues was never in a monarch's interest; the monarch should be neither the finance minister, nor the president of commerce nor the minister for war, nor the chief justice. He should only be the soul of all those departments where matters of state were decided.⁴⁴³

For Justi, monarchy was strong because it was the only form of government that enabled 'inequality' to exist without suppression. This inequality was again an important factor in making the machine efficient. In a monarchy everyone wanted to improve their position, and he visualised his argument by comparing a monarchy to a magnet's attraction of iron filings. Those closest to the monarch were in direct contact with him; those next in the hierarchy were connected to those who had direct contact with the monarch; and ultimately everyone was connected to someone else and was trying to move closer to the monarch. Peasants wanted to become landown-

⁴⁴¹ Justi, *Natur und Wesen*, pp. 161-162. 'Der monarchische Staat ist eine sehr einfache Maschine, die am wenigsten gekünstelt ist. Man weiß aber, daß diese Art von Maschinen so wohl eine große Kraft zeigen können, als die dauerhaftigsten sind, und in der That eine viel größere Kraft und Thätigkeit zu erkennen geben, als ein anderer Staatskörper von gleicher innerlicher Stärke.'

⁴⁴² Justi, *Grundriß*, p. 329.

⁴⁴³ Justi, *Vollständige Abhandlung*, p. 31.

ers, and the *Bürger* aspired to become noblemen. The institution of monarchy was extremely beneficial to the whole state: while everyone believed that they were working for their own interest and benefit, they were at the same time advancing the best interest of the state.⁴⁴⁴ Extending this, the monarch as the *Directour* or the *Regierer* of the machine could further the diligence of his subjects through a system of rewards. The possibility of gaining a higher social position made monarchy efficient and strong. However, the monarchy was not merely an efficient form of state. Given its simplicity, it was also the most durable.⁴⁴⁵

Justi suggested that, in addition to efficiently addressing the role of the monarch, the Chinese state was superior to European states in two other respects. First, China had the most competent civil servants, who guaranteed the frictionless functioning of the administration. Secondly, there was no hereditary nobility in China. The latter fact encouraged Justi to state: 'The most reasonable and wise constitution on our globe, which I unhesitatingly declare the Chinese to be, does not know hereditary nobility'.⁴⁴⁶ Justi believed that hereditary nobility and incompetent office holders were an interrelated problem. In China administrators occupied the place that the hereditary nobility had in Europe; a situation that had excited the admiration of many observers of China, from Le Comte to Christian Wolff and Justi. In China nobility was based on merit.⁴⁴⁷ In Justi's eyes, the provincial estates were not capable of fulfilling their function in the princely state. They were incompetent and unreliable office holders. He dealt with the narrow-mindedness of the provincial estates in several of his works, most sharply in his satire *Das Leben Junker Hansens, eines Landedelmanns*.⁴⁴⁸ The provincial estates were incapable of producing the kind of criticism found in public political discussions or practised by qualified administra-

⁴⁴⁴ Justi, *Natur und Wesen*, p. 249.

⁴⁴⁵ Justi, *Natur und Wesen*, pp. 161-162.

⁴⁴⁶ Justi, *Vergleichungen*, p. 466. 'Die vernünftigste und weiseste Staatsverfassung auf unserer ganzen Kugel, wovor ich die Sinesische ohne Bedenken erkläre, weiß von keinen erblichen Adel.' Menzel, 'The Sinophilism', p. 307. Menzel's translation.

⁴⁴⁷ Justi, *Vergleichungen*, pp. 49-50. Lee, 'Anti-Europa', p. 44, 102, 126.

⁴⁴⁸ Justi, *Scherzhafte und Satyrische Schriften*, vol. 1, pp. 432-450; Gunter Grimm (ed.), *Satiren der Aufklärung* (Stuttgart, 1975), pp. 95-109.

tors. Here once again the machine metaphor served as an argument that the provincial estates were not a proper part of a fully functional state.

Justi argued that the competence of Chinese administrators was based on education and civil service examinations, and he was in favour of establishing similar institutions in Europe.⁴⁴⁹ The cameral sciences, for which Justi came to be the primary spokesman, became important for the education of civil servants, in particular in Prussia, and Justi's textbooks played a role in this process. Justi wanted there to be qualified civil servants at all levels of administration; and in his view the only way to secure the competence of civil servants was through examinations. Allowing for Justi's inherent dislike of the nobility, his critique of the provincial estates is related to this argument about merit and education. He argued that the Chinese civil service relied on education and on censors who guarded the honesty and civic virtue of administrators. While in Europe everything depended on single office-holders, he noted that in China 'cameralists' and the system controlling them ensured that everyone was working for the common good. He called this model *Collegiale Verfassung*. The Chinese emperor's power was limited by immutable laws of the realm, and he never exercised legislative or executive power without the participation of his advisors, a critical pointer for European monarchs.

In Justi's third way model the tasks of the monarch were limited to the *fine tuning* of the state machine.⁴⁵⁰ If the machine was not in need of direction or any improvement the participation of the ruler in any political action was to be regarded as a misuse of power. Justi believed that the state structure should be such that the state would take the role of a provider of a juridical and political framework. As far as possible, economic and political activities should be unregulated.⁴⁵¹ Indeed, for Justi, ideally the machine would also be self-actuating; so that the ultimate task of the monarch was to make himself useless. Justi criticised Montesquieu for assuming China

⁴⁴⁹ Justi, *Vergleichungen*, pp. 463-492. Menzel, 'The Sinophilism', p. 310.

⁴⁵⁰ Keith Tribe, 'Polizei, Staat und die Staatswissenschaften bei J.H.G von Justi', in *Vademecum zu einem Klassiker des Kameralismus: J.H.G. von Justis Grundsätze der Policey-Wissenschaft*, eds. Heinz Rieter, Bertram Schefold, Keith Tribe and Josef Wysocki (Düsseldorf, 1993), p. 133.

⁴⁵¹ Adam, *The Political Economy*, p. 188, p. 237.

to be despotic; for despotism was nothing but an abuse of unlimited monarchy. By this Justi meant that if the monarch began to use his legislative power instead of fundamental laws, by for example changing the appointed succession or religion of the people, his actions were despotic.⁴⁵² Ulrich Adam has argued that Justi's 'third way' represented Justi's model of modern commercial monarchy, suggesting that it combined the positive aspects of an absolute monarchy with the beneficial effects brought by the limitation of monarchical power in a mixed constitution.⁴⁵³ However, in my view Justi supported a mixed constitution or a mixed monarchy, which was represented by England.

THE ENGLISH MACHINE

In *Vergleichungen* (1762) Justi declared that the Chinese constitution was the wisest and most reasonable constitution in existence. This position is apparently in stark contrast to the line that Justi had pursued elsewhere in relation to this point. In *Grundriß* (1759) Justi stated that Great Britain had the most excellent constitution of a state that has ever existed in the world; and in *Natur und Wesen* (1760) Justi had emphasised that the mixed constitution of England was the most excellent constitution ever invented by human beings.⁴⁵⁴ While Justi admired the English constitution, he also believed that it could be improved. The freedom and richness of England – which he considered to be the result of a sublime constitution – could cause problems as well, above all corruption.⁴⁵⁵

Justi gave his clearest exposition of the question of the best art of government in his *Politische und Finanzschriften* (1761–1764), in an essay titled *Betrachtungen über die Monarchien und Aristocratien*.⁴⁵⁶ Here Justi took a clear stand against any form of unlimited power. For Justi, unlimited power was a system in which legislative and executive power were held either by one person (*Person eines Einzigen*), or by a single senate, collegium or group of people. In either system the people had no say in

⁴⁵² Justi, *Neue Wahrheiten* (1758), p. 720.

⁴⁵³ Adam, *The Political Economy*, p. 137.

⁴⁵⁴ Justi, *Grundriß*, p. 175; Justi, *Natur und Wesen*, p. 219.

⁴⁵⁵ Justi, *Grundriß*, pp. 180–183.

⁴⁵⁶ Justi, *Politische und Finanzschriften*, vol. 2, pp. 176–190.

legislative matters. Justi called the first form of unlimited power a simple monarchy, and the second a simple aristocracy. He approved of neither, arguing that the greatest and happiest states have always been those that have given legislative power to the people. As reasonable beings, humans were meant to govern themselves.⁴⁵⁷ In ancient times the Roman and German nations had granted legislative power to the people. Among contemporary states England represented the most powerful and happy nation, and it had indeed given the legislative power to the people. He also observed that at no point in history had people voluntarily relinquished legislative power; to do so was simply not in the interest of any reasonable being. He then pondered the question of why legislative power was so rarely found in the hands of the people in his own time. This led him to formulate a critique of the dynastic foreign policy practiced by European emperors, identifying the will to dominate and conquer, so widespread in the Europe of his lifetime, as the cause of this phenomenon. It was precisely these imperial vices, Justi argued, that had buried the freedom of the people.⁴⁵⁸

Justi's 'third-way programme' advocated reforming the Prussian monarchy into a more limited monarchy.⁴⁵⁹ It was not his actual preferred future vision for Germany and Prussia. The political and social realities of the German territories encouraged Justi to think as much about the reform of absolutism as about the ideal forms of a mixed constitution. The precise form of mixed constitution advocated by Justi as the preferred option for the 'third way' was in fact outlandishly radical if compared with the political reality of the Holy Roman Empire.⁴⁶⁰ According to Rudolf Vierhaus, who had studied the reception of Montesquieu in Germany, no one in the Holy Roman Empire seriously thought about a separation of powers following the English pattern, or what was understood to constitute this.⁴⁶¹ However, Justi did on the whole favour the 'English ideal' over the 'Chinese ideal', as I show in this chapter and also in chapter seven.

⁴⁵⁷ Justi, *Politische und Finanzschriften*, vol. 2, pp. 176-177.

⁴⁵⁸ Justi, *Politische und Finanzschriften*, vol. 2, pp. 189-190.

⁴⁵⁹ Dreitzel, *Absolutismus*, p. 111.

⁴⁶⁰ Obert, *Die naturrechtliche "politische Metaphysik"*, p. 55, p. 247f.

⁴⁶¹ Vierhaus, 'Montesquieu', pp. 23-24.

Germany was central for Montesquieu's theory of a mixed government and separation of powers. He had defended the idea that England's form of government was appropriate to Continental Europe by referring to Tacitus, whom he followed in identifying the roots of British freedom in the German forests. In his *Grundriß* Justi rejected this idea, pointing out that since there was absolutely no trace of freedom left in Germany, it was questionable whether it had ever existed.⁴⁶² Three years later in *Vergleichungen* he argued, conversely, that the roots of freedom were certainly to be found in Germany, while noting that it remained extremely difficult to find any traces of this freedom any more.⁴⁶³ While these rhetorical strategies differed, the point remained the same: According to Justi, there was no freedom in Germany.

Justi developed his ideas on mixed government and separation of powers in a very special political situation, a fact that has to date gone largely unremarked. During the Seven Years' War he was employed as a pro-Prussian and pro-Hanoverian war propagandist. Prior to the military conflict between Sweden and Prussia, which broke out in Pomerania in 1757, Justi had hardly ever mentioned the constitution of Sweden in his writings. In 1758 he launched a frontal attack on the Swedish constitution, which led to prohibition of his books in Sweden.⁴⁶⁴ In an essay published in his journal *Neue Wahrheiten* (1758), Justi argued that because of the lack of balance within the Swedish constitution, the citizens of Sweden were living under the aristocratic tyranny of a dominant faction.⁴⁶⁵

In 1758 Justi applied Montesquieu's ideas on the separation and balance of powers for the first time in a critique of the Swedish constitution. Working as a pro-Prussian propagandist in Altona, Justi applied the sum of all his learning to the work. His critique is not solely inspired by Montesquieu's theoretical views; he also seems to have had a broad knowledge of Swedish circumstances. It is very likely that Justi had contact with members of the

⁴⁶² Justi, *Grundriß*, pp. 175-176.

⁴⁶³ Justi, *Vergleichungen*, pp. 26-27.

⁴⁶⁴ Riksarkivet (The National Archives of Sweden, Stockholm), Kanslikollegii inkomna skrivelser, Ser E IV: 18: Riksarkivet (The National Archives of Sweden, Stockholm), Kanslikollegiums arkiv, A II a: 87. Prot. 6/2.

⁴⁶⁵ Justi, *Neue Wahrheiten* (1758), pp. 503-532. See especially pp. 519-520.

Swedish Court Party members living in exile. According to Heinrich Ludwig von Heß (1719–1784), Eric Wrangel (1721–1760), one of the most influential members of the Court Party, lived in Hamburg, close to Altona, and was Justi's *Client* and source of information.⁴⁶⁶ The Court Party's aim had been to restore royal power, resulting in a failed *coup d'État* in 1756. Justi was also acquainted with Peter Forsskål (1732–1763), who was one of the radicals of the Cap Party that challenged the philosophical, economic and political orthodoxy of the aristocracy's Hat Party. Justi's and Forsskål's evaluation of the situation of Sweden coincided: both of them saw Sweden degenerating into an aristocratic tyranny.

Justi considered Sweden to be an example of a mixed constitution in which the hereditary nobility was able to manipulate matters in such a way that both legislative and executive power depended primarily on the will of the nobility. As a criticism of the Swedish constitution this was not entirely groundless. The nobility was certainly at the centre of Sweden's political life, and it occasionally exerted its influence.⁴⁶⁷ While Swedish historiography has often referred to the era 1719–1772 as the Age of Liberty, a central feature of this period was the concentration of power in the hands of the Hat Party, which consisted largely of members of the nobility. But the nobility was only one of the four estates – nobility, clergy, burgers and peasants – represented in the Diet (*riksdag*), which was independent of the king. The idea that Sweden experienced an age of liberty dated back to the later 1740s. Swedish freedom was articulated in terms of freedom from the arbitrary misuse of royal power, something that Sweden had suffered under the rule of Charles XII. There were also attempts to export this model and to present Sweden as an ideal state. One such attempt appeared in a German translation of the defence of the Swedish constitution, published as *Eigentliche Staatsverfassung des Reichs Schweden unter seiner gesetzmäßigen Freyheit beschrieben und wider Uebelgesinnte gerettet von dem ehrlichen Schweden* (1758).⁴⁶⁸ The title of this book is instructive. The author's intention was to

⁴⁶⁶ Heinrich Ludwig von Heß, *Vermischte Schriften* (Hamburg, 1770), p. 366, p. 400.

⁴⁶⁷ Michael Roberts, *The Age of Liberty: Sweden 1719–1772* (Cambridge, 1986), p. 69; Pasi Ihalainen, *The Agents of the People: Democracy and Popular Sovereignty in British and Swedish Parliamentary and Public Debates, 1734–1800* (Leiden, 2010), pp. 241–243.

⁴⁶⁸ Niklas Oelreich, *En ärlig Swensk* (Stockholm, 1755).

describe the real constitution of the Swedish realm in its lawful freedom and to save it from the evil-minded; he also maintained that Sweden's constitution would produce freedom in a lawful manner. The particularity of the Swedish constitution had attracted considerable praise from foreign commentators such as Mably, Voltaire and Rousseau. Mably stated that it was a masterpiece of modern legislation, while Rousseau called it the most perfect constitution; Voltaire pointed out that nowhere else did such freedom prevail.⁴⁶⁹ Justi, however, was not willing to join this group of admirers. In his opinion, the Swedes had simply replaced one extreme with another. While he admitted that the Swedes had managed to limit the power of the king and prevent his tyranny, he noted that they had made the most terrible mistake by failing to take precautions against the tyranny of parties. The king had been made into a 'mere machine'. Meanwhile the government (Council of the Realm), a senate (*Senat*) consisting of 16 members from the nobility, was leading Sweden into unnecessary wars.⁴⁷⁰ Justi was clearly referring to Sweden's involvement in the Seven Years' War, and above all to Sweden's war with Prussia.

Justi argued repeatedly that in a mixed regime it was crucial to keep aristocratic power within limits. He argued that, were aristocrats to gain more power than was fitting, the freedom of citizens and the welfare of the state would vanish. With this in mind, Justi invited his readers to compare the constitutions of England and of Sweden. Both were mixed forms of government (*Regierungsformen*) consisting of democratic, monarchical and aristocratic parts. Whereas the English form of government was the most perfect under the sun, the Swedish was the perhaps the worst of all. In Sweden the hereditary nobility had gained a status that had enabled it to tyrannise the whole nation.⁴⁷¹ In essence, Justi interpreted Sweden as an

⁴⁶⁹ Eric Cyril Bellqvist, 'Foreign Governments and Politics: The Five Hundredth Anniversary of Swedish Riksdag', *American Political Science Review* 29 (1935), p. 861; Roberts, *The Age of Liberty*, p. 59.

⁴⁷⁰ Justi, *Natur und Wesen*, pp. 518-520; Justi, *Vergleichungen*, pp. 7-8. Justi's books were forbidden in Sweden after the last censor Niklas von Oelreich wrote a memorial to *kanslikollegiet*. RA, Kanslikollegii inkomna skrivelser, Ser E IV: 18.

⁴⁷¹ Justi, *Natur und Wesen*, p. 219. 'Allein, wenn die drey Gewalten im Staate nicht in einem gerechten Gleichgewichte mit einander stehen; so kann auch eine solche vermischte, aus allen drey Regierungsformen zusammengesetzte Regierung sehr schlecht seyn.

aristocratic republic.⁴⁷² He noted that in Sweden every faction that had a majority in the Diet (*riksdag*) considered itself entitled to tyrannise people and to sell the real interest and well-being of the nation to foreign powers (*auswärtige Mächte*). In Sweden the nobility had ruined all the good that the combination of democracy and monarchy had brought about: The king of Sweden had no power to act effectively, the freedom of the citizens was tyrannised in the name of the factions in the *riksdag*, and the Swedish constitution contained not a word about balance. Justi foresaw ‘a happy revolution’ in Sweden because the nobility, which was overrepresented in the *riksdag* and was in a position to develop the constitution, refused to make any reasonable reforms.⁴⁷³ After Gustav III’s revolution (1772) Justi’s views were reassessed and found praise in Sweden; they fitted with the Gustavian interpretation of the Age of Liberty as a period of aristocratic despotism that lacked true freedom.⁴⁷⁴ With such praise for England and disdain for its enemy, Sweden, it might be presumed that that Justi was simply writing propaganda for England, the ally of Prussia.

Schweden ist gleichfalls eine aus der Monarchie, Aristocratie und Democratie zusammengesetzte Regierung. Es hat einen König, es hat einen adelichen Reichsrath und einen adelichen Stand auf dem Reichstage, es hat auf dem Reichstage noch drey andere Stände des Volkes an Geistlichen, Bürgern und Bauern. Allein, der gänzliche Mangel des Gleichgewichtes unter denen verschiedenen Gewalten verursacht, daß, wie ich schon verschiedentlich gezeigt habe, Schweden eine sehr schlechte Regierungsart hat.’; Justi, *Grundriß*, pp. 151-152. ‘Will man aber den Unterschied sehen, wie viel in der gegenwärtigen Regierungsform darauf ankommt, dem Adel seine Rechte Stelle zu geben; so darf man nur England und Schweden gegen einander halten. Beyde sind Regierungsformen, die zugleich monarchisch, aristocratisch und demokratisch sind. England ist die vortrefflichste Regierungsform unter der Sonnen, weil man dem Adel nicht mehr Gewalt gegeben hat, als ihm obgezeigter Maaßen gebühret. Schweden hingegen ist vielleicht die allerschlechteste, weil der adeliche Reichsrath unter dem Namen des Königes die königliche oder vollziehende Gewalt allein ausübet, und die gesetzgebende Gewalt auf dem Reichstage zu seinem Willen hat.’

⁴⁷² For a historical study on Sweden as an aristocratic republic see Charlotta Wolff, *Noble Conceptions of Politics in Eighteenth-Century Sweden (ca 1740–1790)* (Helsinki, 2008).

⁴⁷³ Justi, *Grundriß*, pp. 395-399; Justi, *Natur und Wesen*, p. 197, p. 219.

⁴⁷⁴ Henrika Tandefelt, *Gustaf III inför sina undersåtar: Konsten att härska och politikens kulturhistoria* (Helsinki, 2007), p. 136.

Justi's account of the balance and separation of powers – like his political thought more generally – took egoistic human nature as its starting point. Justi emphasised that the different branches of the supreme power – not unlike the human beings that made up its numbers – were tempted to pursue more power.⁴⁷⁵ Following Montesquieu, Justi's conviction was that only a constitution that relied on the balance of power could expel fear of despotism.⁴⁷⁶ This was because every human being would go as far as any limits permitted; and so representatives of the different branches were inclined to seek more and more power. Therefore, Justi maintained, it was not enough that the different branches of power be in balance; they also had to be dependent on each other, so that no one of them could proceed alone. The success of a mixed regime rested on the right of executive and legislative powers to mutually prevent each other from doing anything that could endanger the constitution or the well-being of the state. Since within this system neither was allowed to act alone, it was argued that they would mutually recognise their need for cooperation for the good of the state. According to Justi, it was precisely this interdependence that tightened the mainspring of the state machine. Metaphorically, this translated into the balance within the state machine, developing into a mainspring that wound up the clockwork of the state (*Uhrwerk des Staats*).⁴⁷⁷ The balance itself engendered a mainspring that kept the machine in motion. Without a balance any separation of powers was dangerous; however, if the balance were so organised that every part had the right to prevent another when it failed to respect the constitution and the welfare of the state, the springs could be tensioned and directed to benefit the entire machine.⁴⁷⁸ This, Justi argued,

⁴⁷⁵ Justi, *Natur und Wesen*, p. 130.

⁴⁷⁶ Justi, *Politische und Finanzschriften*, vol. 2, p. 13.

⁴⁷⁷ Justi, *Politische und Finanzschriften*, vol. 2, p. 16. 'Dieses Gleichgewicht, dieses Verhältniß, sind gleichsam die Triebfedern, wodurch das Uhrwerk des Staats gespannt wird.'

⁴⁷⁸ Justi, *Natur und Wesen*, p. 131. 'Alle diese drey Beschaffenheiten aber kommen hauptsächlich darauf an, daß die zwey Hauptzweige der obersten Gewalt, die gesetzgebende und vollziehende Macht in ein gerechtes Gleichgewicht mit einander gesetzt werden, dergestalt, daß eine immer das Recht hat, die andere zu verhindern, wenn sie die Wohlfahrt und die Grundverfaßungen des Staats außer Augen setzen will. Da auf diese Art keine ohne die andere etwas Wichtiges thun kann; so werden die Triebfedern ges-

was what made possible the achievement of happiness in a complex state machine; the machine, constructed in the way, would move itself. As argued earlier in this chapter, for Justi the individual powers within a state were nothing but a reciprocal compound of passions. The balance within a state could therefore be interpreted as a form of settlement between different passions. Passions directed towards each other led the state machine in a desirable direction; the elements of this balance ‘automatically’ served general happiness. The body metaphor reached its ultimate point, and Justi arrived at the notion of a self-regulating machine that might be thought of as an ‘organism’, able to move by itself.

To make sense of Justi’s conceptions of the mechanical and the organic it is necessary to review the use of ‘mechanical’ in political thought, which will provide insight into the applicability of Montesquieu’s theory of the separation of powers. It has been suggested that, in eighteenth-century Germany, Montesquieu’s ideal constitution was seen as an overly complicated machine and that, as a result, it was never adopted by German writers who otherwise openly admired Montesquieu. The majority of German theorists never adopted Montesquieu’s view that forces and counter-forces shaped the political sphere.⁴⁷⁹ Joseph Sonnenfels’s view of Montesquieu is taken as representative in this sense. Sonnenfels questioned the perfection of England’s constitution by arguing that a machine as complex as England’s was always in danger of becoming disordered. He suggested that continuous movement caused fluctuation instead of balance, as Montesquieu had argued. The role of parties was especially dangerous in this respect.⁴⁸⁰ Sonnenfels is not however truly representative of contemporary views; in fact, among the cameralists of his generation, he was exceptional in his uncompromising support of absolutism.⁴⁸¹

pannet, und da keine zu Erweiterung ihrer Macht etwas vornehmen kann; so sehen sich beyde genöthiget, zum Besten des Staats zu arbeiten. Die Grundverfassung von England hat alle diese dreyerley Beschaffenheiten an sich; und sie ist gewiß das vortrefflichste Muster, von einer weislich eingeschränkten obersten Gewalt, das je die menschliche Klugheit erfinden kann.’

⁴⁷⁹ Stollberg-Rilinger, *Der Staat als Maschine*, p. 165.

⁴⁸⁰ Joseph von Sonnenfels, *Über die Liebe des Vaterlandes* (Wien, 1771), pp. 113-115.; Stollberg-Rilinger, *Der Staat als Maschine*, p. 164.

⁴⁸¹ Horst Dreitzel, ‘Universal-Kameral-Wissenschaft als politische Theorie’, p. 163. ‘Harte

Justi believed that England's mixed regime was most successful in terms of its capacity to separate and balance the constitutive powers of a given state. In England the legislative power belonged to the people and to 'democracy'. In his most radical view of the people's representative power in an ideal mixed regime presented in *Grundriß*, Justi proposed that a council of elected representatives should take over the work of legislation.⁴⁸² Occasionally Justi expressed doubts about the people's ability to restrain their passions and act reasonably. The majority of people acted upon passions, as opposed to knowledge or wisdom.⁴⁸³ On other occasions Justi emphasised that most people did have the capacity to assess whether a law benefited or harmed general welfare (*allgemeine Wohlfahrt*).⁴⁸⁴ He even stated that citizens (*Bürger*) were more capable of legislating than the wisest government would ever be, since citizens alone have the most perfect knowledge of their own circumstances, needs, cares and powers. In line with this, Justi argued that every housefather (*Hausvater*) in the nation of the Iroquois was as capable of voting as the wisest Member of Parliament in England.⁴⁸⁵ Justi's position was that as long as the right to vote was withheld from the poorest and most mindless of citizens – from the simplest mob – legislation could be handed over to the people.⁴⁸⁶ From this he concluded that if the people had the capacity to vote, they should be allowed to do so.⁴⁸⁷ Justi suggested that the minimum level of wealth required for the right to vote should be relatively low, since no knowledgeable and wise citizen should be excluded.⁴⁸⁸ But we should also here note, if Justi's political thought be-

Verteidiger des Absolutismus gab es unter den Kameralisten nur im spätfriedrizianischen Halle und Wien Josephs II., wo sich Sonnenfels mit seiner Umwandlung der 'Polizeiwissenschaft' zu einer wissenschaft der Überwachung und Kontrolle der Staatsbürger zur Erhaltung der "Staatssicherheit" in der Tat dem vormärzlichen Negativbegriff von "Polizeistaat" näherte.'

⁴⁸² Justi, *Grundriß*, pp. 159-160. Adam, *The Political Economy*, p. 135.

⁴⁸³ Justi, *Grundriß*, p. 141; Justi, *Natur und Wesen*, p. 204, 208.

⁴⁸⁴ Justi, *Natur und Wesen*, p. 192.

⁴⁸⁵ Justi, *Politische und Finanzschriften*, pp. 182-183.

⁴⁸⁶ Justi, *Grundriß*, p. 141, p. 196; Justi, *Natur und Wesen*, p. 192, pp. 202-205.

⁴⁸⁷ Justi, *Natur und Wesen*, p. 199.

⁴⁸⁸ Justi, *Natur und Wesen*, p. 185.

gin to appear overly modern, that Justi's notion of a citizen was restricted to the male heads of households, 'house fathers'.

Justi argued that the second principal branch of power, the executive, was best placed in the hands of a monarch, while the aristocracy could take care of the judiciary. Judicial power, however, would not be independent power (*souveraine Gewalt*); it would only be a part of executive power.⁴⁸⁹ Justi maintained that legislative power was naturally the most important part of supreme power, and had a greater weight than executive power. Because of this, the executive had to be given the right to prevent the legislature seeking, for instance, to change the constitution, or failing to act for the common good. Justi was in favour of the monarch's right of veto. In addition, to maintain the balance the holder of executive power had to be able to convene parliament and to dissolve it. If the legislature had this power itself it might never be dissolved.⁴⁹⁰ Justi's position on the monarch's right of veto means that he cannot be counted among those classical republican thinkers for whom the existence of a veto implied a loss of freedom.

Justi developed several further arguments to support the idea that executive power should be in the hands of the ruler. It was only in such a situation that the rapidity of decision-making characteristic of a monarchy could prevail.⁴⁹¹ Despite the division of the supreme powers, Justi maintained that the state must be ready at any time to ensure its own security and well-being. Justi used Poland as a counter-example of a mixed constitution that had lost its ability to provide security and well-being for the people. The Polish constitution was clearly such that nothing could be undertaken quickly.⁴⁹² Since the Polish nobility insisted on employing *Liberum veto* and defending its own privileges Justi prophesied a gloomy future for the country. Indeed, he was convinced that Poland's downfall was close, predicting it would soon become the victim of a strong neighbouring *Reich*.⁴⁹³

Justi's interpretation of the English constitution drew heavily on Montesquieu, whose interpretation of English political circumstances empha-

⁴⁸⁹ Justi, *Grundriß*, p. 156.

⁴⁹⁰ Justi, *Grundriß*, p. 164.

⁴⁹¹ Justi, *Grundriß*, p. 161, pp. 163-165.

⁴⁹² Justi, *Fortgesetzte Bemühungen*, vol. 3, pp. 411-412.

⁴⁹³ Justi, *Grundriß*, pp. 143-144; Justi, *Natur und Wesen*, p. 174.

sised the role of the monarchy; this was Justi thought, its key quality. In a mixed government with a strong monarch the concept of honour could still be vigorously maintained. Yet closer study of Justi reveals that he also saw problems with England's form of government, and with the state of England more generally. His writings were not merely tendentious propaganda. It seems that while Justi sometimes presented England's form of government as his normative ideal, on other occasions he tried to describe it simply as it was. In another passage he emphasised that, although power was divided justly in Great Britain, and despite the fact that it was the best form of government that had ever existed on earth, it still had deficiencies. Justi therefore stated that one should not make the error of believing that it was the best possible form of government that could ever be invented.⁴⁹⁴

Sometimes Justi noted that the problem with England was that the power of the monarch was too limited. However, in his extensive comments on Bielfeld's *Institutions Politiques*, Justi argued that the monarch of England had maintained his ability to act because his executive power was so broad. Justi opposed Bielfeld's conception according to which the king was obliged to account for his actions to parliament. Instead, he argued that in affairs concerning war and peace, and in foreign policy, the king of England was as free as an unlimited monarch.⁴⁹⁵ Another mistake that Bielfeld made, in Justi's opinion, was to believe that parliamentary bills were laws. This, Justi countered, was not true, because parliamentary bills did not become laws unless the king approved them. The parliament did not have sole legislative power, as Bielfeld claimed: both the king and the parliament together had legislative power.⁴⁹⁶ Justi's two contradictory statements about how much power the king in England possessed, whether he was too limited or not, are rather like his statements on Tacitus's idea of Germany as the home of freedom. Here again, Justi used two different rhetorical strate-

⁴⁹⁴ Justi, *Grundriß*, pp. 180-181.

⁴⁹⁵ Justi, *Fortgesetzte Bemühungen*, vol. 3 (1760), pp. 411-412. Justi discusses the German translation of Bielfeld's *Institutions Politiques* at length in two occasions in his journal *Fortgesetzte Bemühungen*. See Justi, *Fortgesetzte Bemühungen*, vol. 3 (1760), pp. 403-418 and Justi, *Fortgesetzte Bemühungen*, vol. 4 (1761), pp. 544-579.

⁴⁹⁶ Justi, *Fortgesetzte Bemühungen*, vol. 4 (1761), p. 569.

gies. However, the point was clear; the power of the ruler should not be too limited, particularly in field of foreign policy.

Justi argued that despite the problems in defining the role of the monarch, England had been extremely successful. This success had also brought vices with it. The civil liberty that was unique to England, together with the corrupted passions caused by increasing wealth, posed a challenge for the English government. Lust and luxuriousness were results of wealth, rendering virtue rare. Justi stated that robberies on the streets of England were becoming more and more common.⁴⁹⁷ These critical comments on the English constitution show that Montesquieu was not Justi's only source of information. His references to the decaying manners and principles of England were most likely drawn from his reading of the French translation of John Brown's (1715–1766) *Estimate of the Manner and Principles of the Times* (1757). The French edition of the book had been published in 1758, entitled *Les Moeurs Angloises*. According to Justi's reading of Brown, England was suffering from the growth of reason and its companion, the burgeoning passions. This had resulted in vanity, luxury, selfishness and a lack of national spirit of deference.⁴⁹⁸ Henry Fielding's (1707–1754) *An Inquiry into the Causes of the Late Increase of Robbers* (1751) may have been Justi's source of information on the growth of robberies. Justi was especially fearful that Englishmen were about to lose their nerve; this prospect must indeed have been worrying for Justi who, as a Prussian, was allied to the English in a common war.

This lack of English virtue was also to be perceived among the members of parliament, who were often corrupt.⁴⁹⁹ For Justi this was perhaps the weakest point of the English constitution; it was difficult to ensure that members of the English parliament were held responsible for their decisions. A direct imperative mandate was out of the question, because this would slow the whole system. Justi therefore suggested the creation of a collegium of wise men (*Collegium von Sittenrichter*) who would oversee

⁴⁹⁷ Justi, *Grundriß*, p. 109.

⁴⁹⁸ On the connection between Brown and Justi see Hans-Christof Kraus, *Englische Verfassung und politisches Denken im Ancien Régime 1689 bis 1789* (München, 2006), pp. 448–450.

⁴⁹⁹ Justi, *Grundriß*, pp. 180–183.

the morals of representatives and governors. The wise men were to be chosen by the people from the noble members of parliament, charged with ensuring that the state's constitution was being respected, defending the law against injustice, and maintaining virtue and good manners. They should also seek to promote the arts and sciences.⁵⁰⁰

To conclude, the state-machine metaphor served Justi as an argument emphasising the benefits of a strong monarch. A monarch who was not too limited was able to take rapid action, rendering the machine of state efficient. He did not take account of the fact that this rapidity could have negative consequences; as Heinrich Ludwig Heß had argued, one of the benefits of a mixed government was that decisions were not taken too hastily, and were therefore thought through more carefully.⁵⁰¹ This republican trope was contrasted with the immediacy and hence unreliability of the individual decision-maker. Against this view, Justi argued that if a mixed government were to be successful it needed to emulate the efficiency of a monarchical government by having a strong king assume executive power. The emphasis had to be on the monarch. We can say then that he was in favour of a mixed government with a strong royalist element. As such, Justi's views resemble the views of the Swedish royalists who aimed at restoring royal power in Sweden. Their aim was not to abolish the Diet; instead, they claimed to be seeking to balance the political system. It is also worth noting that towards the very end of his life Justi's comments on simple monarchy became increasingly negative. In his last work dealing with political issues, *Physicalische und politische Betrachtungen* (1769), Justi was extremely critical of monarchy, suggesting that monarchies should have as little contact as possible with other nations, and arguing that for subjects of monarchy to remain happy they must remain ignorant of all other forms of government. It was only in such isolation that they could remain in a state of happy ignorance regarding their own slavery.⁵⁰² This trope, associating monarchy with

⁵⁰⁰ Justi, *Grundriß*, p. 193.

⁵⁰¹ Heinrich Ludwig von Heß, *Staatsschriften* (Frankfurt, 1772), p. 121.

⁵⁰² Justi, *Physicalische und Politische Betrachtungen*, p. 144. 'Der Unterthan in der Monarchie schätzet sich nun so lange glücklich, als er keine andern Regierungsformen, und mithin seine Slavery nicht kennet.'

slavery, was classically republican, and it does not occur in such a direct form in Justi's other major political writings.

A strong monarchical, royalist, element is not the only feature shared by Justi's two proposals – the 'third way' model and mixed government according to the English model. In both cases Justi was sharply critical of hereditary aristocracy and its position in the state. The state machine metaphor served Justi as an instrument of transformation, and allowed him to question the legitimacy of the role played by provincial estates in the state. He considered they were not fulfilling their function as advisors of the monarch. Justi's critical attitude towards hereditary aristocracy distinguished him from Montesquieu, since it was his view that it was not the aristocracy that checked the power of the king; rather, the power of the aristocracy itself required even more careful surveillance. As a sharp critic of the form of government a simple aristocracy presented Justi sometimes hinted that if the aristocracy gained power, it became to some extent despotic in its tendency to treat people as mindless machines.

Justi's ideal state was not an authoritarian machine that disciplined every aspect of its citizen's lives. Rather, it was the state most fitted for the provision of security, wealth and freedom for its members. The most successful states in this sense were China and England. However, Justi was perfectly aware that it was not possible to simply transplant his ideal states as represented by England and China to other political contexts. As Michael Jackson has emphasised, for cameralists there was no universal constitution, each constitution had to be suited to the local conditions. In other words, the science of state of cameralists was sensitive to time and place.⁵⁰³ They were interested in exploring natural law and human nature, and deducing the principles of politics from these for their own theoretical purposes. However, they were not necessarily of the opinion that these principles were applicable to any real-life contexts of which they were aware. Civic institutions – the state included – were culturally diverse.⁵⁰⁴ For such thinkers, the choices relating to the art of government suitable for a particular place de-

⁵⁰³ Michael Jackson, 'The Eighteenth Century Antecedents of Bureaucracy, the Cameralists', *Management Decision* 43 (2005), pp. 1293-1303, see page 1298.

⁵⁰⁴ Osterhammel, *Die Entzauberung Asiens*, p. 74.

pended on the manners and condition of the people in question.⁵⁰⁵ In chapter seven I will show in detail why Justi did not believe that the Chinese model could function in Europe.

⁵⁰⁵ Justi, *Natur und Wesen*, pp. 532-534.

CHAPTER 6: COUNTERCONCEPTS: UNIVERSAL MONARCHY AND BALANCE OF POWER

UNIVERSAL MONARCHY AS A RHETORICAL DEVICE⁵⁰⁶ IN EIGHTEENTH CENTURY POLITICAL THOUGHT

The good order of the state and a well-functioning economy were according to Justi a necessity for the survival of the state in the growing commercial rivalry between the states. Consequently, Justi's ideas on the law of nations, above all on the so-called arbitrary law of nations (*willkürliches Völkerrecht*) were oriented towards commerce and sea trade. Justi's international political thought can be interpreted within the contexts of the War of the Austrian Succession (1740–48) and of the Seven Years' War (1756–1763). His writings from the end of the 1740's were written in the interest of Austria to promote the reform plans of the empire. In the late 1750s and in the beginning of the 1760s Justi was concerned about the flourishing and survival of Prussia and England. According to Justi, states were cultivating their manufactures, agriculture and commerce through industry and good government. In order to preserve their freedom, the inner strength of the state was a necessity. Therefore Justi's international political thought is an extension of his views on the driving forces of the state. *Policey* and economy were at the heart of his international political thought. His approach to

⁵⁰⁶ Peter Schröder has also analysed universal monarchy as a rhetorical device. According to Schröder, 'the concept of universal monarchy can be seen primarily as a rhetorical device in those theories which advocated a balance of power as the only reliable alternative to what they saw as an undesirable hegemony'. See Peter Schröder, *Trust in Early Modern International Political Thought, 1598–1713* (Cambridge, 2017), p. 6. This was exactly the convention that Justi challenged with his pamphlet. For Justi universal monarchy was a rhetorical device for convincing his audiences to support his political theory of an economic state, which favoured larger commercial unities. As we will see later he was far from being an advocate of balance of power doctrine.

the law of nations was fundamentally commercial, as becomes clear in his treatises on the balance of power and on the balance of trade.

Let us begin with the treatment of one of Justi's earliest pamphlets on the international order. As mentioned earlier, in 1747 Justi wrote an essay in the defence of universal monarchy. Justi's position is rather peculiar in the eighteenth century context and indeed, his stance on the topic of universal monarchy genuinely renders him something of an anomaly.⁵⁰⁷ Since the beginning of the eighteenth century, particularly among Protestant writers, the concept of universal monarchy was imbued with negative connotations. It was frequently associated with a Catholic pursuit of universal monarchy, or with an attempt on the part of the Pope to widen his sphere of influence. European Protestants interpreted universal monarchy in terms of tyranny. As Martin van Gelderen has argued, the concepts of universal monarchy, tyranny, popery and even Antichrist were inseparably intertwined.⁵⁰⁸ Universal monarchy was a negative concept associated with nations which were ruled by Catholic princes. It was only in the 1740s that this constellation had to be rethought following the rise of Prussia.⁵⁰⁹ Despite the negative connotations associated with universal monarchy, it was universal monarchy, more than any other political constellation, that came to be used in conceptualisation of international relations during the early modern period. Indeed, it remained a key concept of international thought for several hundred years.⁵¹⁰ In the first instance, however, it served as an interpretative framework, and often it was conceived as a threat demanding opposition.

In the most recent literature that touches upon Justi's international political thought he has been represented as someone who 'recommends the

⁵⁰⁷ On universal monarchy in general and on how exceptional Justi was see Franz Bosbach, *Monarchia universalis: Ein politischer Leitbegriff der frühen Neuzeit* (Göttingen, 1988).

⁵⁰⁸ Martin van Gelderen, 'Universal Monarchy, The Rights of War and Peace and the Balance of Power: Europe's Quest for Civil Order', in *Reflections on Europe: Defining a Political Order in Time and Space*, eds. Bo Stråth and Hans-Åke Persson (Frankfurt am Main, 2007), pp. 57-58;

⁵⁰⁹ Andrew C. Thompson, *Britain, Hanover and the Protestant Interest, 1688-1756* (Woodbridge, 2006.), p. 39.

⁵¹⁰ Bosbach, *Monarchia universalis*, preface, p. 9.

establishment of a universal monarchy⁵¹¹ and as a champion of universal monarchy⁵¹². It is true that Justi supported the view according to which bigger monarchies could bring about peace. However, in this chapter I argue that Justi employed the defence of universal monarchy as a rhetorical tool to comment on the state of the Holy Roman Empire of the German Nation.⁵¹³ Above all, Justi's essay functioned as an attack on the minor German princes, to whom Justi refers as petty tyrants. The second aim of this chapter is to consider Justi's infamous critique of the balance of power doctrine. Once again, Justi's position is original. Unlike the majority of his contemporaries who wrote on international relations, Justi regarded the balance of power doctrine as a dangerous chimera with the potential to legitimate any action of a state. Justi's concept of human nature is evident in his critique of the balance of power doctrine, an aspect that has been overlooked in relevant secondary research. Justi believed that human beings and states were guided by passions, not by a chimerical balance of power.

Justi's essay on universal monarchy is part of a long tradition in European political thought. The concept of universal monarchy was widely deployed in the context of early modern Europe. The notion of a single ruler governing the whole world had its antecedent in both the Roman Empire and in Christian theology. The concept had been accepted by the European great powers, significantly not without substantial resistance. Famously, the apologists for universal monarchy argued that the greatest benefit of a universal monarchy would be that it would secure peace. Dante's *De Monarchia* is perhaps the most striking example of a view of universal monarchy as means of liberation from chaos. Strongly influenced by Aristotelian premises of a single *telos* of humanity, Dante affirmed the unity of

⁵¹¹ See the editorial footnote 13 on page 173 in C.H. Alexandrowicz, *The Law of Nations in Global History*. eds. David Armitage and Jennifer Pitts (Oxford, 2017). For short discussion of Justi's universal monarchy see Francis Cheneval, *Philosophie in weltbürgerlicher Bedeutung: Über die Entstehung und die philosophischen Grundlagen des supranationalen und kosmopolitischen Denkens der Moderne* (Basel, 2002) pp. 313-315.

⁵¹² Martin Espenhorst, *Frieden Erdenken: Vormoderne Perspektive auf Europa* (Baden-Baden, 2015), pp. 25-38.

⁵¹³ Here my interpretation is in accordance with Burgdorf, 'Johann Heinrich Gottlob von Justi (1720–1771)', pp. 59-63.

humankind.⁵¹⁴ Universal monarchy represented a divinely ordained unity, a state of harmony and concord in line with reflections on universality derived from Greek philosophy. Worldly order required universal monarchy just as Aristotle's *Metaphysics* was read as proclaiming the universality of being.⁵¹⁵ As Martti Koskenniemi has argued, Protestant thinkers often regarded universal monarchy 'as the use of the doctrines and institutions of the Catholic Church at the service of the imperial pursuits of particular princes, Charles V and Philip II from Spain, and Louis XII and Louis XIV from France in particular'.⁵¹⁶ The mantle of universal monarchy was, indeed, in the first place levied as an accusation, although sometimes it was favoured as an ideal construction, especially on the Catholic side as it had been in Tommaso Campanella *Monarchia di Spagna* (written in 1600–1601, published in Latin in 1640 as *De Monarchia Hispanica*), which advocated the benefits of Spanish supremacy.⁵¹⁷ In the eighteenth century the concept of universal monarchy was closely tied to the power struggle between Habsburgs and Bourbons, and it was from precisely this rivalry that the concept gained its true strength. It served simultaneously to form the idea of a universal ruler, to describe actual political events, and to assume a link between these two spheres. Universal monarchy was not perceived as already existing in reality; rather it was described as the goal of politics, usually the goal of a politics that should be opposed.⁵¹⁸

In the course of the eighteenth century the concept of universal monarchy came to be challenged by another concept and interpretative framework

⁵¹⁴ Martti Koskenniemi, 'International Community from Dante to Vattel', in *Vattel's International law from a XXI Century Perspective*, eds. Vincent Chetail and Peter Haggemacher (Leiden, 2011), pp. 51–75, p. 54.

⁵¹⁵ van Gelderen, 'Universal Monarchy', p. 50.

⁵¹⁶ Martti Koskenniemi, 'International Community from Dante to Vattel', p. 63.

⁵¹⁷ Schröder, *Trust*, pp. 46–47; John Robertson, 'Universal Monarchy and the Liberties of Europe: David Hume's Critique of an English Whig Doctrine', in *Political Discourse in Early Modern Britain*, eds. Nicholas Phillipson and Quentin Skinner (Cambridge, 1993) pp. 349–373, p. 356; John Robertson, *The Case for the Enlightenment: Scotland and Naples 1680–1760* (Cambridge, 2005), p. 156.

⁵¹⁸ Bosbach, *Monarchia universalis*, p. 125. See also Franz Bosbach, 'The European Debate on Universal Monarchy', in *Theories of Empire*, ed. David Armitage (Aldershot, 1998), pp. 81–98.

that gradually took its place, namely that of the balance of power.⁵¹⁹ However, the threat of a universal monarchy did not disappear from the language of international thought. As an idea, the potency of universal monarchy remained. Several European monarchs governed disparate territories. The concept of the balance of power gained strength as a counterconcept to universal monarchy. Charles Davenant famously argued that universal monarchy could be averted only by the maintenance of a multicentre world of smaller states, sustained by a balance of power. David Hume still held this view in the second half of the century. As late as 1770 the idea of universal monarchy was still alive.⁵²⁰ It was even also later polemically revived in anti-Napoleonic agitation.⁵²¹ For Hume the notion spoke against isolationist foreign policy. England was needed in the coalition against France to counter its hegemonic pursuits and thereby prevent the foundation of universal monarchy. In the 1740s context, in which Justi's essay was published, I favour an account that frames universal monarchy as a negative concept, most commonly applied in order to criticise the hegemonic policies of European crowns, especially the French. The context of the War of Austrian Succession provides a clear example of negative uses of the concept of universal monarchy, with the sole exception of Justi's essay.⁵²²

Justi's essay on universal monarchy, *Beweis, dass die Universalmonarchie vor die Wohlfahrt von Europa und überhaupt des menschlichen Geschlechts die grösste Glückseligkeit wirken würde* (1747)⁵²³ is certainly one of the later defences of the idea of universal monarchy. It is quite curious that it was written by a Protestant author. Moreover, while it was written and published at the peak of the War of Austrian Succession, its contents read as if it were the product of a much earlier time. Indeed, in the context of the War of Austrian Succession universal monarchy was a concept

⁵¹⁹ Bosbach, *Monarchia universalis*, p. 17.

⁵²⁰ Robertson, 'Universal Monarchy', pp. 368-369; van Gelderen, 'Universal Monarchy', p. 70.

⁵²¹ Philip Dwyer, 'Napoleon and the Universal Monarchy', *History* 95 (2010), pp. 293-307.

⁵²² This is also one of Bosbach's main points. See Bosbach, *Monarchia universalis*, passim.

⁵²³ *Beweis, dass die Universalmonarchie vor die Wohlfahrt von Europa und überhaupt des menschlichen Geschlechts die grösste Glückseligkeit wirken würde* (Frankfurt, 1747) was reprinted in Justi, *Gesammlete politische und Finanzschriften*, vol. 2, pp. 235-300. Justi's essay is referred to in the following pages as *Beweis*.

that was often used, but most commonly to describe the aim of the politics that were being opposed; the actions of enemies were criticised as so many attempts to achieve a universal monarchy over other nations. Above all, the House of Bourbon was accused of having the intention of founding a general European monarchy.⁵²⁴

Schmauss gives us an example of how the relationship between universal monarchy and the balance of power between nations was understood in the context of the War of Austrian Succession. He argued that the balance of power in Europe could exist only between France and rest of Europe, so great was the power of France. Unless the other states in Europe resisted the latter, it would become master of all Europe.⁵²⁵ In a similar manner an anonymous pamphleteer argued – not without irony – in *Der Universal-Geist der Krone Frankreich, Als die Mißgeburth der Politic* (1745) that whenever France was mentioned the issue of universal monarchy arose. Inevitably, it seemed, commentators were moved to discuss the desire of the French crown to found a universal monarchy.⁵²⁶ The pamphleteer pointed out that the whole of Europe was in uproar about the way in which France wished to write laws for the whole of Europe; and Germans, in particular, feared this universal monarchy as if it were a monster. In colourful tones the pamphleteer continued that, in politics, universal monarchy was one of the *Staatsklugheiten*; in ethics it provided a reason to hate France; in peace treaties it was a point made against expansionist politics; in war it was the first sentence in the declaration of a conflict; and among those who wrote about the balance of power, or wanted to support it, it was the *Chef d'Oeuvre*, often presented as the cause of the war. Elsewhere it was simply a fat moral animal, in whose milk greedy ministers sought their nutrition.⁵²⁷ Another pamphleteer accused the French of pursuing a general European monarchy, arguing that this had long been the goal of the house of Bour-

⁵²⁴ [Anon.], *Das Entlarvte Frankreich, oder, Das entdeckte Project von der europäischen Universal-Monarchie: nebst einer zum Anhang beygefügtten Ode auf die grossen Weltbezwinger* (Haag, 1745), p. 3.

⁵²⁵ Schmauss, *Einleitung zu der Staats-Wissenschaft*, pp. 626-627.

⁵²⁶ [Anon.], *Der Universal-Geist der Crone Frankreich, Als die Mißgeburth der Politic* ([S.l.], 1745), p. 3. 'Wenn nur die Rede von Frankreich ist; so berühret man zugleich die Begierde dieser Crone, eine solche Monarchie in Europa einzurichten.'

⁵²⁷ [Anon.], *Der Universal-Geist*, p. 3.

bon. In the light of history the author demonstrated that such an entity had already existed in Europe and that therefore France's aim constituted a true threat. There had never been a monarch who had ruled the whole world, and it might never happen in the future either. However, history provided several examples of universal monarchs in Europe.⁵²⁸ The only hope of suppressing French efforts to conquer Europe was to counter its power. On several occasions, the author noted, France had sought to remove the Crown that presented a counterweight to its power (that of Austria). The latter, the author observed, was necessary for the happiness of Germany and for the welfare of Europe as a whole.⁵²⁹

Negative uses of the concept of universal monarchy were not limited to the pan-European level; illegal expansion in a variety of different contexts was associated with concept of universal monarchy. Even rulers who pursued more power within the *Reich* were accused of having French intentions. Indirectly, Frederick II of Prussia was blamed for harbouring such dubious aims. The anonymous pamphleteer noted that one of the seven electoral princes in his fatherland was a supporter of a similar project. Even if he could not conquer the whole world, did he still wish to play the master in Germany?⁵³⁰ Even a nobleman's aspiration to pursue more power could be regarded as an attempt to create a 'small universal monarchy'. He simply sought to subordinate neighbours to his 'universal monarchy'. These examples illustrate that in the context of the War of Austrian Succession universal monarchy was intimately associated with oppression and the pursuit of power. Its connotations were thoroughly negative. There are also indications that the use of the concept was already inflammatory. Almost all politics that were opposed in the German context, in Europe, *Reich* or one's own village, were described as attempts at 'universal monarchy'. The alleged aspirant was seen as an over-ambitious warmonger bent on territorial conquests.⁵³¹ Justi's pamphlet posed a radical challenge to these conventions. His reflections on universal monarchy were far from negative.

⁵²⁸ [Anon.], *Das Entlarvte Franckreich*, p. 3.

⁵²⁹ [Anon.], *Das Entlarvte Franckreich*, p. 29.

⁵³⁰ [Anon.], *Der Universal-Geist*, p. 4

⁵³¹ Robertson, 'Universal Monarchy', p. 356.

Justi's argued that introducing a single ruler of Europe would promote the peace and welfare of Europe, and indeed the general happiness of all mankind. Not unlike the apologist for universal monarchy cited above, Justi argued that universal monarchy could guarantee peace and security. Not surprisingly, when Justi published his pamphlet anonymously in 1747 it attracted a lot of attention. His departure from the conventional uses of the concept of universal monarchy was striking. Justi's most eminent commentator Johann Michael von Loen (1694–1776), a rich merchant, political theorist and Goethe's great uncle, praised the anonymous author for his beautiful and lively style. Loen observed that the pamphlet was being admired both for its daring proposal of a special doctrine of *Staatsklugheit*, and for its brave move to direct an arrow against the free German princes.⁵³²

Justi defined universal monarch as a single ruler, *Alleinherrscher*, who governed all European empires and countries, and from whom the other rulers (sic!) took their orders. Universal monarchy could be founded either through contracts or by conquests.⁵³³ In the beginning of his pamphlet Justi argued that he was not interested in discussing whether universal monarchy was truly realisable or not. His aim was to demonstrate the advantages universal monarchy would bring, if it were to exist. Thus, Justi's essay on universal monarchy was a theoretical experiment. His starting point was that there were far too many powerless rulers in Europe who were incapable of providing peace, security and welfare for their subjects. He attributed three main faults to the majority of European rulers. Firstly, they caused wars by virtue of their bellicosity. Secondly, they pauperised their subjects through heavy taxation; and thirdly they spent enormous sums of money on luxuries. Justi argued that with its weak economy and inability to defend itself Germany provided his readers with a perfect example of the consequences of having too many princes.⁵³⁴ Germany was full of small tyrants, who were unable to provide security and peace for their subjects. They were good at

⁵³² Johann Michael von Loen, 'Von der Universal-Monarchie', in *Freye Gedanken zu Verbesserung der Menschlichen Gesellschaft* (Frankfurt am Main, 1752), pp. 248-295, see page 248. See also Francis Cheneval, *Philosophie in weltbürgerlicher Bedeutung*, pp. 313-315.

⁵³³ Justi, *Beweis*, pp. 244-245.

⁵³⁴ Justi, *Beweis*, p. 257.

two things: complicating commerce between different parts of the Empire, and impoverishing their subjects. Somewhat audaciously, Justi mentioned two such tyrants by name: Wilhelm Hyacint von Nassau-Siegen (1666–1743) and Count Carl Leopold von Mecklenburg (1678–1747).⁵³⁵ These were examples of petty tyrants who had ruined the economy of their principalities with their poor governing.

The advantages of universal monarchy that Justi listed were many. Unlike the petty tyrants, a universal monarch was not likely to be a bad ruler. Above all, a universal monarch could secure the peace, an argument familiar from Dante. Under the universal monarchy there would be no wars between European states. No one would dare to threaten such a powerful ruler. Such a figure would have no need for bellicosity, no need to expand territory, since he would be the most powerful ruler in any case. In addition, the taxation of all Europe could be lowered and still the universal monarch could not possibly be so wasteful that he could spend all the revenues collected on luxury.⁵³⁶ In sum, a universal monarch would have all the power necessary to ensure the happiness of his subjects. According to Justi, universal monarchy would be beneficial for Europe and the whole of mankind because the *Alleinherrscher* would have power over all European regents.⁵³⁷ There would be no reason for hatred, because slowly all Europeans would be seen as one people (*als ein einziges Volk*). This would put a stop to the ancient hatreds between nations. Interestingly, Justi noted specifically that this would remove any basis for hatred between Swedes and Danes.⁵³⁸

Justi asserted that a universal monarchy would be especially beneficial from the viewpoint of the economy. This is in line with his general preference to larger commercial units. In Justi's view it was unwise to limit trade within the borders of a small state.⁵³⁹ Justi argued that because of the lack of an external threat the universal monarch could concentrate entirely on advancing the domestic improvement of the Empire. There would no longer be any reason for an arms race between nations since the universal monar-

⁵³⁵ Justi, *Beweis*, pp. 259–264; von Loen, 'Von der Universal-Monarchie', p. 252.

⁵³⁶ Justi, *Beweis*, pp. 291–292.

⁵³⁷ Justi, *Beweis*, p. 244

⁵³⁸ Justi, *Beweis*, p. 285

⁵³⁹ Justi, *Beweis*, p. 250.

chy would need only one army. Huge expenses and public debts could be avoided since petty rulers would no longer need to maintain large armies. In addition, the costs of the courts could be minimised. Free trade and exchange over previous borders would be the subject of still greater benefits. Having too many rulers obstructed trade in general, since conflicts between these figures harmed trade, and even neutral nations suffered as a result. Justi also advocated that wealth (*Vermögen*) be able to move freely within this monarchy. He was even hopeful that, ultimately, all subjects would ally with the religious preferences of the monarch. And since God was graceful, divine providence would ensure that these were the right preferences.⁵⁴⁰

Justi's use of the concept of the universal monarchy goes beyond earlier uses of the concept. In some cases universal monarchy was used as a positive concept in order to legitimate European colonialism.⁵⁴¹ Justi's position in his defence of universal monarchy is quite different. He argued that the whole of mankind (*Menschheit*⁵⁴²) would benefit if Europe formed a universal monarchy, since this would free the inhabitants of America from the domineering nature of the European people (*Völker*). Under a universal monarchy, Americans would no longer be forced to move continuously from the yoke of one European nation to another. Moreover, he argued, the people living in East-Indian islands would not be forced to sell their goods to one nation only. They would no longer be forced to accept the price set by Western merchants. Instead, they could freely trade with those European nations that proved most pleasant and appealing to them.⁵⁴³ In addition, Turkey, Persia and the Tatars would no longer be drawn into European wars that ran counter to their own interests. The universal monarch of Europe would be so powerful (*der mächtige Universalmonarche*) that he could influence the maintenance of peace between the 'Muhammadan' (*ma-*

⁵⁴⁰ Justi, *Beweiß*, pp. 282-285.

⁵⁴¹ Anthony Pagden, *Lords of All the World: Ideologies of Empire in Spain, Britain and France c. 1500-1800* (New Haven, 1995), p. 46. For discussion of the legitimacy of conquest see chapter 2, pp. 29-62.

⁵⁴² This is a rather early usage of the concept of 'Menschheit' as a collective concept for all people. See Hans Erich Bödeker, 'Menschheit, Humanität, Humanismus', in *Geschichtliche Grundbegriffe*, eds. Otto Brunner, Werner Conze and Reinhart Koselleck (Stuttgart, 1982), pp. 1063-1128.

⁵⁴³ Justi, *Beweis*, p. 288.

hometanischen) and other ‘barbaric nations’ (*andern barbarischen Völkern*). At the order of the universal monarch, the latter would simply cease their hostilities.⁵⁴⁴ A universal European monarchy would support world peace, but would not do so by asserting its sovereignty over the whole world.

Justi’s essay on universal monarchy can be read as one example among many European writings on the possibility of perpetual peace in Europe. Of these, the most prominent was Charles Irénée Castel de Saint-Pierre’s *Projet pour rendre la paix perpétuelle en Europe* (1713).⁵⁴⁵ Saint-Pierre argued that monarchy was an unstable form of government for larger territories. According to him the confederacy of a ‘European Union’, mixing sovereignty with a federal system, could function, just as it did in the German territories.⁵⁴⁶ According to Saint-Pierre, ‘European union’ would make commerce universal, free, equal, certain and perpetual, amongst all nations. This would secure economic growth and global commerce.⁵⁴⁷ Saint-Pierre’s ideas gained support in the context of the War of Austrian Succession. In 1745 a new proposal was published, with the title *Projet d’un nouveau système de l’Europe, préférable au système de l’Equilibre entre la maison de France et celle d’Autriche*. The anonymous pamphleteer stressed that there was a system that would guarantee peace in Europe more reliably than that of the balance of power between Austria and France. In order to support peace in Europe the author proposed a European republic modelled on the union of Germany, Holland and Switzerland. Justi had first intervened into the debate a year prior to his essay on universal monarchy. In 1746 he had published an essay, *Untersuchung: Ob Europa in eine Staatsverfassung gesetzt werden könne, wobey ein immerwährender Friede zu hoffen*

⁵⁴⁴ Justi, *Beweis*, p. 289.

⁵⁴⁵ Olaf Asbach, *Staat und Politik zwischen Absolutismus und Aufklärung: der Abbé de Saint-Pierre und die Herausbildung der französischen Aufklärung bis zur Mitte des 18. Jahrhunderts* (Hildesheim, 2005).

⁵⁴⁶ Peter Schröder, ‘The Holy Roman Empire as model for Saint-Pierre’s *Projet pour rendre la Paix perpétuelle en Europe*’, in *The Holy Roman Empire, 1495-1806: A European Perspective*, eds. Robert John Weston Evans and Peter H. Wilson (Leiden, 2012), pp. 35-50.

⁵⁴⁷ Hont, *Jealousy of Trade*, pp. 26-27.

ist? (1746), concerning the possibility of a ‘European constitution’ which would secure the peace.⁵⁴⁸

In the essay on a European constitution Justi identified a number of reasons as to why peace proposals based on the idea of a European union were unrealistic. First of all in Greece, Switzerland and Holland there had always been a common interest between states. In Greece the states united their forces against Persia, whereas in the Netherlands the unifying element was the threat of Spain. In Switzerland the fear of tyranny on the behalf of *Landvögte* worked in a similar manner. In Justi’s view, Germany could not be considered as a model for such unification since Germany had grown slowly and its parts were not fully free. Justi could not conceive of a common interest capable of uniting Europeans; the latter did not even share a common enemy. Even if such unification were possible, Justi doubted it would lead to permanent peace in Europe. Peace had not prevailed among the member states in Greece, the Netherlands, or Switzerland. This was due to the fact that, despite unification human beings remained passionate creatures; despite unification subjects remained tempted to pursue ever greater power. Another problem with such unification related to decision-making. Decisions should be either unanimous or majority decisions. The greatly differing interests of European states would impede unanimous decisions. And if the decisions were made on the basis of majority, binding the minority to follow the decision would be problematic. Those in the minority would seek help, possibly even appealing to countries outside Europe, such as Turkey. For these reasons, Justi argued that the unification of Europe under a federal structure would more likely be a source of war rather than a precondition for peace.⁵⁴⁹ He concluded that a unified Europe could not take the form of a federal republic. The only way to unite Europe, even in theory, was to form a universal monarchy.

Justi republished the essay on universal monarchy under his own name in his *Gesammlete Politische und Finanzschriften* (1761). There he argued

⁵⁴⁸ Johann Justi, ‘Untersuchung: Ob Europa in eine Staatsverfassung gesetzt werden könne, wobey ein immerwährender Friede zu hoffen ist?’ In Justi, *Ergetzungen* (1746), vol. 2, issue 1, pp. 39-56. Reprinted In Justi, *Historische und Juristische Schriften*, vol. 1, (Frankfurt, 1760), pp. 171-184.

⁵⁴⁹ Justi, ‘Untersuchung: Ob Europa’, p. 177, pp. 180-181.

that when the essay had first been published he had in reality been discussing something other than the advantages of universal monarchy. In the later text, he emphasised that universal monarchy would tend to despotism.⁵⁵⁰ What makes Justi's later statement more reliable is the fact that, only a year before the first publication of his essay, he wrote that universal monarchy would be possible only in the form of a tacit universal monarchy. Rulers had fought against the creation of universal monarchy for centuries. It was unlikely they would be willing to accept it in the future, and in the essay itself he wrote that he was not even interested whether universal monarchy was realisable or not.⁵⁵¹ My interpretation of Justi's essay gains further support from the comments of the contemporaries. Already in 1752 von Loen read Justi's essay not as a defence of universal monarchy, but an attempt to reveal other truths.⁵⁵²

Justi did not include his essay on universal monarchy in his collection of satires, rather it was published together with his collected political and financial writings. This may have been because the piece contained several arguments that reoccur in his later writings. Above all, it was an early statement of his critique of despotism and bellicosity.⁵⁵³ He maintained that the petty-interest of luxurious tyrants caused wars, and that high levels of taxation were disastrous for the economy. The sanctity of private property, a certain level of civil liberty and the prohibition of offensive wars were mentioned in the pamphlet. In addition, Justi criticised the dismemberment of Germany. Hidden in the text was the message that if Germans were truly united, Germany would never again become a battlefield. In short, Justi's

⁵⁵⁰ This was also how Justi's first commentator Loen interpreted the essay. Loen's main argument against Justi's essay was that universal monarchy could not be founded without enormous bloodshed and that therefore it was a rather weak solution, if the founding of such a monarchy was supposed to create peace in Europe. See von Loen, 'Von der Universal-Monarchie', p. 294. Justi praised Loen's interpretation in the editorial comments of the second edition. See Justi, *Beweis*, pp. 235-237.

⁵⁵¹ This was Justi's opinion already in his 'Erörterung der Frage: Ob freye Mächte über die Länder eines Dritten nach dem Natur- und Völkerrecht Verträge zu machen befugt sind' which dates back to 1746.

⁵⁵² von Loen, 'Von der Universal-Monarchie', p. 249.

⁵⁵³ On bellicosity see Jörn Leonhard, *Bellizismus und Nation: Kriegsdeutung und Nationsbestimmung in Europa und den Vereinigten Staaten 1750-1914* (München, 2008). On Justi see p. 77. Leonhard untenably holds that Justi's goal was universal monarchy.

pamphlet on universal monarchy was a comment on German constitutional reality in the context of an ongoing war.

THE CHIMERA OF THE BALANCE OF POWER: IN DEFENCE OF PRUSSIA

Justi's critique of balance of power theory is as original as his account of universal monarchy. Here he differed significantly from the law of nations as advocated in Göttingen. As Gottfried Ziegler has argued, the idea of balance of power run like a common thread through the development of the law of nations in Göttingen.⁵⁵⁴ Schmauss, Achenwall, Gottlieb Samuel Treuer (1683–1743), Ludwig Martin Kahle (1712–1775), these all emphasised the maintenance of a balance of power as a necessity for the law of nations. It is by no means a coincidence that it is Göttingen academics that spread the idea of a balance of power in Germany, writing in the interest of the foreign policy of Hanover and Britain. Britain was considered as the ideal balancing state. Commenting on the Spanish War of Succession, Johann Jacob Schmauss remarked that 'England alone, for the common good . . . seemed according to her old principles to worry about the Balance of Power'.⁵⁵⁵ As argued earlier, during the course of the eighteenth-century balance of power doctrine had become widely accepted as a rule of war and peace in Europe. Already in 1729 an English pamphleteer wrote that 'There is not, I believe, any Doctrine in the Law of Nations, of more certain Truth, of greater and more general Importance to the Prosperity of Civil Society, or that Mankind has learnt at a dearer rate, than this of the *Ballance of power*'.⁵⁵⁶ The importance of balance of power lay in its perceived capacity as a tool to counter illegal hegemonic expansionism. In the context of the War of Austrian Succession the balance of power doctrine was associated in the minds of the Hanoverian and British diplomats, statesmen and academics with the necessity to combat universal monarchy, the threat of a 'papist' state as represented by France. Britain and Hanover were to play the role of a balancer,

⁵⁵⁴ Ziegler, 'Die ersten hundert Jahre Völkerrecht', p. 73.

⁵⁵⁵ Schmauss, *Einleitung zu der Staats-Wissenschaft*, p. 288. Translation is from Thompson, *Britain, Hanover and the Protestant Interest*, p. 30.

⁵⁵⁶ [Anon.], *Two Essays on the Ballance of Europe* (London, 1720), p. 31.

not only to secure peace, but also to secure the survival of the Protestant faith.⁵⁵⁷

At the height of the popularity of the balance of power doctrine in 1758 Justi argued that no other doctrine had caused such bloodshed, misery and misfortune in Europe as that of the balance of power. The balance of power doctrine (*Lehrgebäude des Gleichgewichts*) had served as a fig-leaf for unnecessary wars, which had taken the lives of millions of people and condemned others to extreme poverty and indigence.⁵⁵⁸ My aim is to show that Justi's pamphlets questioning the doctrines of the balance of power and balance of trade were part and parcel of his activity as a pro-Prussian and pro-Hanoverian writer during the Seven Years' War. Furthermore, I demonstrate that while Justi's writings served the cause of Prussia and England, they were not solely tendentious. The arguments Justi presented in his pamphlets relied heavily on his conception of human beings as primarily instinctive and passionate creatures, and on his conception of the law of nations. Central in this respect was Justi's emphasis on the sovereignty and independence of states – or in Justi's words, on the freedom of the powers/states (*Freiheit der Mächte*), which, he believed, should not be violated in the name of the balance of power. Here Justi represented a significant shift in international political thought. He defined political freedom as freedom in respect of its relation to other states. Heinz Duchhardt has pointed out that this signified a change of paradigm from *tranquillitas* to *libertas*.⁵⁵⁹ In short, according to Justi, balance of power doctrine was a threat to the freedom of the free powers.

Justi's pamphlet on the balance of power was a success. The comment of his contemporary, jurist Johann Gottfried Sammet (1719–1796), on the treatise directs us simultaneously to Justi's main opponent and the locus of his greatest impact. Sammet argued in 1799 that Göttingen Professor Ludwig Kahle had tried to build a system out of mere robbery, of the balance of power doctrine. Justi had beautifully refuted Kahle. Justi's book had so pleased the imperial committee of the German nations (*comitiis Imperii*)

⁵⁵⁷ Thompson, *Britain, Hanover and the Protestant Interest*, p. 40, p. 229.

⁵⁵⁸ Justi, *Die Chimäre des Gleichgewichts von Europa*, preface.

⁵⁵⁹ Heinz Duchhardt, *Frieden in Europa der Vormoderne: Ausgewählte Aufsätze 1979–2011* (Paderborn, 2012), p. 117.

to the extent that they had ordered Justi's book to be taught at Academies (*Akademien*). Sammet's only regret was that Justi's refutation was based on political grounds, and not on natural right.⁵⁶⁰ Justi's pamphlet had indeed been written to refute a treatise by Ludwig Martin Kahle. And Justi's *Chimäre*-pamphlets are of very political nature. However, it must be added that Justi's pamphlet was compatible with his writings on natural rights, although the fact that Justi's treatise was a pamphlet may have prevented him from elaborating the elements of natural jurisprudence involved in his argument.

Kahle had been appointed a professor of philosophy in Göttingen in 1737. Later he went to Hanau Staatsakademie, then to Marburg, before he gave up an academic career and became a lawyer in Berlin. Kahle's best-known treatise is his scholarly disputation *Commentatio iuris publici de trutina Europae* (1744), published when he was still active in Göttingen.⁵⁶¹ In it he argued that the balance of power secured the natural equality of states, which would encourage a durable peace in Europe. In concrete terms Kahle was claiming that Spanish intervention in England's affairs of trade was about to destroy the balance of Europe. England would no longer be able to save Europe from French universal monarchy. England would not be able of take care of its task of holding the balance of power.⁵⁶² Kahle, who presented the balance of power as the rule of war and peace in Europe, emphasised that peace in Europe would prevail as long as the powers of Austria and France were balanced. According to Kahle – and many other contemporary thinkers – European nations were living in a state of nature in which

⁵⁶⁰ Johann Gottfried Sammet, *Vorlesungen über das gesammte Naturrecht: Nach dem Gundlingischen Lehrbuche* (Leipzig, 1799), p. 175.

⁵⁶¹ Ludwig Martin Kahle, *De trutina Europae quae vulgo adpellatur Die Balance von Europa* (Göttingen, 1744). Kahle's dissertation was soon translated into French: Ludwig Martin Kahle, *La balance de l'Europe considérée comme la règle de la paix et de la guerre* (Berlin, 1744).

⁵⁶² Ernst Kaeber, *Die Idee des europäischen Gleichgewichts in der publizistischen Literatur vom 16. bis zur Mitte des 18. Jahrhunderts* (Hildesheim, 1971 [1907]), p. 95. Kahle was indirectly criticising Frederick the Great for collaborating with France; Ernst B. Haas, 'The Balance of Power: Prescription, Concept, or Propaganda', *World Politics* 5 (1953), pp. 442-477; Isaac Nakhimovsky, 'Vattel's Theory of the International Order: Commerce and the Balance of Power in the Law of Nations', *History of European Ideas* 33 (2007), pp. 157-173.

the strong were trying to dominate the weaker. Therefore all states were enemies of each other. Kahle argued that because a predominant power was *a priori* dangerous to its neighbours the power of the predominant power should be equalised by coalitions of weaker states. A nation that was gaining so much in strength that it could extinguish its neighbours could legitimately be 'balanced'. Kahle even justified preventive strikes in order to balance power between nations. He compared the balance of power system to the actions of a wise doctor, apt to simply cut out everything harmful to the body. Additionally, in the name of the common interest, states could draw up contracts to the effect that some of them should relinquish territories, just as the individual 'could be forced to sacrifice some of his personal wealth for the good of the community of which he was a member, so a ruler might justifiably be asked to give up territory to which he had every legal right, for the good of the European state system as a whole.'⁵⁶³

Kahle's main concern, the survival of comparatively smaller and weaker states, was of equal concern to the Swiss writer Emer de Vattel. It featured among the themes of the latter's influential *Droit des gens* (1758), published in the middle of the Seven Years' War. Vattel associated the law of nations with the defence of small states against their more powerful neighbours. The balance of power doctrine supported a diversity of states, the future existence of small states. At its core it tended toward the maintenance of the *status quo*. No wonder then that Vattel, a quintessentially Swiss thinker, found balance of power politics appealing. Similarly, Kahle emphasised that a balance of power safeguarded the peace of Europe and the existence of smaller states. The context of Vattel's treatise, however, was quite different from Kahle's. The rivalry between France and England, and Prussia and Austria, spilled over into war in 1756. This war, to which we now refer as the Seven Years' War, was triggered by Prussia's attack on Saxony in 1756. In February 1758, after the Prussian army had invaded Saxony, Vattel announced to the Saxon first minister, Count Brühl, that his recently published work proved the justness of Saxony's complaints and also showed that 'all powers are obliged to unite to punish the one who wishes to introduce such wicked customs'.⁵⁶⁴ Prussia threatened the very

⁵⁶³ Kahle, *La balance*, p. 147. Translation after Adam, *The Political Economy*, p. 74.

⁵⁶⁴ Béla Kapossy and Richard Whatmore, 'Introduction', in Emer de Vattel, *The Law of*

possibility of peaceful coexistence between European nations, it was an example of what Vattel referred to as ‘a restless and unprincipled nation’, ready to harm others. There was no doubt in his mind that other nations had the right to unite together to subdue such a nation, to discipline it and prevent it from doing further harm.⁵⁶⁵ Vattel argued that European nations should unite their powers against Prussia for the maintenance of order and liberty in Europe. There is also evidence that Vattel was engaged in the dissemination of French propaganda. Although his sympathies were with the British constitution, France was an ally of the Saxon court Vattel served.⁵⁶⁶ Understood either as interrupting the balance of Europe or as a violator of the law of nations, Prussia was in 1758 perceived as the enemy of the peace and security of Europe. After the acquisition of Silesia Prussia was to become perceived as a great power; it was to number among the powers of pentarchy, together with France, Austria, England and Russia.⁵⁶⁷ The change of Prussia’s power position and the ‘diplomatic revolution’ which led to the alliances of the Seven Years’ War (1756-1763) altered notions of the balance of power. From an ally of France Prussia became an ally of England, whilst France and Austria joined forces. This change of alliances had already begun in the 1740s, but it was formalised in the alliances of Westminster and Versailles in 1756.

At the beginning of the Seven Years’ War Kahle’s and Vattel’s arguments placed Prussia in a very uncomfortable position. The balance of power doctrine was increasingly used against Prussia and England, Justi’s

Nations, or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns, with Three Early Essays on the Origin and Nature of Natural Law and on Luxury, ed. with an Introduction by Béla Kapossy and Richard Whatmore (Indianapolis, 2008), p. xix.

⁵⁶⁵ Vattel, *The Law of Nations*, p. 289.

⁵⁶⁶ John Shovlin, ‘Selling American Empire on the Eve of the Seven Years War: The French Propaganda Campaign of 1755–1756’, *Past and Present* 206 (2010), p. 136, footnote 24. It is important to note that Vattel did not consider an increase in the power of a state as a sufficient reason to take up arms to oppose it. Contrary to earlier accounts, Simone Zurbuchen has shown that, unlike in the case of Kahle, ‘the idea of balance of power plays no role in Vattel’s justification of preventive war’. Zurbuchen, ‘Vattel’s law of nations’, p. 413, Vattel, *The Law of Nations*, pp. 491-492.

⁵⁶⁷ Heinz Duchhardt, *Balance of Power und Pentarchie: Internationale Beziehungen 1700-1785* (Paderborn, 1997).

new employer Frederick II and his ally. Whereas writers such as Jean-Henri Maubert de Gouvest pleaded for the need to prevent England from acquiring a universal monarchy, the Austrian and Saxon pamphleteers accused Prussia of disturbing several crucial balances. Prussia was disturbing the balance in the Holy Roman Empire, the balance of Europe and the balance between Catholic and Protestant principalities. These particular accusations were launched just as Austrian authorities republished Gundling's treatise *Erörterung der Frage ob wegen der anwachsenden Macht der Nachbarn man den Degen entblößen könne* (1716) in 1757 and used it to legitimate their declaration of war.⁵⁶⁸ The aim was to point out that it was perfectly legitimate to attempt to weaken Prussia since it was endangering the balance in Europe and in the Holy Roman Empire. Also several Saxon, French and Austrian pamphleteers emphasised that Prussia should return to being a secondary power, a small territorial state.⁵⁶⁹ An anonymous pamphleteer argued that if the situation was viewed politically it was impossible to believe that things would go Prussia's way; on the one hand, the Holy Roman Empire would pitch its authority and power against Prussia, and on the other, all the potentates of Europe would aim to ensure that the 'wings of the Prussian eagle do not grow too long'.⁵⁷⁰

What made the situation so unpleasant for Justi was that his opponents were using his own arguments against him and his new employer. In his *Staatswirthschaft* (1755), which remained dedicated to Maria Theresia, Justi expressed scepticism over the balance of power theory. Justi did not believe that the balance of power had ever been applied in practice. There were sufficient examples of actions that obviously went contrary to any kind of balance of power. However, he did argue that the part of the doctrine which stipulated that a neighbour who was becoming too strong should be kept within limits was sensible.⁵⁷¹ The various other elements of the doctrine, he allowed, were chimerical.⁵⁷² It was above all Justi's claim,

⁵⁶⁸ Adam, *The Political Economy*, p. 71 ff.

⁵⁶⁹ Kaeber, *Die Idee*, pp. 126-128.

⁵⁷⁰ [Anon.], *Das politische Ma- und Microscopium des gegenwärtigen Kriegs und das allgemeine System des Römischen Reichs betreffend* ([S.l.]: [s.n.], 1758), p. 1060.

⁵⁷¹ Justi, *Staatswirthschaft*, p. 73.

⁵⁷² Justi, *Staatswirthschaft*, pp. 65-66.

that sometimes war was the only solution in order to secure the independence of one's own state and the peace of Europe, that proved provocative. He wrote that a powerful realm, when it is governed (*beherrschet*) by a courageous prince (*von einem muthigen und kriegerischen Prinz*), could endanger the freedom of its neighbours and of the whole of Europe. In this case the love of peace should not be carried too far since, if such a power is not weakened immediately, it could become so powerful that it might become irresistible.⁵⁷³ This was a clear reference to the rise of Prussia. Justi was arguing that Prussia had to be weakened. Despite this critique of the balance of power doctrine in 1755, he turned out to be a supporter of a rather conventional view of it. He was basically of the opinion that the true meaning of the balance of power was as a countervailing function to a potential oppressor, to a universal monarchy. A perceptive anonymous reviewer of Justi's *Staatswirthschaft* recognised this and argued in *Göttingische Anzeigen von gelehrten Sachen* (1755), that Justi had described and accepted nothing more, nothing less than the true doctrine of balance of power.⁵⁷⁴

Justi's wish to gain a position in the Austrian administration had led him to write that Prussia should be made weaker. Now in 1758 he was in the service of Prussian war propaganda. This is the background of Justi's most famous pamphlet on international relations, *Chimäre des Gleichgewichts von Europa*.⁵⁷⁵ The pamphlet began as a critique of Kahle and as an answer to the anonymous reviewer in *Göttingische Anzeigen von gelehrten Sachen*. In his response Justi used some of the same strategies as other defenders of Prussia and England to distance himself from the claims he had made three years earlier. However, he did not pick up the often-heard argument of the pro-Prussian pamphleteers, who tried to emphasise that it was certainly not Prussia who was endangering the balance of Europe, but rather Austria and

⁵⁷³ Justi, *Staatswirthschaft*, p. 73.

⁵⁷⁴ The review was published in *Göttingische Anzeigen von gelehrten Sachen* on the 10th of May 1755 (56. Stück), pp. 513-519.

⁵⁷⁵ Per Maurseth, 'Balance-of-Power Thinking from the Renaissance to the French Revolution', *Journal of Peace Research* 1 (1964), pp. 120-136; M.S. Anderson, 'Eighteenth-Century Theories of the Balance of Power', in *Studies in Diplomatic History*, ed. Ragnhild Hatton (London, 1970), pp. 183-98.

France. According to these pro-Prussian pamphleteers only England with its maritime power, together with Prussia on the Continent, could hold the powers of Austria and France in balance and secure peace and freedom in Europe. Such a view fashioned Frederick the Great as a defender of the balance. He was fighting against the attempts of Austria, France, Russia and Sweden to create 'a universal monarchy of four'. Another way to defend Prussia was to accuse Austria of trying to destroy the balance inside the Holy Roman Empire, as well as in Europe as a whole.⁵⁷⁶ The anonymous author of *Juristische und Politische Briefe* (1758) defended Prussia, emphasising that having power need not involve abusing it. The author questioned balance of power theory by asking whether Silesia really had so much significance that all of a sudden Russia, France and Sweden had to turn against Prussia. In fact, the writer continued, it was the alliance between Austria, Russia, France and Sweden that had caused Europe to go awry. Should not Switzerland, Denmark and Holland by now join Prussia so that the balance could be recreated? The pamphleteer concluded that either the balance of power was a mere poem (*blosses Gedicht*) or it should be studied for the advantage of Frederick the Great. Austria and France, who were supposed to keep each other in balance, were now on the same side. Russia and Denmark had not joined Prussia, although the latter had traditionally opposed Sweden's enlargement plans. Holland had not joined Prussia even though it should be afraid of France. The author asked whether these powers were not able to see that Austria, France, Russia and Sweden were planning to share a universal monarchy together. The fact was that if Prussia and England were to lose the war, all of them would be lost.⁵⁷⁷

Justi joined the pro-Prussian camp by treating the balance of power doctrine as a mere poem. He questioned the doctrine and its reliability, and in so doing he was not without predecessors. An anonymous pamphleteer pointed out that the balance of power doctrine was at its best a *Doctrin de probabilibus*. There was no politician (*Statist*) who could measure the powers of the people (*Völkerschaften*). Such a politician would need to have access to the most precise and correct knowledge from all European courts.

⁵⁷⁶ [Anon.], *Juristische und politische Briefe von Bedenklichkeiten bey jetzigem Kriege* (Altdorf, 1758). pp. 993-999.

⁵⁷⁷ [Anon.], *Juristische und politische Briefe*, p. 993 and p. 999.

However, were the riches and powers of a country not the greatest political secrets? This was the main problem with the theory of balance of power, and therefore it provided only probable knowledge.⁵⁷⁸ The weakest point of balance of power theory appeared to be the low level of analysis concerning the measurement of power. Neither was it clear what was being measured, since the concept of power was seldom clarified. Justi picked this up, and argued that there was no measuring rod that could be used to assess whether the power of a state was excessive. Nor should power be perceived as a geometrical figure.⁵⁷⁹ Justi's position was motivated by the changing conception of power, and owed a particular debt to Montesquieu. He emphasised that the real power of state was built on 'qualitative', as opposed to 'quantitative' factors: it was almost impossible to measure, since the power of a state consisted mainly of good order and good government. Material resources, a large population, and the size of territory each had a comparably lesser impact. Therefore, Justi argued, an exact measurement of the power of a state was impossible, as were comparisons related to it.⁵⁸⁰

Justi's way of theorising power was well-suited to the Prussian context. Prussia was underpopulated, and its material resources were meagre. In order to make Prussia look powerful Justi had to refer to the efficiency of the Prussian administration, to its qualitative aspects. Following his new pro-Prussian attitude, Justi became something of a tightrope walker, trying to convince his readers that Prussia did not present a threat, whilst arguing at the same time that it was sufficiently powerful to win the war. Justi maintained that Prussia had power that was not measurable; a true qualitative power, excellence in administration, in controlling and planning. Justi was not the first writer to emphasise that Prussia's foremost power was qualitative. Only three years earlier, a French thinker named Antoine Pecquet (1704–1762) had claimed that it was the unusual qualities of Prussia's

⁵⁷⁸ [Anon.], *Juristische und politische Briefe*, p.994: 'Doctrin menschlicher Probabilitäten'. See also [Anon.], *Der Lästung entgegen Gesetzte Zeugnisse der Wahrheit, nebst einigen Gedanken von dem sich Deutschland inskünftige eines ewigen Friedens erfreuen möge* (1758).

⁵⁷⁹ Justi, *Die Chimäre des Gleichgewichts von Europa*, p. 75.

⁵⁸⁰ Justi, *Die Chimäre des Gleichgewichts von Europa*, pp. 54-56, p. 75; Klüeting, *Die Lehre*, pp. 87-98.

prince that made it so powerful and dangerous.⁵⁸¹ However, although Justi occasionally praised his prince, he was much more interested in administration as the source of power.

Justi argued that where power was understood correctly – as good government and good order – the balance of power doctrine would necessarily be seen to lead to the reciprocal slavery of all states.⁵⁸² That is to say, Justi maintained that the balance of power was at its very core an unjust doctrine. The reform of domestic affairs could be considered as disturbing to the equilibrium of power. Therefore, balance of power doctrine discouraged human improvement and greatly reduced the freedom of individual states (*Freiheit der Mächte*), which it claimed to protect. Justi argued that if the equilibrium were ever realised nothing would be more terrible than the enslavement of every state in regard to its neighbours; it would be necessary to recognise in every state the right to intervene in the domestic affairs of others. It would be better indeed to have universal monarchy, for to be a subject of several states at the same time would be much harder than to be dependent on just one. In order to illustrate his point Justi made a parallel between human beings and a state. He postulated that every state and every human being should be allowed to seek happiness, their own interest. In the case of states this might, for example, mean the improvement of administration and economic policy. A human being might want to learn new skills in order to become more perfect and happier. This should not offend anyone. The balance of power doctrine contradicted the principle that persons should not prevent one another from perfecting themselves and becoming happier. Preventing someone's happiness was comparable to one scholar giving another scholar opium to weaken his powers of thought, or to a situation in which a peasant ruined the fields of a more successful peasant.⁵⁸³ According to Justi, as soon as a state is governed well and begins to flourish, it will become an object of envy to other states (*Gegenstand des Neides anderer Staaten*). It would be a violation of the law of nations to punish such a state for its improvement.⁵⁸⁴ In sum, Justi argued that actions justi-

⁵⁸¹ Kaeber, *Die Idee*, p. 109.

⁵⁸² Justi, *Die Chimäre des Gleichgewichts von Europa*, pp. 59-62.

⁵⁸³ Justi, *Die Chimäre des Gleichgewichts von Europa*, p. 58.

⁵⁸⁴ Justi, *Die Chimäre des Gleichgewichts von Europa*, p. 60.

fied with a reference to the balance of power doctrine were not actions of reason. Rather, they were actions of corrupted passions, actions of envy.

Unlike in his earlier *Staatswirthschaft*, in this text of 1758 Justi stated that the best policy against the threat of increasing power was to improve the inner strength of one's own state. According to Justi, an international order based on the balance of power would lead to a situation in which no state would be able to perfect itself because other nations would turn against a state that became too powerful. For Justi, the real powers of government lay in the perfection and wisdom of its government. As such it would be beneficial to a nation if its neighbours had an imperfect government. A nation had no obligation to help other nations to perfect themselves – in Justi's view perfection came from a state's own efforts – yet it was equally so that one nation must not prevent another from pursuing perfection.⁵⁸⁵ Justi argued that an artificial levelling of the powers of the states would have consequences similar to those of equally distributing a nation's wealth. Justi questioned the benefits of both of these possible measures. Power that was based on qualitative factors could be promoted by intellect and hard work. In a few years, powers would no longer be equally distributed. Justi claimed that the same was true for wealth.⁵⁸⁶ Simply put, Justi's international thought rejected the idea that the balance of power theory could secure the peace and welfare of Europe. Indeed, quite the contrary, Justi believed that following the balance of power doctrine endangered Europe's welfare and caused tension that had often escalated into war. First and foremost, the maintenance of balance provoked arms races between the states. These arms races, in turn, were a leading cause of disproportionate public debts.⁵⁸⁷

The fact that Justi's critique of balance of power theory is founded on his conception of man as a self-interested passionate being has received little scholarly attention. Justi radicalised earlier arguments against the doctrine, suggesting that it was a dangerous chimera, which merely served any

⁵⁸⁵ Justi, *Die Chimäre des Gleichgewichts von Europa*, p. 58.

⁵⁸⁶ Justi, *Die Chimäre des Gleichgewichts von Europa*, p. 97; Justi, *Die Chimäre des Gleichgewichts der Handlung und Schifffahrt*, pp. 62-63. Adam, *The Political Economy*, p. 82.

⁵⁸⁷ Justi, *Die Chimäre des Gleichgewichts von Europa*, pp. 79-81.

possible war. Justi argued that historically no war ever had been fought to maintain the balance:

States, like private persons, are guided by nothing but their private interests, real or imaginary, and they are far from being guided by a chimerical balance of power. Name one state which has participated in a war contrary to its interests or without a specific interest, only to maintain the balance of power.⁵⁸⁸

Justi made the large claim that the balance of power between states had never existed, nor, he continued, was it even theoretically possible. Balance of power doctrine was nothing but a disguise for reason of state doctrine. Any explanation founded on reason alone clothed irrational motives:

A creature such as man, who possesses so many depraved predispositions and emotions and who also is endowed with the qualities of reason, is able to clothe his perverted and wrong actions in beautiful forms and masks [- - -] One always shows the world the pretty side of actions that actually results from the storm of one's passions. Reason, the dangerous companion of the passions, is always ingenious enough to construct a whole system to veil injustice.⁵⁸⁹

Once again, Justi foregrounded the passions as the explanatory motivation for human action. Reason of state, the true doctrine behind the balance of power, was nothing but 'a letter of indulgence', a means of granting forgiveness for all sins.⁵⁹⁰ In short, Justi argued that balance of power doctrine was equivalent to *raison d'État*, which again was a facemask (*Larve*) behind which corrupted passions were hidden.⁵⁹¹

Justi was convinced that wars were not fought for balance. Rather states entered into wars for reasons of self-preservation and to avenge injuries already made. The right of self-preservation endowed states with this right. This motive was natural since every state, just like every man, loved itself and sought to preserve itself. Justi argued that as long as no nation caused injury to the interest and happiness of another nation there was no discon-

⁵⁸⁸ Justi, *Die Chimäre des Gleichgewichts von Europa*, p. 65. Translation from Haas, 'The Balance', p. 464.

⁵⁸⁹ Justi, *Die Chimäre des Gleichgewichts von Europa*, p. 1; Translation is from Reill, *The German Enlightenment*, p. 95.

⁵⁹⁰ Justi, *Die Chimäre des Gleichgewichts von Europa*, p. 6.

⁵⁹¹ Justi, *Die Chimäre des Gleichgewichts von Europa*, p. 8.

tinuance in sociability.⁵⁹² Balance of power played no role in this context. Justi held that the balance of power doctrine could not justify a preventive strike.

THE CHIMERA OF THE BALANCE OF TRADE: IN DEFENCE OF ENGLAND

There was a second act in the debate on the balance of power doctrine. This was fuelled by a metaphorical extension of the term balance of power metaphorically to the ‘balance of trade’. Behind this expression lay the conception that power, understood as national might, was created by trade. In the context of the Seven Years’ War the French claim was that England was becoming dominant in trade, in particular because it was trying to monopolise trade to North America. According to French pamphleteers, this was clearly an aspiration toward a universal monarchy. England was accused of pursuing a universal monarchy of the seas.⁵⁹³

To disseminate the French position Jacob-Nicolas Moreau (1717–1804) organised a group that published pamphlets under the title *Observateur hollandois*. The title of the pamphlet series indicates that Dutch and European public opinion was a key constituency of this French propaganda.⁵⁹⁴ It was no coincidence that the pamphlets of Moreau’s group and of Maubert were directed to Dutch and Danish audiences. Denmark and the United Provinces were both neutral, and the role of neutrals was fiercely debated in the context of this new war.⁵⁹⁵ The United Provinces and Denmark received invitations to join alliances from both sides of the conflict.⁵⁹⁶ Often these invitations were combined with arguments about the balance of power. The navies of Denmark and the United Provinces could help to tip the scales. A further strategy of French pamphleteers was to take up the treatment of

⁵⁹² Justi, *Die Chimäre des Gleichgewichts von Europa*, p. 90.

⁵⁹³ Shovlin, ‘Selling American Empire’, p. 122, p. 131.

⁵⁹⁴ Shovlin, ‘Selling American Empire’, p. 124.

⁵⁹⁵ Seminal for this context is Koen Stapelbroek, ‘Universal Society, Commerce and the Rights of Neutral Trade: Martin Hübner, Emer de Vattel and Ferdinando Galiani’, *COL-LEGIUM: Studies Across Disciplines in the Humanities and Social Sciences* 4 (2008), pp. 63-89.

⁵⁹⁶ Matt Schumann and Karl Schweizer, *The Seven Years War: A Transatlantic History*, (London, 2008), p. 176, p. 185.

the neutrals as an example of England's attempt to acquire dominion of the seas during the Seven Years' War. This served as an address to a broader European audience. English privateers were confiscating Dutch and Danish ships and bringing them to prize courts. In relation to this Maubert de Gouvest presented the standard French position on the balance of power in his anonymously published *Politique Danois*. Justi was certain that Maubert was the author, although the work has been consistently ascribed to Martin Hübner (1723–1795). The author of *Politique Danois* began with what had become a commonplace in eighteenth-century Europe, namely the idea that European nations formed a republic. This republic was built on the fact that all nations were bound to support the balance of power. Maubert's claim was that England was becoming dominant in the republic and endangering the balance of power. He emphasised that all countries had equal rights to the riches of the world, and therefore it was justified to plead for the equal distribution of trade. Now trade was about to be fully in the hands of England. As a conclusion Maubert pleaded for an armed coalition of Continental powers in order to terminate England's maritime supremacy. He did this with a reference to Carthage, just as Carthage, England had to be destroyed.⁵⁹⁷

Heinz Gollwitzer has argued that it was an exception that a pro-English writer, Justi, opposed the balance of power doctrine. Moreover, Gollwitzer noted that Justi's remarks in the field of trade and navigation were totally against the interest of England.⁵⁹⁸ Although Frederick himself never fully abandoned the balances of power doctrine as a principle, it is not at all curious that a pro-Prussian and pro-Hanoverian writer such as Justi should oppose the balance of power doctrine in 1758 and 1759. In the context of the Seven Years' War the balance of power doctrine was for the first time used against Prussia and England. It was only natural to reconsider the importance of the doctrine to the Prussian and English cause. Furthermore, Gollwitzer misunderstood Justi's pamphlet on the balance of trade. In fact, the whole pamphlet was written in defence of England against French writers

⁵⁹⁷ [Anon.], *Le politique Danois* (Copenhagen, 1756). See especially pages 34, 118-119, 209-210, 309-310 and 363-364. The work was published in 2nd edition in 1759.

⁵⁹⁸ Heinz Gollwitzer, *Europabild und Europagedanke: Beiträge zur deutschen Geistesgeschichte des 18. und 19. Jahrhunderts* (München, 1964), p. 76.

such as Maubert and Moreau. This was part of Justi's role as pro-Prussian and -Hanoverian war pamphleteer. Without exception Justi attacked all possible enemies. In order to support Prussia's march into Saxony Justi wrote a book called *Leben und Character des Königl. Pohlnischen und Churfürstl. Sächs. Premier-Ministre Grafens von Brühl* in which he presented Count Brühl's regime as an example of ministerial despotism. The work was soon translated into English under the title *The Life and Character, Rise and Conduct, of Count Brühl: Prime Minister to King of Poland, Elector of Saxony* (1760). In essence, Justi argued that Prussia had to fight for its self-preservation, and in so doing had saved Saxony from the tyranny of Count Brühl.⁵⁹⁹ Directly after Sweden joined the alliance against Prussia Justi launched a frontal attack on Sweden by condemning its decision to join the war. Sweden's constitution, he noted, which allowed for the tyranny of one party, had opened the doors to such an imprudent decision.⁶⁰⁰ It is therefore no surprise that Justi also addressed those French pamphleteers criticising England, and appealing to Denmark and the United Provinces to join their ranks. In his *Chimäre des Gleichgewichts von Handlung und Schifffahrt* (1759) Justi primarily intended to dismiss the arguments presented in Maubert's anonymously published pamphlets *Citoyen Amsterdam* and *Politique Danois*.⁶⁰¹

At the start of his pamphlet on the balance of trade Justi argued that Maubert's malevolence was without comparison. Not even Machiavelli had been as vicious as Maubert.⁶⁰² Justi emphasised that the French authors had misunderstood the nature of trade and the concept of just neutrality. To defend England Justi emphasised first, that the Navigation Acts were a just measure, since every nation was a master of its trade.⁶⁰³ As Istvan Hont has shown, Justi argued that states 'ought to respect the right of nations to dis-

⁵⁹⁹ Johann Justi, *Leben und Character des Königl. Pohlnischen und Churfürstl. Sächs. Premier-Ministre Grafens von Brühl* (Ulm, 1760); Adam, *The Political Economy*, pp. 157-163.

⁶⁰⁰ Ere Nokkala, 'Debatten mellan J.H.G. von Justi och H.L. von Heß om frihetstidens författning' *Historisk Tidskrift för Finland* 94 (2009), pp. 20-55.

⁶⁰¹ Justi, *Die Chimäre des Gleichgewichts der Handlung*, pp. 7-10.

⁶⁰² Justi, *Die Chimäre des Gleichgewichts der Handlung*, p. 9.

⁶⁰³ Justi, *Die Chimäre des Gleichgewichts der Handlung*, p. 12, p. 14.

engage from certain individual branches of trade'.⁶⁰⁴ Navigation acts were just one example of this measure. It was also compatible with the Golden rule of doing unto others as one would want to have done to oneself. Second, Justi emphasised that as far as trade was concerned, French authors had missed the self-balancing mechanisms of international trade. He argued that the commerce of a state was based on natural circumstances; more specifically, on the fertility of the land and geographical location. Above all, he suggested, it was based on the qualities of the inhabitants that determined its commerce. Foreign trade was based on the high quality and low price of the products a country produced. Again, this combination was impossible to achieve without skill and industry on the part of a country's inhabitants. The equality of commerce could be reached only by promoting equality in skillfulness and industry, which would discourage improvement in a way similar to the effects of the equal distribution of wealth within a state. Besides, Justi held that it was not possible that England would gain a commercial monopoly. At some point the price of labour and commodities in England would rise to such a level that poorer nations would be able to destroy their previously solid market position. There would be more and more money in circulation in England. The more money there was in circulation, the more expensive goods would become. In addition, more and more money would come from foreign trade, which would simply accelerate the process. Finally, the goods produced would become so expensive that it would not be possible to sell them outside of the country. Therefore, Justi believed that it was not possible that the world economy could be dominated by a single nation.⁶⁰⁵

Justi's idea of the self-destructive character of competition is similar to Montesquieu's ideas presented in his essay on universal monarchy, *Réflexions sur la Monarchie Universelle en Europe* (1734). In a different context, Montesquieu nonetheless addressed French fears of England becoming a commercial hegemony, a universal empire. In this essay Montesquieu claimed that universal monarchy was 'morally impossible'. He noted that throughout history, no one had ever been in position to actually achieve

⁶⁰⁴ Hont, *Jealousy of Trade*, p. 35.

⁶⁰⁵ Justi, *Die Chimäre des Gleichgewichts der Handlung*, p. 36. Hont, *Jealousy of Trade*, pp. 34-37.

universal monarchy. At some point, however, poorer nations would come to enjoy a price benefit over the rich nations, and as a result they would be able to undersell them. In sum, according to Montesquieu, lasting supremacy in world trade and navigation was impossible because prosperity sets limits to trade. Comparably, Justi argued that a world monopoly of trade was impossible because of the self-defeating character of international competitiveness.⁶⁰⁶

After dispensing with the arguments of French pamphleteers regarding the need for an anti-British league, Justi turned to their portrayal of the alleged British mistreatment of neutral ships. The last chapter of Justi's *Die Chimäre des Gleichgewichts der Handlung und Schiffahrt* was dedicated to a defence of England's hostile policy towards Dutch trade from the French colonies. Justi sought to demonstrate that the Dutch were not in fact neutral and that, as such, the confiscation of Dutch ships on the part of the British was justified.⁶⁰⁷ The issue of neutrality was difficult for Justi – once again – as a direct result of his earlier publishing career. In 1748 Justi had published an essay in which he had explicitly questioned the confiscation of Prussian ships by British privateers in the war of Austrian Succession. This essay had been entitled *Erörterung der Frage: Ob kriegende Mächte der Handlung und Schiffahrt eines neutralen Volks nach ihres Feindes Hafen, in Ansehung der sogenannten Contrebandwaaren, einige Hinderniß und Schaden zu verursachen befugt sind?*⁶⁰⁸ In 1758, rather than disregard his earlier essay on maritime neutral trade, Justi republished it in his *Historische und Juristische Schriften* (1760) with a number of additional footnotes that qualified his previous position.⁶⁰⁹ The alterations related to a redefinition of what he understood as 'taking the position of the enemy'. This conceptual innovation had also been present in Justi's pamphlet on the balance of trade. In

⁶⁰⁶ Justi, *Die Chimäre des Gleichgewichts der Handlung*, pp. 32-39; Adam, *The Political Economy*, pp. 82-92; Hont, *Jealousy of Trade*, p. 37.

⁶⁰⁷ Justi, *Die Chimäre des Gleichgewichts der Handlung*, pp. 75-86.

⁶⁰⁸ Johann Justi, 'Erörterung der Frage: Ob kriegende Mächte der Handlung und Schiffahrt eines neutralen Volks nach ihres Feindes Hafen, in Ansehung der sogenannten Contra-bandwaaren, einige Hinderniß und Schaden zu verursachen befugt sind?', in Justi, *Ergetzungen der vernünftigen Seele aus der Sittenlehre und der Gelehrsamkeit überhaupt*, vol. 5, pp. 475-510, p. 510.

⁶⁰⁹ Justi, *Historische und Juristische Schriften*, vol. 1 (Frankfurt, 1760), pp. 140-170.

his original *Erörterungen* Justi had argued that taking the position of the enemy was the most crucial violation of impartiality. In his new footnotes he argued that neutral nations may not become mere carriers of enemy's trade. If this took place, the neutral had turned into an enemy. The redefinition of taking the role of the enemy was a strike against Dutch neutrality, which according to Justi, was an illusion. The Dutch offered France a way out (*Ausweg*) and enabled the French to save their overseas trade. According to Justi, the Dutch were doing the trade of the French for them under the disguise of neutrality. The actions of the Dutchmen were motivated not by peace, but by greed. Justi argued that profit motivated the shipping of French goods from its Caribbean colonies. Dutch actions were prolonging the ongoing war.⁶¹⁰ Justi argued that the Dutch had become not only enemies, but true aggressors. Consequently, the claim that the British mistreated neutrals was false, since the Dutch were not neutral. This reasoning was a refutation of Maubert, highlighting the extent of his malevolence.⁶¹¹ Further proof of this line of reasoning was the fact that England did not interrupt Dutch trade elsewhere, other than that with the French colonies. Thus Justi's position can be seen as a part of the substantial debate on the distinction between neutral trade *with* the enemy and trade *for* the enemy. Justi was in favour of what we know as the Rule of 1756, which stipulated that neutrals refrained from trade in wartime that was closed to them in time of peace.⁶¹²

Common to Justi's critique of balance of power doctrines was his opposition to any idea of a European community. To bring the point to bear Justi argued that all of his opponents – above all Kahle and Maubert – referred to Europe as one body, system or republic. England and Prussia were being accused of disturbing the balance within the European republic. Justi's re-

⁶¹⁰ Justi, *Historische und Juristische*, p. 152. Here Justi has added a footnote where he points out that being a mere carrier for enemy good out of greed is against the principles of neutrality, and argues that it is self-evident that goods of war that have been loaded on a belligerent's account can be confiscated. See footnote k.

⁶¹¹ Justi, *Die Chimäre des Gleichgewichts der Handlung*, p. 21.

⁶¹² Tara Helfman, 'Neutrality, the Law of Nations, and the Natural Law Tradition: A Study of the Seven Years' War', *The Yale Journal of International Law* 30 (2005), pp. 549–586, p. 550. See also Richard Pares, *Colonial Blockade and Neutral Rights 1739–1763* (Philadelphia, 1975).

mark is perceptive. The conception that Europe constituted a republic was an Enlightenment commonplace.⁶¹³ The idea of a balance of power between European nations relied on an assumption that Europe was a community: states were committed to maintain the Westphalian order (1648). The unity created by the balance of power was a community of need which replaced the *corpus christianum*. It was a value-neutral mechanical notion of balance. Those independent states that were united in their participation in the balance of power formed a republic. The concept of balance came out of a sense of unity. As Hans Bödeker has argued, the concepts of interest, system and balance all expressed ‘an attitude of membership of the individual members to a single theoretical whole.’⁶¹⁴ Most famous in this respect is Vattel’s statement that:

Europe forms a political system, an integral body, closely connected by the relations and different interests of the nations inhabiting this part of the world. It is not, as formerly, a confused heap of detached pieces, each of which though herself very little concerned in the fate of the others, and seldom regarded things which did not immediately concern her. The continual attention of sovereigns to every occurrence, the constant residence of ministers, and the perpetual negotiations, make of modern Europe a kind of republic, of which the members — each independent, but all linked together by the ties of common interest — unite for the maintenance of order and liberty. Hence arose that famous scheme of the political balance, or the equilibrium of power; by which is understood such a disposition of things, as that no one potentate be able absolutely to predominate, and prescribe laws to the others.⁶¹⁵

Justi’s critique of the balance of power goes to the very core of the doctrine. He argued that neither England nor Prussia could endanger the balance of the republic because such a republic had never existed. Justi questioned the notion of a European republic vehemently. To Justi such a construct was impossible since he saw the republic, the state, as the opposite of the state

⁶¹³ F. H. Hinsley, *Power and the Pursuit of Peace: Theory and Practice in the History of Relations Between States* (London, 1967), pp. 161-164.

⁶¹⁴ Hans Erich Bödeker, ‘“Europe” in the Discourse of the Sciences of State in 18th Century Germany’, *Cromohs* 8 (2003), pp. 1-14; See also Arno Strohmeyer, *Theorie der Interaktion: Das europäische Gleichgewicht der Kräfte in der frühen Neuzeit* (Wien, 1994).

⁶¹⁵ Vattel, *The Law of Nations*, p. 496.

of nature. Justi held that states were free and equal – living in the state of nature without any civil authority or other community above them. Justi pointed out that, among others, Maubert spoke constantly of the general republic, general best and interest of the ‘republic of nations’ (*der Republik der Völker*) on account of which all nations were so tightly bound together. In contrast, Justi argued that: ‘Nothing is as wrong and unfounded as the notion of a general republic of the European nations.’⁶¹⁶ The idea of Europe as a body or system was an impossible idea for Justi because there was no relationship between states (*Verhältnis*), bond (*Verbindung*), connection (*Zusammenhang*) or society (*Gesellschaft*). He then asserted that societies in fact presuppose devotion to a common aim (*Endzwecke*), which cannot be assumed to exist between nations. For Justi, there existed no general interest of all states, and their lack of any kind of connection implied that states cannot form a theoretical whole.⁶¹⁷ Justi’s comment on Kahle’s analogy reveal a great deal about how Justi saw the relationships between states. As mentioned earlier, Kahle had compared the execution of balance of powers politics with a doctor who heals the body by removing parts that could cause disorders. Justi opposed Kahle’s analogy by stating that a wise doctor cures only the diseased body. Moreover, Justi argued, such a physician does not start killing people that the diseased person thinks might be the source of his disease. Something similar was true of states. A ‘diseased state’ needed to be healed. It was not helpful to kill neighbouring states. The only measure against the increasing power of a realm was to improve a state’s own power.⁶¹⁸ Most states had much to do in this field. In short, England and Prussia should be emulated, not envied and ‘balanced’.

In this chapter I have argued that Justi’s defence of universal monarchy was a theoretical experiment in which the concept of universal monarchy was used as a rhetorical device. The point of Justi’s essay on universal monarchy was to comment on the political and economic situation of the Holy Roman Empire. According to Justi, Germany contained far too many petty tyrants, whose actions devastated the realm. Justi’s solution was to simultaneously strengthen the power of the emperor and the largest *Reich-*

⁶¹⁶ Justi, *Die Chimäre des Gleichgewichts der Handlung*, p. 68.

⁶¹⁷ Justi, *Die Chimäre des Gleichgewichts der Handlung*, p. 70.

⁶¹⁸ Justi, *Die Chimäre des Gleichgewichts von Europa*, p. 94.

stände. Whereas a universal monarchy was theoretically realisable, Justi considered the balance of power between states to be a dangerous chimera. For him, the actions of states were motivated by passions and not by reason. The balance of power doctrine tried to deny this. Justi argued that this chimerical doctrine was about to halt the improvement of civilisation and had led to reciprocal slavery. Following this doctrine – one which clearly relied on a confused conception of power – would complicate any reforms to cultivate land, administration or even diligence of the people. The doctrine was the cause of wars, as opposed to helping to preserve peace. Balance of trade was nothing more than a twisted version of the same doctrine, Justi continued, it merely functioned as a way to deny that states were moved by passions, not unlike individual human beings.

So far I have argued that Justi rejected the most common theories of international relations of his time. In closing, I turn to explore the kind of international order he himself advocated and his future vision for Prussia particularly in respect of its foreign policy.

CHAPTER 7: TWO WAYS TO HAPPINESS: FROM SPARTA TO ATHENS

FREEDOM OF POWERS

At the time when Justi began to publish on the law of nations, Wolff's writings on the topic formed the major point of reference. In spite of fundamental differences, Wolff and Justi shared the same starting point; both advocated the 'domestic analogy'.⁶¹⁹ Not unlike Wolff, Vattel and a majority of eighteenth-century theorists, Justi argued that the subject of the law of nations was the free state. Moreover, he held that nations find themselves in the state of natural freedom (*im Stande der natürlichen Freyheit*) where every state forms one moral body (*einen einzigen moralischen Kör-*

⁶¹⁹ Christian Wolff, *Vernünfftige Gedanken von dem Gesellschaftlichen Leben der Menschen und Insonderheit dem Gemeinen Wesen* (Frankfurt, 1736), §220. 'Ein jeder Staat ist, in Ansehung anderer Staaten mit Regenten und Unterthanen zusammen genommen, als eine Person anzusehen und also verhalten sich zwey derselben gegen einander, wie eintzele Personen.'; Hidemi Suganami, *The Domestic Analogy and World Order Proposals* (Cambridge, 1989), p. 13. Scholars have referred to the idea that the state is comparable to human beings as the 'domestic analogy'. Figured as such the state is a person who possesses a will, seeking self-preservation and happiness. The equation of the domestic sphere with the international sphere continues to attract various adherents. However, few have applied it without certain restrictions or modifications. Among the standard arguments levelled against the domestic analogy is the claim that there is absolutely no empirical proof showing that states would act as individual humans in international relations. In the light of this argument the domestic analogy has also been termed the 'domestic fallacy'. Moreover, cosmopolitan theorists of international order have emphasised the role of citizens and other actors on international arena, noting that states are not the only subjects in international relations. See R. J. Vincent, *Human Rights and International Relations* (Cambridge, 1986), p. 115; Hochstrasser, *Natural Law Theories*, pp. 177-178.

per ausmacht).⁶²⁰ Once the state itself was understood as a person, it could be perceived as an actor in the international sphere in a way similar to that in which the individual was positioned in a ‘domestic sphere’. As a corollary, Justi maintained, every nation is in relation to other nations in a manner comparable with a human being in the natural state of freedom. From here Justi concluded that nations were obliged to found their law of nations on the law of nature. Repeating his position on the law of nature that passions and instincts were shared by all human beings, Justi suggested that the part of the law of nations to which natural law applied could only involve reference to the passions.⁶²¹ This led Justi to divide the law of nations into two parts: a law of nations based on the law of nature (*Naturrecht*) and the voluntary law of nations (*willkürliches Völkerrecht*), which was based on customs.⁶²² As far as Justi was concerned, the main principle of the former was the natural drive and right for self-preservation, which manifested itself in different passions. Justi argued that, if the law of nations was to be universal it had to be founded on the concept of self-preservation. Unlike natural law, civil law, which was a law of reason, dealt with the pursuit of happiness. Justi emphasised that in the field of the law of nations the concept of happiness had no generalisable validity. Sociability and happiness belonged only to the realm of civil law. As such, they could not form the basis for universal international order. Justi argued that perhaps the scholars’ understanding of the concept of self-preservation had been too broad when it had been applied to relations between states, and mingled with the concepts of sociability and happiness. Indeed, he never tired of emphasising how important it was that the concepts of self-preservation and happiness were kept separate from each other. For Justi, in relations between free powers it was always legitimate to refer to the former; however the same

⁶²⁰ Justi, *Natur und Wesen*, p. 472, ‘Die Völker leben im Stande der natürlichen Freyheit: und da ein Staat einen einzigen moralischen Körper ausmacht; so verhält sich ein Volk gegen das andre nicht anders als ein einzelner Mensch im Stande der natürlichen Freyheit gegen den andern.’

⁶²¹ Justi, *Natur und Wesen*, p. 472.

⁶²² Justi, *Natur und Wesen*, pp. 471-501.

was not true of the latter. Laws that concerned the promotion of happiness were pure civil laws and were to be applied only within the state.⁶²³

It may not come as a surprise that Justi was vehemently opposed to Wolff's idea of the 'greatest state', *civitas maxima*.⁶²⁴ Justi's critique of a Wolffian law of nations was highly innovative in terms of the language he used to oppose the latter's 'civil law of all the nations'. Justi argued that states could not be considered as 'members' (*Mitglieder*) or 'world citizens' (*Weltbürger*) of the common state (*eines gesammten Staats*). According to Justi, states do not form a one big human society (*eine große menschliche Gesellschaft*). Justi argued that such claims were not uncommon, a wry reference to Wolff and his followers. In Justi's view, however, such claims served merely to disseminate false principles of the law of nations damaging to the welfare of nations.⁶²⁵ The reader might recall a similar point being made about Europe not being a coherent social body.

According to Justi, equating the voluntary law of nations with civil law was a fundamental mistake, one which served mischievous purposes. As Justi's disciple Pfeiffer argued, when the civil laws of a single nation were applied to matters between free nations (*Angelegenheiten der freien Völker*) they resulted in unlawful demands, unjust measures and unhappy wars.⁶²⁶

⁶²³ Justi, *Natur und Wesen*, p. 89.

⁶²⁴ Wolff had argued that all nations joined together in greatest state as a functional equivalent to civil society. In his notion of *civitas maxima* Wolff presented the civil law of the world. See Christian Wolff, *Grundsätze des Natur und Völkerrechts, worinn alle Verbindlichkeiten und alle Rechte aus der Natur des Menschen in einem beständigen Zusammenhange hergeleitet werden* (Halle, 1754), §1090. 'Weil die Völcker schuldig sind sich und ihren Zustand mit vereinigten Kräften vollkommener zu machen; so hat die Natur selbst unter den Völckern eine Gesellschaft gestiftet, in welche sie wegen der unwiderrufflichen Nothwendigkeit der natürlichen Verbindlichkeit willigen müssen, so daß es scheint als wenn sie durch einen eigenen Vertrag zu wege gebracht wäre. Und diese Gesellschaft, so der gemeinsamen Wohlfahrt wegen errichtet ist, wird der grösseste Staat (*civitas maxima*) genennet, dessen Glieder, so zu reden als Bürger, die einzelnen Völcker sind.' See also Béla Kapossy and Richard Whatmore, 'Introduction', p. xv; Martti Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument* (Cambridge, 2005 [1989]), pp. 108-11; Richard Tuck, *The Rights of War and Peace: Political Thought and the International Order From Grotius to Kant* (Oxford, 1999), pp. 187-191.

⁶²⁵ Justi, *Die Chimäre des Gleichgewichts der Handlung*, p. 68.

⁶²⁶ Pfeiffer, *Berichtigungen*, pp. 176-177.

Justi argued that the talk of civil law of all nations served only to render the civil law of an individual state a guiding light of the law of nations. Conceiving ‘international community’ as a whole could also justify actions that would be only permitted in a state of emergency within a state. For instance, it could be used to legitimise an occupation or a division of a country in the name of common security and peace. Justi regretted the fact that actions based on the confusion between civil law and the law of nations were often realised. He stated that his own century had witnessed several examples of this kind of violation of the law of nations. Indeed, he went as far as to say that it was reasonable to ask whether any law of nation existed in Europe, noting that the sovereignty of a nation had often been injured in the most shameful manner in several cases. There were contracts between states exercising power over the property of another state, an action which, according to Justi, was genuinely unjust and comparable to an arbitrary agreement by two citizens to seize the property of a third.⁶²⁷ Furthermore, Justi regarded the analogy between civil law and law of nations as dangerous in the sense that this doctrine would almost certainly be used by strong states in future to divide smaller states between themselves and keep them as booty. He predicted that this was far more serious a threat than the often-repeated fear that a universal monarchy might be imposed. In fact, Justi was anticipating the division of Poland (1772).⁶²⁸

Continuing with his discussion of unjust actions that followed from mixing civil law with the voluntary law of nations, Justi noted that in no state, apart from a state of emergency, was the ruler allowed to demand that the private property of a citizen to be seized by the state. This was possible only in cases where subject’s premises were necessarily required for the building of a fortress.⁶²⁹ However, all losses of property had to be compensated by the state. In other words, all property that had been sacrificed for the welfare and happiness of the commonwealth had to be substituted in order to dissolve the state of injustice that ensued.⁶³⁰ Thus, in civil society human beings can be forced to act against their will by the authority of the

⁶²⁷ Justi, *Politische und Finanzschriften*, vol. 3, p. 134.

⁶²⁸ Justi, *Natur und Wesen*, p. 174.

⁶²⁹ Justi, *Politische und Finanzschriften*, vol. 3, p. 126

⁶³⁰ Justi, *Politische und Finanzschriften*, vol. 3, pp. 129-130.

state. A citizen can be obliged to perform an action that it would be unjust to ask for in times of peace. However, these kinds of measures were part of the nature of a republic and of a free state. Such a state of emergency, that would allow one nation to seize other nation's property legally, was inconceivable between nations. Justi emphasised that free powers (*freye Mächte*) do not owe one another similar obligations as citizens to their states since this would go beyond the sovereignty of a free power.⁶³¹

Justi's account of international order highlighted the independence and freedom of states. He asserted that whereas civil freedom (*bürgerliche Freyheit*) meant that every man is a master in his house and must be allowed to promote his welfare by his actions, without encountering obstacles and misgivings from other powers (*von einer andern Gewalt*), the natural freedom of nations (*die natürliche Freyheit der Völker*) had to consist of that with which other states should not concern themselves, namely, with the inner affairs (*innern Angelegenheiten*) of another state.⁶³² Other states should not be treated 'as own citizens' to whom the own state could prescribe laws. This was a clear dig, on Justi's part, at Wolff and his school. Justi argued that only if there was a universal monarch, with dominion and sovereignty (*Oberherrschaft*) over all nations, would the idea of a civil law over all nations be sustainable. He believed that the greatest republic could only take the form of a universal monarchy. However, Justi also conceded that the latter did not correspond well with reality, since rulers had fought for centuries to prevent any possible attempt to found such a thing, although he argued that empirical counterexamples did not remove the possibility of such a state in the future. He stated that even theoretically only a tacit universal monarchy (*unvermerkte Universalmonarchie*) could have the aspect of a coherent idea.⁶³³ The idea of *civitas maxima* was too theoretical and abstract for Justi. It was built on reason, which in Justi's view could never

⁶³¹ Justi, *Politische und Finanzschriften*, vol. 3, 130.

⁶³² Justi, *Die Chimäre des Gleichgewichts von Europa*, p. 60. 'Wenn die bürgerliche Freyheit hauptsächlich darinnen bestehet, daß man Herr in seinem Hause ist, und daß man in seinen Handlungen, wodurch man sein Bestes zu befördern denket, von einer andern Gewalt keine Hinderniß und Befürchtung vor sich findet: so muß noch mehr die natürliche Freyheit der Völker darinnen bestehen, daß sich die andern Staaten um seine innern Angelegenheiten nicht zu bekümmern haben.'

⁶³³ Justi, *Politische und Finanzschriften*, vol. 3, p. 126.

function as the foundation of a universal law of nations. Moreover, Justi pointed out that, unlike in the state of nature between men, there was no necessity for states to unite their powers and wills.

One key question raised by Justi's international thought relates to why, in Justi's view, states did not form a common state, when individuals in the state of nature ended up doing so? According to Justi, the explanation lay in the fundamental differences between states and individuals. For Justi, the state of nature that existed between states was the second empirical example of a state of nature, in addition to the tribes living in Kamchatka and America. The states lived in a state of nature just as people had lived before the foundation of states.⁶³⁴ Working analogically – which was a common approach at that time – from his understanding of the states of nature between men, Justi conceived that the state of nature between states was not a constant state of war. Rather it was a state of peace. States were able to recognise that mutual aid and trade with other nations would promote their own happiness. In addition, fear of death and injury would keep the state cautious and peaceful in its actions towards other states. However, Justi argued that states as moral entities differed from humans. First of all – perhaps surprisingly considering that he was writing in the middle of a war – Justi argued that since there were only around a hundred states, the disagreements between them were much easier to solve diplomatically than conflicts between thousands of citizens. The arrangement of interconnectivity between states would be easier than that between citizens. This account was not based on some ontological assumption regarding the nature of men and of states. Rather, it was a notion based on the low number of states in comparison with human beings.⁶³⁵ The relations between states could be regulated with mutual pacts, conventions and customs. Secondly, Justi argued that states were much more independent than individuals. Justi questioned the natural sociability of states far more decisively than he did that of human beings. In his eyes, states were far more capable of pursuing their happiness without the help of other states. Here Justi was follow-

⁶³⁴ However, Justi did not believe that the state of nature was a state of war. In his view, in the state of nature all persons were cautious and fearful. See Justi, *Die Chimäre des Gleichgewichts von Europa*, p. 90.

⁶³⁵ Justi, *Grundriß*, p. 265.

ing Pufendorf's assessment that states, unlike human beings, were strong enough to enjoy their happiness. Unlike humans, the person of the state did not suffer the *imbecillitas* that would force it to leave the state of nature in order to unite its forces with other states. Justi denied the very possibility of states forming a common society (*societas gentium*, *Gesellschaft*). He believed that while states might often see sociability (*Geselligkeit*) as a reasonable way of acting, this did not imply that states would have a special drive towards a society, or any duty of sociability.⁶³⁶

Justi's rejection of the 'society of states' was underpinned by a degree of theory. According to Justi, societies existing in the state of nature were always unequal, otherwise they could not function.⁶³⁷ Therefore, maintaining that the states would form a society would imply that states were not equal. Hence, Justi denied the possibility of a universal society among nations. States were self-interested beings, whose interests could not be harmonised. Justi emphasised that the complete lack of a common interest or aim made the construction of the greatest state unthinkable. The state of natural liberty in which states existed was exactly the opposite condition to a civil society.⁶³⁸

THE GOLDEN RULE AND JUSTI'S CRITIQUE OF COLONIALISM

Justi's premise in his law of nations was that the main principles of the law of nature, the right of self-preservation and the rights and duties derived from it, were also present in the relations between nations.⁶³⁹ In practical terms this meant that only defensive wars were just, since the right of personal self-defence was the perfect right of every nation. In the context of the Seven Years' War, Justi argued on Prussia's behalf that this war was a war of self-preservation, and therefore just.⁶⁴⁰ Justi had himself asserted that it seemed as if no law of nations functioned in Europe. Since there

⁶³⁶ Justi, *Natur und Wesen*, pp. 472-477.

⁶³⁷ Justi, *Rechtliche Abhandlung*, p. 48.

⁶³⁸ Justi, *Natur und Wesen*, p. 475. 'Der Stand der natürlichen Freyheit, in welchem die freyen Staaten leben, ist der Natur der bürgerlichen Verfassungen gerade entgegen gesetzt.'

⁶³⁹ Justi, *Natur und Wesen*, p. 472.

⁶⁴⁰ Justi, *Natur und Wesen*, pp. 289-292.

was no higher authority above states that were equal and free, how could the law of nations function? How could states be obliged to respect the right of self-preservation, if there were no punishments for amoral action? The problem of obligation was a central question for Justi and many of his contemporaries because law implied an obligation, which presupposed a relationship between superior and subject. Among states that were equal no such arrangement existed.

Justi had an answer to the problem of obligation in the law of nations. He argued that the Golden rule and its counterpart, namely, the law of retaliation, appeared as a solution to the question. Justi formulated the Golden rule in its positive form. The general principle of the law of nations (*allgemeine Grundsatz des Völkerrechts*) was that a nation must behave towards other states as they wished to be treated themselves in equal circumstances.⁶⁴¹ Here too Justi relied on Schmauss. In fact, Schmauss's contemporary commentator Gottfried Achenwall interpreted Schmauss's law of nature as an application of the Golden rule and argued that Schmauss's *ius naturale* actually rested upon the innate instincts inherent to the human will: '*Triebe quod tibi non vis fieri, alteri ne feceris.*'⁶⁴² Schmauss had argued that there was no natural hostility between men in the state of nature. Such individuals were able to recognise that other men have the same instincts and instead of feeling anger or aggression, they would likely to be moved to feel friendliness (*Freundlichkeit*) or sympathy (*Mitleiden*). In this way, it was clear that rights deduced from instincts belonged equally to everyone. According to Schmauss, men realised, with relatively little contemplation, that innate rights do not belong solely to themselves, but to all other human beings. This makes them all equal.⁶⁴³ This inner conviction followed from the recognition that other human beings feel the same instincts in their hearts: 'the inner conviction of the fundamental principle of the law of nature' (*Fundamental-Regel des Recht der Natur*). You should refrain from doing to others that which you would not want to happen to you. According to Schmauss, this was implanted in the human will, and

⁶⁴¹ Justi, *Natur und Wesen*, p. 478.

⁶⁴² Streidl, *Naturrecht*, p. 85, footnote 126.

⁶⁴³ Schmauss, *Neues Systema*, p. 506.

functioned as the foundation of all human obligation.⁶⁴⁴ One of the main fields of the application of the Golden rule was the law of nations.

The context of Schmauss's and Justi's thought was greatly conditioned by Hobbes's views on the Golden rule. In Hobbes's *De Cive* this rule provided the possibility for an uneducated person to learn about the principles of the law of nature.⁶⁴⁵ As I have shown earlier, this element was very present in Schmauss's and Justi's thought. Natural law and a law of nations based on natural law could not be universal unless based on what everyone shared, and on qualities that all human beings (or states) were able to recognise in themselves and in each other. The method of self-analysis and on the other hand the capacity to recognise others feelings, a form of empathy, would serve as basis for the application of natural law. It was necessary to be able to look at things from the viewpoint of the other. This guideline would help to make the decision about what was right.⁶⁴⁶

The centrality of the Golden rule in Hobbes and, moreover, for the German theorists of the eighteenth century, has often been doubted.⁶⁴⁷ Hobbes had made the Golden rule truly popular among natural law thinkers. However, it was Thomasius's *Fundamenta Iuris Naturae et Gentium* (1705) that did most to strengthen its popularity in the eighteenth century.⁶⁴⁸ Kant's dismissive comments on the Golden rule in *Grundlegung zur Metaphysik der Sitten* (1785) condemned the maxim to oblivion as a principle of morality. This process had begun well before Kant, who collected together and reformulated earlier critiques of the Golden rule into a convincing analytical form.⁶⁴⁹ Several authors had already debated the negative and positive forms

⁶⁴⁴ Schmauss, *Neues Systema*, pp. 516-517.

⁶⁴⁵ Hruschka, 'Die Goldene Regel in der Aufklärung', p. 165.

⁶⁴⁶ Schmauss, *Neues Systema*, p. 510.

⁶⁴⁷ Hruschka, 'Die Goldene Regel in der Aufklärung', pp. 170-171.

⁶⁴⁸ Hans Reiner, "Die goldene Regel und das Naturrecht: zugleich Antwort auf die Frage, gibt es ein Naturrecht?", *Studia Leibnitiana* 9 (1977), pp. 231-254. The rule itself is of course much older. Perhaps the most famous expression of the Golden rule is to be found in the Bible; in the Sermon on the Mount, in which Jesus entreats his followers to 'Do unto others as you would have them do unto you'. This rule or principle, as it is sometimes called, is not exclusive to Christian theology. In different forms the rule has also played a key role in Judaic and Confucian traditions. The habit of referring to this rule as 'golden' originates in the eighteenth century.

⁶⁴⁹ Hruschka, 'Die Goldene Regel in der Aufklärung', pp. 170-171.

of the Golden rule in the seventeenth and eighteenth century. Pufendorf, and following him, Gershom Carmichael (1672–1729) and Francis Hutcheson (1694–1746), questioned the universal validity of the Golden rule. They argued that if one followed the Golden rule, one would always be compelled to give beggars money, since if one were the beggar that was the treatment one would hope for. A judge in court would have to free the accused, for that would surely be what he or she would have wanted to happen had they found themselves in the same position. The master would have to polish his servant's shoes. The duels and exchange of spouses could equally be legitimised in accordance with the Golden rule.⁶⁵⁰ A further objection against the Golden rule was that it took desires as the standard of morality.⁶⁵¹

The advocates of the Golden rule sought to refute the arguments of critics. Thomasius responded to Pufendorf by emphasising that the Golden rule was valid only between equals. The Golden rule could not function as a guideline of civil legislation because of the many and varied exceptions to the rule. However, nations were free and equal and therefore the Golden rule could be applied to 'international relations'.⁶⁵² As to the argument about setting desires as the standard of natural law and morality, this was not at odds with Schmauss's and Justi's conception of the law of nations. In a way, this was exactly what Justi and Schmauss had been claiming. Instincts, passions and desires were the true source of natural law. What remained problematic with regards to the Golden rule was the mechanism of obligation; how could the Golden rule be enforced. Hobbes and Pufendorf had argued that the term law implied an obligation. Obligation again presupposed a relation between a subject and a superior. Contractual and customary laws of nations were not binding because the relation of dependence did not exist between the states. For Hobbes and Pufendorf the only law of nations was therefore the applied law of nature. Law of nature could be considered binding because it was the will of God.⁶⁵³ In Thoma-

⁶⁵⁰ Hruschka, 'Die Goldene Regel in der Aufklärung', pp. 168-169.

⁶⁵¹ Jeffrey Wattles, 'Levels of Meaning in the Golden Rule', *Journal of Religious Ethics* 15 (1987), pp. 106-129, p. 108.

⁶⁵² Hruschka, 'Die Konkurrenz von Goldener Regel und Prinzip der Verallgemeinerung', p. 943.

⁶⁵³ Zurbucher, 'Vattel's Law', pp. 408-409.

sius' view the lack of enforcement meant that *ius gentium* was something less than a 'real law'.⁶⁵⁴

Both Justi and Schmauss asserted that the Golden rule was the foundation of all obligations. For Schmauss and Justi what made it certain that the law of nations was obliging, was the law of retaliation (*Wiedergeltungsrecht*), also known as *Ius Talionis*. With reference to the law of retaliation, states keep each other within limits. In other words, what obliged nations to follow the Golden rule was the fear of punishment. Schmauss counts vindictiveness (*Rachgier/Rachbegierde*) among the most natural instincts. He held that vindictiveness was innate, and arose from an antecedent injury. It never left the insulted in peace before it had been satisfied.⁶⁵⁵ Through this mechanism from an injustice follows a natural punishment and a visible penalty. In the state of nature (*statu naturali*) punishment issues from the private revenge of the injured. This was the judge in the state of nature and indefinitely more to be feared than any judge in the civil society (*statu civili*).⁶⁵⁶ Justi's disciple Pfeiffer argued that the universal validity of the law of retaliation was built on the fact that it was not based on a syllogism as a traditional scholastic and also orthodox idea, but on the fact that it was ingrained in our consciousness (*kein Vernunftschluß sondern Bewusstsein ist*).⁶⁵⁷

While he advocated the Golden rule and the law of retaliation, Justi did not conclude that states following these precepts would find themselves in an amoral or a state of war. Not unlike Hobbes, Justi accepted minimal morality and sociability as the conditions of the law of nations.⁶⁵⁸ It might be surprising that Justi, who was so concerned by the atrocities of war, was willing to leave such a large space for the law of retaliation. Would this not lead to a vicious circle, whereby a harsher punishment would follow a weaker one, and so on? Justi's solution to this problem was to be

⁶⁵⁴ Martti Koskenniemi, 'The Advantage of Treaties: International Law in the Enlightenment', *Edinburgh Law Review* 13 (2009), p. 64, footnote 161.

⁶⁵⁵ Schmauss, *Neues Systema*, p. 507; Justi, *Historische und Juristische*, p. 160.

⁶⁵⁶ Schmauss, *Neues Systema*, pp. 488-491, 514, 517.

⁶⁵⁷ Pfeiffer, *Berichtigungen*, p. 179.

⁶⁵⁸ For this interpretation of Hobbes's conception of international order see Noel Malcolm, 'Hobbes's Theory of International Relations', in *Aspects of Hobbes*, ed. Noel Malcom (Oxford, 2002), pp. 432-456.

found in the feelings of sympathy and friendliness that individuals feel for others. Another Göttingen natural lawyer, Claproth, provided a beautiful image of how human kindness (*Menschenliebe*) and vindictiveness work as antipodes. They are in constant conflict. Claproth argued that the endless goodness of the Creator could perhaps nowhere elsewhere be perceived as clearly in the human beings as in the fight between human kindness (*Menschenliebe*) and vindictiveness (*Rachgierde*). According to Claproth, a human being who was without tender sensations (*zärtliche Gefühle*) for the pleasure of living creatures, especially for human beings, is a monster (*Ungeheuer*) who cannot be thought of without dread. Yet at the same time, a human being without the instinct of vindictiveness was nothing but a lame machine, a figure apt to overwhelm himself by embracing everyone with tenderness. He will only be destroyed. If a human being wants to become happy, Claproth advises, human kindness and vindictiveness must be set in balance.⁶⁵⁹ This analogy was applicable to the law of nations.

At first sight, Justi seemed to argue that the law of nations was simply a law of nature applied to states. However, he argued that there was another part of the law of nations, not that of the law of nature, but the law of reason. This he referred to as a voluntary law of nations (*willkührliches Völkerrecht*). For Justi the voluntary law of nations meant the existing customary law of nations based on the experience of previous cases. He was struggling with the problem that because of the historicity of reason and because of the fact that nations were on different levels of reason, it was difficult to formulate a law of reason that would be equally acceptable for all nations.

⁶⁵⁹ Johann Christian Claproth, 'Schreiben von den natürlichen Trieben des Menschen', in *Sammlung iuristisch-, philosophisch- und kritischer Abhandlungen*, (Göttingen, 1743), vol. 3, p. 510. 'Ich merke nur an, daß die unendliche weise Gütigkeit des Schöpfers vielleicht nirgends an den Menschen deutlicher hervorblicke als in dem Streit der Menschenliebe und Rachbegierde. Ein Mensch ohne zärtliche Empfindung für das Vergnügen der lebendigen Creaturen, insonderheit der Menschen, ist ein Ungeheuer, woran wir nicht ohne Grauen gedenken können. Ein Mensch ohne alle Rachbegierde ist eine schläfrige Maschine, die sich selbst erdrückt, indem sie andere ohne Unterschied zärtlich umfasset. Setzet Menschenliebe und Rachbegierde zusammen, so habt ihr eine Creatur die dem Ganzen nützlich ist, ohne sich selbst zu zernichten. So wie der regelmäßige Umlauf der Planeten um die Sonne, von zweyen entgegengesetzten Kräften abhänget; so entspringet aus Zorn und Liebe die Glückseligkeit des Menschen.'

Justi stated that since even the so-called barbaric nations had a law of nations, there had to be another foundation of the law of nations. Against this background, he asserted that the Golden rule and the law of retaliation had a place in the voluntary law of nations as well. They were compatible with the law of reason understood as customary law based on tacit consent. Justi argued that the binding effect (*Verbindlichkeit und Gütigkeit*) of the Golden rule relied on the tacit consent of the peoples, and that hope was dependent on the equal behaviour in future: Justi asserted that it was compatible with the law of nation that one treats the others as they have treated us.⁶⁶⁰ Consequently, the law of nations as Justi conceives of it draws heavily on the experience of previous cases. This experience had tended to include the fear of retaliation and the idea that a nation should behave as it would wish to be treated by other nations in equal circumstances.⁶⁶¹

Considered as a whole, Justi's law of nations emphasised the importance of treaties, diplomatic rules, conventions and above all trade connections. His starting point was that although states were not sociable moral entities, as in the case of humans, fear and mutual aid provided incentives to bind contacts with other nations. Justi emphasised that when different societies (*Gesellschaften*) lived next to each other they have many kinds of affairs (*Geschäfte und Angelegenheiten*) in common. Justi was at pains to insist that from this it does not necessarily follow that the state would form any kind of a society, or even that there would exist any connection between states. However, because of existing affairs, a certain set of rules and principles were necessary in order to demonstrate how to behave in future

⁶⁶⁰ Justi, *Natur und Wesen*, p. 479. 'Es ist also dem Völkerrecht vollkommen gemäß, daß man sich gegen andre eben also verhält, als sie sich gegen uns verhalten haben.'

⁶⁶¹ Justi, *Historische und Juristische*, p. 160. 'Das Völkerrecht ist nichts anders, als eine besondere Art des Rechts der Vernunft, welches den Völkern vorschreibt, wie sie ihr Betragen gegen einander ein richten sollten. Allein, weil die wahre gesunde Vernunft nicht von allen Völkern erkannt wird und doch alle Nationen, und sogar die aller barbarischen ein gewisses Völkerrecht haben; so muß noch ein anderer Grund des Völkerrechts hinzukommen. Dieses ist die Furcht vor dem Wiedervergeltungsrechte, oder ein Volk muß sich solchergestalt betragen, als es wünschet, daß sich andre Völker in gleichen Umständen gegen dasselbe verhalten möchten. Folglich kommt allerdings viel auf die Beyspiele in dem Völkerrechte an. So wie sich die Völker in eben diesen Fällen verhalten haben, müssen sie sich ferner betragen, wenn sie uns nicht zu dem Iure talionis berechtigten wollen.'

in similar circumstances. For Justi, this was an inescapable problem, since different nations displayed different levels of reason. Therefore, in reality the customs and the examples of previous cases had to serve as a guiding light for international relations.⁶⁶² Justi held that the previous action of a nation gives the other nations the right to call for similar action in future. That is, if the nation does not want to be perceived as an enemy of the 'human race' (*allgemeiner Feind des menschlichen Geschlechts*).⁶⁶³ Justi was willing to sustain an idea of minimal community between the nations that relied on existing treaties and actual historical events. For him the order in international sphere was therefore essentially a matter of convention and tacit agreement.

Justi recognised diversity, and his international thought cannot be considered Eurocentric.⁶⁶⁴ He was not of the opinion that Europe represented civilisational supremacy. Indeed, and strikingly, he referred to the behaviour of Europeans on the other three continents as a primary example of the de-

⁶⁶² On casuistry in eighteenth-century law of nations see especially the articles by Ian Hunter, 'Kant and Vattel in Context: Cosmopolitan Philosophy and Diplomatic Casuistry', *History of European Ideas* 39 (2013), pp. 477-502.

⁶⁶³ Justi, *Natur und Wesen*, pp. 390-391. 'Wenn verschiedene Familien im Stande der Natürlichen Freyheit nebeneinander wohnen, ohne daß sie in Gesellschaft, oder in einer gewissen Verbindung mit einander stehen; so haben sie vielerley Geschäfte und Angelegenheiten mit einander abzuthun. Sie haben demnach gewisse Grundsätze und Regeln nöthig, wie sie sich gegen einander zu betragen und zu verhalten haben. Die Vernunft ist es, welche ihnen diese Regeln an die Hand geben muß; und die Uebereinstimmung verschiedener Fälle, daß man sich in dergleichen Vorfällen so und nicht anders verhalten habe, giebt dem einen Theile ein recht zu fordern, daß sich der andre Theil in dem gegenwärtigen Falle gleichfalls also betragen soll, wofern der andre Theil nicht davor angesehen seyn will, daß er alles billige Verhältniß zwischen freyen Familien aufzuheben und sich als ein allgemeiner Feind des menschlichen Geschlechts zu bezeigen im Begriff ist. Eben diese Beschaffenheit hat es zwischen verschiedenen Gesellschaften, die im Stande der natürlichen Freyheit leben, oder eine bürgerliche Verfassung errichtet haben. Die Vernunft ist es, welche diese Regeln vorschreibt; und verschiedene übereinstimmende Fälle machen ein Recht aus, welches das Völkerrecht genennet wird.' On the concept of the enemy of mankind see Walter Rech, *Enemies of Mankind: Vattel's Theory of Collective Security* (Leiden, 2013).

⁶⁶⁴ Daniel Carey and Sven Trakulhun, 'Universalism, Diversity, and the Postcolonial Enlightenment', in *The Postcolonial Enlightenment: Eighteenth-Century Colonialism and Postcolonial Theory*, eds. Daniel Cary and Lynn Festa (Oxford, 2009), pp. 240-280. See especially pages 274-275.

spicable imposition of one nation's own civil laws on another. According to Justi, it would be more than wrong if the durability of the law of nations were to be based on the consent of tacit contracts between civilised nations (*unter den gesitteten Völkern*). He posed a series of questions: What is a civilised nation, and according to what criteria is this label applied? Does not every barbaric nation perceive itself as civilised? Is not every nation, without exception, supposed to be bound by the law of nations? What kind of impression would one make on a wild nation if one would insist on consent and principles that are too abstract to be comprehensible to its peoples?⁶⁶⁵

In his *Vergleichungen* Justi wanted to relativise the superiority that the Europeans felt in relation to the so-called barbaric nations. Already Justi's starting point, the notion that European and non-European states could be compared, was a tacit attack on thinkers who, along the lines of an English historian John Campbell (1750), held that 'Europe is beyond all comparison, the most valuable and happy Quarter of the Globe'.⁶⁶⁶ To Justi,

⁶⁶⁵ Justi, *Historische und juristische*, vol. 1, pp. 159-160. 'Wenn man die Verbindlichkeit des Völkerrechts auf eine Einwilligung oder auf stillschweigende Verträge unter den gesitteten Völkern gründen wolte; so würde man sehr fehlen. Die Einwilligung ist ein Unding. Wenn ist sie geschehen, und was hat man eingewilliget? Was ist eine gesittete Nation, und nach welchen Begriffen sol ich die beurtheilen? Wird sich nicht eine jede barbarische Nation vor gesittet halten? Ist nicht eine jede Nation ohne Unterschied zur Haltung des Völkerrechts verbunden? Was werde ich aber vor Eindruck bey einer wilden Nation machen, wenn ich ihr von einer Einwilligung etwas vorschwatze, von der sie nichts weis. Gundling in seinen Vorlesungen hat hiervon schöne Gedancken.' Justi's position was in stark contrast to Wolff who had argued that 'all the nations scattered throughout the whole world cannot assemble together, as is self-evident, that must be taken to be the will of all nations which they are bound to agree upon, if following the leadership of nature they use right reason. Hence it is plain, because it has to be admitted, that what has been approved by the more civilised nations is the law of nations.' See Christian Wolff, *Jus Gentium Methodo Scientifica Pertractatum*, ed. Otfried Nippold, trans. Joseph H. Drake and Francis J. Hemelt (Oxford, 1934), §20. See also Liliana Obregón Tarazona, 'The Civilized and the Uncivilised', in *The Oxford Handbook of International Law*, eds. Bardo Fassbender and Anne Peters (Oxford, 2012), pp. 917-939; It is worth noting that Vattel rejected the distinction between 'civilised' and 'barbarian' nations. See Simone Zurbuchen, 'Vattel's 'Law of Nations' and the Principle of Non-Intervention', *Grotiana* 31 (2010), pp. 69-84, p. 83.

⁶⁶⁶ Quoted after Osterhammel, *Die Entzauberung Asiens*, pp. 72-73.

Europe was not beyond comparison. Justi emphasised there was nothing wrong with the self-love the Europeans felt. States could not survive without self-love, which manifested itself as the love of the fatherland.⁶⁶⁷ This love was to be cultivated and cherished in every state. Justi argued that nations (*Volk*) were as inclined as humans to love themselves more than the others. It is the self-love (*Eigenliebe*) that leads human beings to conceive of their own machine – that consists of bones, flesh and blood vessels and is combined with a creature that is able to think (*des Denkens fähige Wesen*) – as the most treasurable, sublime and excellent of all. The same self-love dominated nations. Every nation was inclined to believe that their morals, customs, constitutions and insights are superior to those of other peoples. Furthermore, a *Volk* was inclined to love its state because it was a result of the work of their hands, a creation of the *Volk*. Yet, the love of the fatherland (*Liebe des Vaterlandes*) that was necessary for the movement and preservation of a state could go too far and turn into national pride (*Nationalstolz*). Natural pride is, according to Justi, malignant for the state itself because it prevents states from learning from each other, and makes them ignorant about the habits and customs of other states.⁶⁶⁸ Therefore, national pride was an obstacle to the progress of civilisation. It complicated the trade between nations, and made the cultivation of reason mutually impossible.

Writing at the height of the Seven Years' War, Justi noted that once one looked at the relationships between the states it was easy to see that Europeans were moving towards barbarism. So repellent were the atrocities of war on the European Continent that European civilisation was working towards its decay. In his war pamphlet, with the provocative title *Untersuchung, ob etwan die heutigen europäischen Völker Lust haben möchten, dereinst Menschen-Fresser oder wenigstens Hottentotten zu werden* (1760) Justi asked whether Europeans really wanted to become cannibals or Hottentots. Certainly, it did not look as though Europeans would be heading towards higher stages of civilisation. In this thought-provoking pamphlet,

⁶⁶⁷ On the concept of fatherland see Hans-Martin Blitz, *Aus dem Liebe zum Vaterland: Die deutsche Nation im 18. Jahrhundert* (Hamburg, 2000). See also Pasi Ihalainen, *Protestant Nations Redefined: Changing Perceptions of National Identity in the Rhetoric of English, Dutch and Swedish Public Churches, 1685–1772* (Leiden, 2005).

⁶⁶⁸ Justi, *Vergleichungen*, preface.

Justi argued that the atrocities of war and the refusal to respect any law of nations were about to doom Europe to centuries of decay. In typically colourful style, Justi quoted a fanciful newspaper article dated in Philadelphia, 1. November 1759. This article reported one captain Bohn's trip to wild Europe. Another similar quotation was taken from a moral weekly, in which a *Sittenlehrer* described Europe's descent into savagery. According to these 'sources of the future' the downfall of Europe had begun around 1760, the year when Justi's pamphlet was published. Only by 1779 would the Americans begin to re-open new trade connections with the recovering European savages.⁶⁶⁹

It was not enough that Europeans doomed themselves to decay; the results of European national pride and an overly high self-opinion caused suffering all around the world. Justi argued that Europeans imposed their own laws on other nations, blinded by their self-love. They were imposing their own civil law on other nations, treating them as their own citizens. Justi's negative comment on the behaviour of the Europeans merits extensive quotation:

Although national pride is universally found in all peoples, we Europeans have surpassed all other nations in the world in developing this exaggerated conceit. Our superiority appears to us as self-evident. We boldly set ourselves above all other peoples in the rest of the world. Even when we accord others the honor of not being savages, they are, in our eyes, nothing more than incompetent, raw, and ignorant barbarians. All their customs, usages, and governments seem to us to be totally absurd, irrational, silly, and ridiculous. We believe our reason, our understanding, our insights so superior that we look down on other peoples as we would upon pitiful little crawling worms. And, in fact, we behave toward them in this manner. We act as though we were the rulers of the whole world. We seize lands of people from the three remaining parts of the world without the least hesitation. We dictate laws and treat these people as though they were our slaves. If they show at least

⁶⁶⁹ Johann Justi, *Untersuchung, ob etwan die heutigen europäischen Völker Lust haben möchten, dereinst Menschen-Fresser oder wenigstens Hottentotten zu werden. Aus Veranlassung der jetzigen grausamen Art, Krieg zu führen, der gebrochenen Capitulation von Dresden und verschiedener anderer Verletzungen des Völker-Rechts, angestellt von einem ehemaligen Europäer, welcher sich nach America begeben hat, weil er dereinst seine Nachkommen mit stinkenden Schaafs-Därmen nicht gerne ausgezieret wissen möchte* (Philadelphia in Pensylvanien, [1760]), pp. 5-10.

amount of resistance, we exterminate them. The strangest thing is that we do all this without anyone in Europe realizing that we are committing the most atrocious injustices [*himmelschreyenden Ungerechtigkeiten*].⁶⁷⁰

In sum, Justi argued that Europeans believed that their reason was superior to that of any other nation. Considering themselves to be more civilised and reasonable, they repeatedly imposed their laws on other nations. This was a result of their own exaggerated national pride and a consequence of making reason the foundation of natural law. Instead, Justi argued, if the starting point were those passions that are equally common to all nations, a just universal law of nations would be realisable. In fact, Justi remarked that Europeans described other nations as wild, barbarian, unhuman or even cannibalistic in order not to hurt their own conscience. Since Europeans believed they were superior they also assumed that they knew what was best for the 'uncivilised'. Justi pointed out that the unhappiness that Europeans had caused in all three Continents could not be thought of without shame. According to him, there seemed to be no limit to Europeans' greed and desire to conquer (*Eroberungsbegierde*).⁶⁷¹ It was not reason that motivated the actions of the Europeans; he pointed out that the actions of Europeans were prompted by a corrupted passion. He argued that Europeans practised commerce in the manner of a conqueror, and not as merchants. Justi noted that, in fact, if we exclude the Europeans, almost all nations trade in accordance with healthy reason. Most nations do not even trade actively. They did not enlighten Europeans as to their habits simply because the behaviour of Europeans has made them cautious and mistrustful. In addition, Justi asserted that so-called 'barbaric nations' that do trade actively act according to reason and *Völkerrecht*. Namely, they trade as merchants and not as conquerors. They did not prescribe laws to other nations or try to bring them under their power. None of the nations of the East Indies, nor Persians, Turks or Arabs had tried to build colonies, establishments and fortresses in the countries where they traded. In this sense they differed from Europeans who immediately saw themselves as masters.⁶⁷²

⁶⁷⁰ Justi, *Vergleichungen*, preface. The translation is from Reill, *The German Enlightenment*, pp. 190-191.

⁶⁷¹ Justi, *Vergleichungen*, pp. 320-321.

Justi considered the slave trade to be humanity's (*Menschlichkeit*) single most degrading practice. Not only did this trade depopulate Africa, over half of the traded slaves died on the ships before they arrived to America. Africa was therefore depopulated without repopulating America.⁶⁷³ Justi was sure that Europeans would have acted with similar malevolence in Asia had it not been strong enough to defend itself. Justi admitted that his analysis of the behaviour of the Europeans was harsh. Still, he noted, it was truthful. Justi deplored the fact that each of the European nations had participated in this practice. While he believed the Spaniards had been the worst, he also pointed out that the Germans had also perpetrated injustices. Justi argued that Welser from Augsburg had proved crueller than the Spaniards, purely motivated by greed.⁶⁷⁴

Justi implored his readers to imagine a situation in which China or another nation were to treat Europe as Europeans had treated others. What if armed Chinese troops arrived in Europe and started to dictate the prices of goods? Justi applied the maxim of the Golden rule and asked his readers to imagine the prospect of a Chinese emperor conquering European soil to judge whether the actions of Europeans in other Continents were just. He posed another series of questions: What if the Chinese built colonies by pushing the European peoples (*die europäischen Völkerschaften*) from their lands? Would they not be considered pirates and enemies of the human race (*Seeräuber und Feinde des menschlichen Geschlechts*)? The missions of the Europeans were just another example of a violation of the Golden rule. In fact, Justi regarded missions simply a disguise for European expansion, demanding to know when God advocated the use of guns to spread Christianity. Besides, Justi pointed out that every nation naturally held its religion as the true religion. Justi asked his readers to reflect on the possibility that the Dalai Lama might attempt to convert Europeans, or the emperor of China were to try to make us Confucians. For sure, these figures were as convinced about the superiority of their religion as Europeans were of their own. Therefore, Justi concluded that religion should not play a role in

⁶⁷² Justi, *Vergleichungen*, pp. 317-318.

⁶⁷³ Justi, *Vergleichungen*, p. 322.

⁶⁷⁴ Justi is here referring to 'Klein-Venedig', 'Welser-Kolonie' in today's Venezuela. See Martin Kalitschke, *Deutsche Konquistadoren in der Neuen Welt* (Münster, 1996).

international relations. If nations simply ceased attempting to convert other nations to their own beliefs this would spare the Earth (*Erdboden*) from confusion, misery and sorrow.⁶⁷⁵ Each of these questions and reflections issued from Justi's application of the main principle of his law of nations. They were based on the Golden rule; the notion that one should treat others as one would like to be treated.

Justi's law of nations departed from all kind metaphysical holisms to argue for sovereign, equal and independent states as the main actors in 'international relations'. His conception of the law of nations can be interpreted as a critique of mainstream views on the necessary law of nations and voluntary law of nations. In Justi's view, the concepts of happiness and perfection could be used only in relation to laws within a state. As a guideline for the law of nations they would lead to injustice by undermining the sovereignty of the states.

THE WAY OF A PHILOSOPHER: CHINA AND SPARTA

Justi elaborated two possible approaches that states might wisely adopt in their quest for happiness. Each can be interpreted within the framework of ancient and modern civic virtues. I argue that although Justi seemingly admired Chinese and Spartan virtues, he did not believe that Prussia could isolate itself and step outside commercial competition between European countries. In response to this, Justi updated the concept of citizen to respond to the challenges of the commercial era. He came to defend man's legitimate self-interest and ideas of commercial sociability. As in the case of Justi's ideal state machine, England emerges as the model Justi hoped Prussia would emulate. In order to preserve itself, Justi argued, Prussia was in need of domestic reform and a high level of civil freedom. Furthermore, he noted, Prussia needed a strategic foreign policy that would keep it out of wars. In terms of the latter point, I will show that Justi's stay in Denmark was pivotal for it was in Denmark that he came to favour neutrality as a prudent foreign policy for Prussia.

According to Justi, there were two paths that were in accordance with law of nations and had the potential to lead a particular state into happi-

⁶⁷⁵ Justi, *Vergleichungen*, pp. 328-329.

ness. First there was the path of isolation, exemplified by China and ancient Sparta. England was the example of the other option, of the path of exchange. The path of exchange involved international trade and competition between states. China and Sparta had ‘philosophically’ chosen to abstain from jealousy of trade. As such, according to Justi, the path of isolation could be considered an interesting response to the jealousy of trade.⁶⁷⁶ In Justi’s own words, the philosopher was neither a fellow enthusiast (*Miteiferer*), nor a competitor (*Wettläufer*).⁶⁷⁷ Justi’s examples of contemporary isolated states were China and Japan, both of which he considered to be isolated and self-sufficient. Japan was an example of a state in which manufacturing flourished without foreign trade.⁶⁷⁸ China again was comparable with a philosopher. Justi’s metaphor of a philosopher state refers here to an image of a stoic philosopher, who meditated in solitude. According to Justi, not unlike a stoic philosopher, China was anti-social. It had protectionist policies and sought to live as if it was alone in the world.

According to Justi, states were not naturally social. Nor was sociability necessary for their self-preservation either since, unlike individual human beings, states were strong enough to survive. However, sometimes it was advisable to act socially, especially for a nation that was trading actively with other nations. For Justi, sociability was not a true law of nation (*So gar die Geselligkeit ist kein eigentliches Gesetz des Natur- und Völkerrechts*). Justi argued that sociability springs from the recognition of the benefits that common support can bring.⁶⁷⁹ In other words, Justi’s notion of sociability falls under the label of unsocial sociability. It is above all commercial sociability. Justi believed that in the long-term it was good that states were selfish. An unintended consequence of selfishness was societal progress, and that laid the framework for more progress.

⁶⁷⁶ Hont, *Jealousy of Trade*, p. 35. As already mentioned, Wolfgang Burgdorf has pointed out that Justi’s idea of an isolated state reminds Fichte’s closed commercial state. See Burgdorf, ‘Johann Heinrich Gottlob von Justi, p. 68.

⁶⁷⁷ Justi, *Die Chimäre des Gleichgewichts der Handlung*, p. 23.

⁶⁷⁸ Justi, *Die Chimäre des Gleichgewichts der Handlung*, pp. 25-28; Justi, *Vollständige Abhandlung*, p. 14.

⁶⁷⁹ Justi, *Natur und Wesen*, p. 474.

Justi emphasised that if a nation decided that it was not reasonable for it to live sociably it could follow its reason without violating any law of nations. He argued that a nation can live isolated from other nations and have no exchange with them, just as a single human being can decide to live in solitude. No one can accuse such a state or such a single human being of not respecting his duties.⁶⁸⁰ A state was perfectly entitled to live in isolation if it wished to do so. However, following the Golden rule, Justi believed that such a nation must leave other nations in peace, because this was what it expected from the others. If a state wanted to live in isolation it lived as if it was alone in the world. An isolated state could live up to its obligations only by following the Golden rule.⁶⁸¹ On the one hand, Justi's conception of the right to isolation can be interpreted within the framework of every nation's right to set the limits to its own trade; as a defence of the Navigation Acts. On the other hand, Justi emphasised that an isolated state should not trade with foreign nations, and that it should reduce contacts with foreigners to a minimum.⁶⁸² This could be done without violating duties, since no one was to be forced to trade with anyone, unless he was willing to do so. At the same time, it must be taken into account that Justi's conception of the path of isolation and of the path of trade is part and parcel of a much wider European discussion of political economy. The way of isolation was a means of encountering the financial greed and social antagonism associated with the growing importance of trade. This problematic is best understood through an analysis of Justi's admiration of Sparta.

Justi regarded the Spartan legislator Lycurgus as the greatest legislator of ancient times (*des Alterthums*).⁶⁸³ His admiration of Sparta was far from unique. References to Sparta became increasingly common in political treatises in the middle of the eighteenth century.⁶⁸⁴ The best-known Spartophile was beyond doubt Rousseau, who praised Spartan laws for the support they gave to common spirit and military discipline. Equally,

⁶⁸⁰ Justi, *Natur und Wesen*, pp. 474-475.

⁶⁸¹ Justi, *Natur und Wesen*, p. 478.

⁶⁸² Justi, *Die Chimäre des Gleichgewichts der Handlung*, p. 24.

⁶⁸³ Justi, *Vergleichungen*, p. 543, p. 546.

⁶⁸⁴ Elizabeth Rawson, *The Spartan Tradition in European Thought* (Oxford, 1969), p. 223.

he admired the Spartan repudiation of commerce and luxury items.⁶⁸⁵ In the eighteenth-century context, the example of Sparta was hailed as a corrective to the problem of the corrupting nature of increasing commerce. Outlawing luxury and currency was in line with the simple and austere morality of republican antiquity. Sparta was the country that exemplified classical patriotism, with an emphasis on agriculture and military skills. Above all, in Sparta the individual and his self-interest were inferior to the community and its interests.

Because of its military climate Prussia has often been framed as the modern Sparta. However, it would be problematic to assume that Justi equated Prussia with Sparta. In fact, many eighteenth-century German and Prussian writers were sharply critical of Rousseau's positive evaluation of Sparta. Barbara Bauer lists only Christian Gottlob Heyne (1729–1812), a Göttingen philologist, and J. C. F. Manso (1758/1760–1826), a rector from Breslau, among the Spartophile German publicists. Most German writers preferred Solon of Athens to Lycurgus of Sparta.⁶⁸⁶ The contexts in which Justi discusses Sparta related to debates about the possibility of an isolated state, and concern about the corrupting impact of increasing commerce and luxury. The idea of a solitary man, of a solitary path, was also in Justi's case intimately associated with Rousseau's engagement and fascination with Sparta.⁶⁸⁷ It is also worth noting that in his earlier writings Justi argued that trade, the way of mutual aid, was the only way to happiness. He provides autobiographical evidence of this fact.⁶⁸⁸ Justi's conception of how the happiness of a state could be promoted changed over the course of 1750's. In his *Fortgesetzte Bemühungen* (1760) he wrote that about eight or ten years previously he still would have shared Bielfeld's critique of Lycurgus, and his advocacy of isolation. In his *Institutions Politiques* Bielfeld had argued that the way of isolation could not lead to happiness. However,

⁶⁸⁵ Barbara Bauer, 'Der Gegensatz zwischen Sparta und Athen in der deutschen Literatur des 18. und frühen 19. Jahrhunderts', in *Staatstheoretische Diskurse im Spiegel der Nationalliteraturen von 1500 bis 1800*, eds. Barbara Bauer and Wolfgang Müller (Wiesbaden, 1998), pp. 65-66.

⁶⁸⁶ Bauer, 'Der Gegensatz zwischen Sparta und Athen', p. 69.

⁶⁸⁷ Justi had very likely read Rousseau's *Discours sur les sciences et les arts* (1750). See Dreitzel, 'Justis Beitrag', p. 175, endnote 5.

⁶⁸⁸ Justi, *Historische und Juristische*, p. 149.

Justi noted that after gaining greater knowledge of the sciences of state he had become ashamed of the critique he had presented of Lycurgus. Indeed, Justi continued, he had come to realise that there are two equally good ways to happiness.⁶⁸⁹

Justi's re-evaluation of Lycurgus drew heavily on Rousseau. He stated in his *Vergleichungen* (1762) that although he was not a supporter of Rousseau (*Anhänger des Herrn Rousseau*), he shared Rousseau's concerns about the effects of luxuriousness (*Ueppigkeit*), which served to arouse self-interest and suffocate the love of the general best (*Liebe zu dem gemeinschaftlichen Besten*). Justi believed that such a development would lead to despotism.⁶⁹⁰ He went on to point out that money was the source of greed, self-interest, and luxuriousness, in sum, of all nefarious passions. The ingenious move of Lycurgus had been to repudiate money and commerce altogether. Inspired by Lycurgus, Justi opposed money-based decadence and argued that in order to keep the passions and desires of inhabitants within limits in an isolated state, it was indeed necessary to prohibit money, since money inevitably multiplies passions dangerously. It was the sickness that eroded the love of the fatherland, respect for the general best and all other noble impulses. An example of the corrupting nature of money had manifested itself in Sparta, once the simple iron coin was replaced by silver and golden coins. Soon the heroic qualities of the Spartans were gone, and rotten self-interest (*Eigennutz*) took command.⁶⁹¹

Justi argued that in the end the choice of the right path for the nation depended on the location, intellect and customs of the nation in question. Since there was no luxury in the isolated state, its happiness would not be opulent. As such, Justi argued, the way of isolation was best-suited to a melancholic people. In Sparta this was not a problem since, according to Justi, Spartans had had a melancholic temperament already before Lycurgus had introduced his reforms.⁶⁹² As a counter example Justi deployed France. He suggested that should France choose the way of isolation, this would be akin to a scenario in which a comedian, female opera singer (*Operistinn*)

⁶⁸⁹ Justi, *Fortgesetzte Bemühungen*, vol. 3, p. 405.

⁶⁹⁰ Justi, *Vergleichungen*, p. 211.

⁶⁹¹ Justi, *Vergleichungen*, p. 546.

⁶⁹² Justi, *Die Chimäre des Gleichgewichts der Handlung*, pp. 23.

or a dancer would wish to become a Pietist.⁶⁹³ A state that chooses the path of isolation was comparable to a philosopher, who understood the triviality (*Nichtigkeit*) of all the things that the world seemed to appreciate so highly. The philosopher recognised the difficulties and dangers connected with the sociable life and withdrew to silence. Such a path of isolation did not promise great happiness, yet it might be more durable than the happiness possible though the path of exchange.⁶⁹⁴

Justi emphasised that there were certain principles that the philosopher state had to respect. If a 'philosopher state' wanted to become successful, it must abstain from attempting to dominate any other nation. The Spartan attempt to conquer Greece had thus been a serious mistake. Justi argued that a further necessity for a philosophical state was the perfect correspondence of religion, laws and morality. Justi considered this as a highly difficult point since it required true isolation, and was therefore not really achievable for Europeans.⁶⁹⁵ Confucius, Moses, Lycurgus and Plato had all given special attention to this point. In Justi's view, this equality resulted in such love of the fatherland as was impossible by other means. The Jews were the best example of such a depth of love towards a fatherland. It still existed, unlike the fatherland. The correspondence of law, religion and morality was a guarantee for the durability of the love of the fatherland, which for its part made a philosopher state strong in its defence. For the purposes of defence bellicose courage (*kriegerischer Muth*) should be cherished among the citizens. A further central element was the diligence and skilfulness of citizens. Without these attributes no isolated state could form a self-sufficient economy. None of the philosopher states Justi admired had been without faults. Indisputably, the Spartans were courageous; however, it was not Sparta's citizens but enslaved helots who were the most diligent and skilful subjects of the state. Spartans lived from the work of helots. As a result of this Sparta was unable to realise the strength it had been capable of achieving. China suffered from a lack of bellicose courage and therefore it had been occupied several times. Similar mistakes had been made in the laws and institutions of Pennsylvania. Although Justi praised William Penn as one of the great-

⁶⁹³ Justi, *Die Chimäre des Gleichgewichts der Handlung*, pp. 37.

⁶⁹⁴ Justi, *Die Chimäre des Gleichgewichts der Handlung*, pp. 23-29.

⁶⁹⁵ Justi, *Physicalische und Politische*, pp. 144-145.

est legislators, he also argued that Penn had undervalued the importance of courage.⁶⁹⁶ Only bellicose courage could secure the peace of an isolated state.

THE WAY OF A MAN OF THE WORLD: ENGLAND AND PRUSSIA

Justi's second way to happiness, one that he thought to be the only possible path in Europe, was that of exchange. A state that wished to follow this path was comparable to a gallant man (*eines galanten Mannes*⁶⁹⁷) or of a man of the world (*der Weg eines Weltmannes*⁶⁹⁸) who joined in competition and wanted to enter the world arena (*Schauplatz der Welt*). He chooses the path of trade. The nations most suitable for this journey were those with strong maritime fleets; for without a fleet successful commerce was almost impossible. Furthermore, Justi emphasised that for this path well-cultivated and fruitful land was a necessity; and for want of such land, the only substitute was to be found in colonies endowed with natural resources. In this case, it was important to ensure that colonies would not begin manufacturing or trading on their own behalf. The Phoenicians and Greeks should have made their colonies dependent, but failed to do, and this was the greatest error on the part of these two trading nations. The backbone of the trading nations was the surplus (*Überschuß*) of their products.⁶⁹⁹ As we have seen, Justi regarded Athens as 'a man of the world', juxtaposing Athens and Sparta as a comment on this usage in European political thought. Voltaire and others had compared Frederick Williams's militaristic state with Sparta, thinking that Frederick the Great could convert Prussia from Sparta to a brilliant Athens.⁷⁰⁰ It is likely this was a process Justi wished to see fulfilled.

Regardless of his interest in Athens, the more abiding object of Justi's interest was the modern trading nation and state-equivalent of the man of

⁶⁹⁶ Justi, *Die Chimäre des Gleichgewichts der Handlung*, pp. 25-27.

⁶⁹⁷ Justi, *Die Chimäre des Gleichgewichts der Handlung*, p. 23. It is worth pointing out that Justi's usage of the term 'galant' is peculiar. In French aristocratic society where the roots of the concept are found it had nothing to do with commerce. I prefer to use the other concept that Justi used as synonymous with a gallant man, which was 'a man of the world'.

⁶⁹⁸ Justi, *Grundfeste*, vol. 1, p. 28.

⁶⁹⁹ Justi, *Die Chimäre des Gleichgewichts der Handlung*, pp. 29-30.

⁷⁰⁰ Rawson, *The Spartan Tradition in European Thought*, p. 225, p. 254

the world, which Justi identified in the figure of eighteenth-century England. He could have hardly been more explicit about it; Justi argued that England epitomised all those virtues necessary for a man of the world on the way to the highest and most brilliant happiness. Justi argued that English citizens had been granted civil freedom and security. In addition, their form of government was founded on a balance of power between the different branches of supreme power. England could be proud to have these and other features of a man of the world.⁷⁰¹ In his discussion of the problems of England Justi had pointed out that England suffered from corruption. However, corruption and freedom were intimately associated. Moreover, a trading nation could not do without money and luxury. In fact, the luxury that was so disastrous for the philosopher state was a driving force in the trading state: the drive for riches was here considered the most positive passion. The man of the world was a *homo economicus*. However, Justi argued that luxuriance should be based on national products lest the state lose sight of its goal, the greatest possible expansion of its own commerce.⁷⁰² The passion of an individual, his self-interest and drive to achieve riches, was to the benefit of the whole state. According to Albert Hirschman, harnessing this passion was part and parcel of the emergence of 'capitalism'. Money-making and commerce could become acceptable passions.⁷⁰³

Justi's idea of the trading nation was fuelled by the notion of commercial sociability. It was in the interest of the trading nation to act socially. However, Justi emphasised that in order to become a successful man of the world, it was advisable to abuse the weaknesses of fellow rivals. In other words, the trading nation was social and open to fair competition; but it ruthlessly abused the weaknesses of other nations for its own benefit. Justi was aware that this might be considered as an injustice (*Ungerechtigkeit*), however he considered such a narrow definition incompatible with the great human societies (*großen menschlichen Gesellschaften*). If one wanted to achieve riches, a position of honour and all of that men call happiness, it was possible only in this way. A man of the world expected all other nations to do the same to it as it did to them. By entering the world arena it had

⁷⁰¹ Justi, *Die Chimäre des Gleichgewichts der Handlung*, p. 30.

⁷⁰² Justi, *Die Chimäre des Gleichgewichts der Handlung*, p. 30.

⁷⁰³ Hirschman, *The Passion*, passim.

accepted the rules of competition, and knew that its adversaries would use its weaknesses for their benefit. There was no violation of the obligation set by the Golden rule. The only limitation of abuse pertained to the fact that the man of the world cannot be the source of weakness.⁷⁰⁴ Every nation was entitled to place its own benefit and convenience before the interests of others.⁷⁰⁵

Justi was aware that a nation which based its success on the weaknesses of others was condemned to be envied by less successful nations. This in spite of the fact that the weaknesses exploited were not created by the trading nation. Even its allies could turn their backs on it from jealousy. The nations that lost their former trade would be tempted to take up arms; clearly Justi was commenting here on the rivalry between France and England. A successful trading nation (England) would have sufficient power of its own to resist its enemies for a long time. A trading nation was a peace-loving nation, but because of envy from the part of the enemies it could hardly avoid wars.⁷⁰⁶

Justi emphasised that although the two ways to happiness were equally just, they were not equally easy and secure. Continuing his metaphorical parallels, Justi stated there were plenty of secretaries who would wish to become ministers. However, very few of them were successful, maybe one in a thousand. Justi also used vivid language to describe the threats to exchange. He argued that while the path of exchange may be enjoyable, an inexperienced and unskilled driver might drive a wagon directly into a swamp. Others were doomed to travel forever because the driver was constantly drunk and tempted by the amusements and pleasures on his way, and was reluc-

⁷⁰⁴ Justi, *Grundriß*, pp. 290-291. 'Alle Glückseligkeit, die man in denen menschlichen Gesellschaften und auf dem großen Schauplatze der Welt erlangen kann, ist auf keine andre Art zu erreichen möglich, als daß man sich die Fehler, die Schwachheiten und die Einfalt anderer Menschen zu Nutzen zu machen weis! Die Erwerbung der Reichthümer, der Ehrenstellen, und alles dessen, was die Menschen Glück nennen, ist blos auf diese Art möglich. [- -] Man ist nicht schuldig jedermann zu sagen, worinnen er einen Fehler oder Schwachheit begehret; [- -] Vielleicht wird man die einzige Einschränkung hinzufügen müssen, daß derjenige, der aus den Fehlern anderer Vortheil schöpfen will, nur nicht selbst der Urheber und Verführer zu diesen Fehlern seyn muß.'

⁷⁰⁵ Justi, *Vergleichungen*, p. 316.

⁷⁰⁶ Justi, *Die Chimäre des Gleichgewichts der Handlung*, p. 34.

tant to quit the tavern. A third variant was immobilised because its driver had become involved in a brawl and therefore needed time to recover from his wounds. Fourthly, luxury and vice, the natural consequences of riches, might cause the man of the world to lose sight of his proper path. In sum, the path to be followed by a man of the world was an extremely hazardous one.⁷⁰⁷ Central for Justi was the need for a plan that would guide the man of the world. He was convinced that he had such a plan for Prussia, a point to which we will return below.

Justi had argued that the aim of the trading nation was to conquer as much trade as possible. This seems to be in sharp contradiction with his statements that England did not aim to form a universal monarchy, but the apparent tension is deceptive. Although the two ways to the highest happiness may appear utterly different, they had the same aim (happiness), and at one point these two paths come together. They lead to the very same capital city. The man of the world's journey took him through amusing and diverting valleys, gardens, country houses and taverns. After being involved with all sorts of dangers and troubles the man of the world leaves vanities and custom behind and settles down to live in isolation in order to truly enjoy the fruits of his labour, in a state of loneliness which is, as Justi pointed out, the good life according to all wise men, Seneca and Cicero included. Justi's analogy was a further means of confronting the French claim that England had aspirations for a universal monarchy. The most successful trading nation would not become a universal monarch; it would slowly become isolated, and therefore the man of the world did not endanger the freedom and security of other nations. Britain was not an invader and conqueror of lands, nor a potential universal monarch trying to make other nations independent from it.⁷⁰⁸

Once the trading state has reached its highest happiness it would take the path of isolation.⁷⁰⁹ This was related to the earlier observation that prosperity sets limits to itself. The same mechanism explained why England could by no means achieve the status of universal monarchy. The idea that success in trade had its natural limits was known from Montesquieu's essay

⁷⁰⁷ Justi, *Die Chimäre des Gleichgewichts der Handlung*, pp. 30-37.

⁷⁰⁸ Justi, *Die Chimäre des Gleichgewichts der Handlung*, p. 38.

⁷⁰⁹ Justi, *Die Chimäre des Gleichgewichts der Handlung*, pp. 35-36.

on universal monarchy, and similar ideas were also developed in Hume's 'rich country-poor country' thesis. Justi's views resemble Hume's cyclical view of commercial progress. In *Of the Balance of Trade* (1750) and *Of Money* (1754) Hume argued that the 'low price of labour in every nation which has not an extensive commerce, and does not much abound in gold and silver' compensates for the advantages in skilfulness that successful commercial nations have. Then 'Manufactures, therefore gradually shift their places, leaving those countries and provinces which they have already enriched, and flying to others.'⁷¹⁰ It is the abundance of money in a commercial state that enables the poorer to undersell the rich in all foreign markets. In a 1758 letter to Lord Kames Hume stated that 'the growth of all bodies, artificial as well as natural, is stopped by internal laws, derived from their enormous size and greatness. Great empires, great cities, great commerce, all of them receive a check, not from accidental events, but by necessary principles.'⁷¹¹ Not unlike Hume, Justi believed that there were limits to the growth and progress of trade. Its self-constructive character set in itself natural limits.⁷¹² We know that Justi was familiar with Hume's work. The seeds of Hume's cyclical conception of progress and decline are to be found in their preliminary form in *Of Refinement in the Arts* (1742) and *Of the Rise and Progress of the Arts and Sciences* (1742).⁷¹³ In addition to these works, Justi was also familiar with Hume's *History of England*.⁷¹⁴ The idea that backward nations could catch up with the more advanced nations, such as England or France, fits into the framework of Justi's thought. It gave hope to Prussia. Hume very likely thought along similar lines, albeit from a Scottish perspective.

Justi's admiration of the way of philosopher was in certain senses nostalgic. In fact, he was very pessimistic regarding the possibility that any of

⁷¹⁰ Hume, *Political essays*, p. 116; 138 ff.

⁷¹¹ David Hume, *The Letters of David Hume*, ed. J.Y.T Greig (Oxford, 1932), 2 vols, vol. 1, p. 272. See also Hont, *Jealousy of Trade*, p. 287 and Bruce Truitt Elmslie, 'Retrospectives: The Convergence Debate between David Hume and Josiah Tucker', *Journal of Economic Perspectives*, 9 (1995), pp. 207-216.

⁷¹² On rich country-poor country debate in Hume see Hont, *Jealousy of Trade*, pp. 272-273; 292-293.

⁷¹³ These works were known to Justi. See Justi, *Vollständige Abhandlung*, p. 39

⁷¹⁴ Justi, *Politische und Finanzschriften*, vol. 3, p. 22.

the European nations might find a way out of the jealousy of trade. The philosophical way was impossible because of the ‘unnatural’ borders between European states, which made the defence of the nation considerably more difficult. A second obstacle was posed by the existing ties that appeared as a bond (*als ein gemeinschaftliches Band*) which had been created through trade. Justi concluded that the isolation of one nation from all trade in Europe was almost impossible. The treasures and goods of the land were divided unequally, every nation having its own special products that were exclusive to it. Hence the happiness of European states depended on foreign trade.⁷¹⁵ The only option for European nations was that they become fellow competitors.

Justi was painfully aware that Prussia was lagging behind in the international competition over trade. As Ulrich Adam has argued, most of Justi’s *oeuvre* should be read against this background. Justi realised that the economic limits to politics were ‘set by the imperative need of modern nations to succeed in international trade’.⁷¹⁶ Prussia could not survive unless it was reformed economically, politically and socially. As a devoted anglophile Justi argued that Prussia should emulate England in its domestic reforms, outlining a comprehensive reform plan for this purpose. In his view, civil liberty and moderate government were the basis of commercial excellence, which was in turn the aim of every state. Self-interest and freedom of the citizen appeared to him to be the best incentives for economic efficiency. England was the best example of how the freedom of citizens was secured by the separation of powers. Had Justi been completely logical in terms of his ideals he would have suggested the separation of powers in Prussia explicitly. However, he was more cautious, and argued that it was possible to secure the freedom of citizens in all forms of government. At the same time, several reforms were necessary in Prussia if its peoples were to excel in commercial competition. The current state of Germany, which consisted of more than 350 principalities, appeared unsustainable. The formation of larger commercial units was necessary. In addition, an increase in production would remain impossible unless compulsory labour services

⁷¹⁵ Justi, *Vergleichungen*, p. 314.

⁷¹⁶ Adam, *The Political Economy*, p. 59; Hont, *Jealousy of Trade*, p. 185.

were abolished. Justi also criticised several established institutions, such as the granting feudal privileges and the existence of hereditary judicial power.⁷¹⁷

While Justi argued that reform of the political, judicial and economic framework of German states was necessary, he equally maintained that this alone was not sufficient to lead a nation to happiness. To become a successful trading nation Prussia needed a plan for its success in international trade. Following his brief stay in Denmark Justi had become increasingly interested in the possibilities that neutrality could offer as a foreign policy. First of all, neutrality appeared to Justi as a solution to a problem of instability. The interest of German political actors and theorists in the issue of neutrality was partly due to their wish to see German principalities freed from economic and political backwardness.⁷¹⁸ Neutrality appeared not only as a means of avoiding the horrors and destruction of war, but also as a way of advancing prosperity. Neutrality seemed to offer a way of achieving greater success in international trade. Secondly, Prussia aspired to maintain its newly acquired status as a great power after victories in the two Silesian wars.⁷¹⁹ Neutrality could be of assistance. In any case, Justi had first-hand experience of the success of Danish neutrality, both in keeping Denmark out of war, and in stimulating an increase in foreign trade.

Count Johann Hartwig Ernst Bernstorff (1712–1772) had invited Justi to Copenhagen in 1757, and there is some evidence that Justi's activities in Denmark had a lasting impact on Danish political thought.⁷²⁰ Denmark and Bernstorff certainly inspired Justi. Bernstorff effectively shaped Denmark's foreign policy between 1751 and 1770, and he was devoted to keeping Denmark neutral in all conflicts. Existing scholarship has tended to idealise Bernstorff's ideology, and he has enjoyed a reputation as a morally superior politician – the framework within which his foreign policy has

⁷¹⁷ Dreitzel, 'Justis Beitrag', pp. 167–168.

⁷¹⁸ On this point see Adam, *The Political Economy*, pp. 55–59.

⁷¹⁹ On the concept of a great power see Hamish M. Scott, *The Emergence of the Eastern Powers, 1756–1775* (Cambridge, 2001). On Prussia's attempts to secure the newly gained power position on the second half of Frederick's regime Hamish M. Scott, 'Aping the Great Powers: Frederick the Great and the defence of Prussia's international position, 1763–86', *German History* 12 (1994), pp. 286–307.

⁷²⁰ Reinert, 'Johann Heinrich Gottlob von Justi', pp. 44–48.

traditionally assessed is a moral one. More recent scholarship has instead emphasised the way in which he sought to advance Danish interests. In economic terms, neutrality was highly advantageous for Danish shipping and commerce; neutrality was less a struggle for survival than part of a competition for prosperity.⁷²¹ Neutrality offered the possibility to a nation of increasing its share of trade, and ideally newly acquired markets could be retained for future peaceful times.

In his pamphlet on the chimera of the balance of trade Justi condemned Dutch neutrality as abusive, motivated solely by greed. Justi's starting principle was that neutrals should be allowed to trade as long as they behaved in a genuinely neutral fashion; hence the definition of just neutrality needed to be precise. Justi understood neutrality in terms of impartiality, of not giving 'preference to either of the two belligerents.'⁷²² A neutral state's impartial status was directly compromised if the neutral state supported the position of the enemy (*an der Feindes Stelle*) by, for example, lending provisions to a besieged city. The neutral also became an enemy by providing fortresses under siege with gunpowder or other military supplies (*Kriegsbedürfnisse*). During the Seven Years' War Dutchmen had violated the principle of impartiality by taking over French trade and could not therefore be perceived as neutral. The case of Denmark was different. Denmark had managed to respect the principle of impartiality. While condemning Dutch neutrality as unjust, Justi praised Danish neutrality as prudent foreign policy, and counted Bernstorff among the greatest statesmen of his time. While Justi did not go into great theoretical detail about Danish neutrality, he clearly admired what it represented.

Justi praised Danish neutrality on the grounds that it seemed to help prevent war. According to Justi, even the most successful wars were disastrous enterprises. Warfare caused depopulation, currency disorders and increases in taxation, suffocating foreign commerce and the development of manufacturing industry.⁷²³ Wars would destroy the fruits of economic re-

⁷²¹ Carsten Holbraad, *Danish Neutrality: A Study in the Foreign Policy of a Small State* (Oxford, 1991), pp. 3-19; Ole Feldbæk, 'Eighteenth-Century Danish Neutrality: Its Diplomacy, Economics and Law', *Scandinavian Journal of History* 8 (1983), pp. 3-21.

⁷²² Justi, 'Erörterung der Frage', p. 493.

⁷²³ Justi, *Grundriß*, p. 427. 'Der Krieg stürztet zugleich allemal die auswärtigen Com-

forms and complicate foreign trade. In short, the way of a man of the world could not be combined with bellicosity. Whereas all belligerents were certain that they could improve their circumstances through war, Justi stressed that if states were to instead invest in commerce and manufacturing these would produce more prudent and greater conquests.⁷²⁴ From his Danish experience Justi had recognised the opportunities neutrality could offer. He hoped that Germany, and especially Prussia, would follow the Danish example. He believed that markets could not be conquered by belligerents – but they could be lost or gained in time of war; while two powers were engaged in commercial wars it was comparatively easy for a third nation to increase its share of trade by staying out of the conflict. This issue had been a matter of broader debate in Germany. An anonymous pamphleteer held that neutrality did not automatically increase the relative power of a neutral state while belligerents were weakening each other.⁷²⁵ Justi disagreed, and argued that while France and England were fighting, the real winner was neutral Denmark, which presented an exemplary case of the practice of this wise *Staatskunst* during the Seven Years' War.⁷²⁶ Justi's future vision for Germany therefore included a policy of what he called 'fixed neutrality' (*vestgesetzte Neutralität*). Justi's plan for Germany, a new strategic foreign policy, would enable the German territories to leave behind the wars that had been so harmful to their economy during the previous two hundred years.⁷²⁷ It is also worth noting that while Justi frequently referred to Germany his primary concern was Prussia. According to Justi, Prussia would be wise to follow in the footsteps of the Danes. This would enable Prussia to catch up with France and England in a twofold manner: Prussia would increase its share of trade while England and France, whose enmity was likely to continue to spill into wars in the future, would weaken each other.

merciens darnieder; man weis aber, daß die innländischen Manufacturen und Gewerbe ihren Flor hauptsächlich auf die auswärtigen Commerciën gründen; und der Verfall des gesammten Nahrungsstandes ist also eine unausbleibliche Folge auch der glücklichsten Kriege.'

⁷²⁴ Justi, *Wohlgemeynte Vorschläge*, pp. 5-6.

⁷²⁵ [anon.], *Abhandlung von der Neutralität und Hilfsleistung in Kriegeszeiten* (Gotha, 1758), p. 53.

⁷²⁶ Adam, *Political Economy*, p. 69.

⁷²⁷ Justi, *Wohlgemeynte Vorschläge*, pp. 44-45.

In this way, Prussia would become more powerful, the more so because – following Montesquieu – Justi believed that power was always relative.⁷²⁸

In order to understand Justi's proposal for a successful foreign policy it is useful to return to Justi's balance of trade pamphlet, *Die Chimäre des Gleichgewichts der Handlung und Schiffahrt*. In it Justi criticised Maubert, whom he believed to be the author of *Politique Danois* (1756), for failing to understand Denmark's interest and predicament. Maubert had argued that it would be in the interest of Denmark to join the war effort against England. Justi argued that if Denmark changed its peaceful attitude it would be more advantageous to join England and Prussia. But Justi did not want to insist on this point. Rather, he noted that the wisest strategy for Denmark was to remain neutral, continuing the practice of the wisest *Staatskunst* and concentrating on the development of its economy and trade. Justi praised Denmark's attitude towards its neighbours. Instead of trying to regain its old provinces from Sweden (Scania, Halland and Bleking) Denmark concentrated on domestic economic development. It was clear that Justi's point equally applied to Austria, which should refrain from attempting to regain Silesia from Prussia and focus instead on developing its own agriculture and commerce. To give his arguments greater force Justi referred directly to his experiences in Denmark and mentioned, for example, that its trade in sugar had increased in value by 800,000 *thaler*. This reflected the general principle of prolonged commercial wars, that both parties to the conflict lost some of their share in global trade to non-belligerent parties. Justi elaborated on the issue, using the example of Denmark and Sweden in their commercial war against the Hanseatic League. Although he conceded that this was a just war, its consequences were not what Sweden and Denmark had wished for. The Hanseatic League's trade decreased, but Denmark and Sweden did not gain. The real winner of the war had been Holland. The lesson to be learned was the general principle that when two powerful nations entered into a long-lasting commercial war the best policy was neutrality.⁷²⁹ The best policy for Germany and Prussia was to 'fix' its neutrality and to build up its foreign trade, thus catching up with France and England while these

⁷²⁸ Justi, *Physicalische und Politische*, p. 71; Klingenstein, 'Jede Macht ist relativ', pp. 307-324.

⁷²⁹ Justi, *Die Chimäre des Gleichgewichts der Handlung*, pp. 56-60.

two powers weakened each other. Questioning the logic of Justi's position from a diplomatic perspective, his Austrian commentator asked what kind of English ally Prussia was if it abandoned Britain despite all the subsidies the British had paid to it.⁷³⁰ Justi rhetorically took this point as further proof of the fact that he had not written on command or been inspired by political motives, but only out of patriotic love for Germany (*aus patriotischen Liebe vor Teutschland*). He believed he had confronted the issues of neutrality as an independent thinker, and that precisely this had enabled him to properly address the wider problems of peace and trade.⁷³¹

Justi did believe that Europe was different from all other parts of the world, since the trade between nations appeared to form a common bond between them.⁷³² As such, he conceded that there existed a form of allegiance to some entity which could be construed as 'European'. The way in which he formulated this notion was however very tentative. For Justi the thin 'unity' of Europe was more factual, as opposed to theoretical. Justi concluded that, of the two prudent paths that simultaneously respected the law of nations and served states' pursuit of happiness, only the path of exchange – that of a man of the world – was possible for German states. For Prussia this was still more the case, and indeed, it was Prussia that was most prominent in the writings Justi produced during the Seven Years' War. In Europe, Justi noted, it was impossible to isolate oneself because of the existing 'bonds'. Prussia had to enter the stage or the world arena and compete there. Justi realised that Prussia was lagging behind. It is against this background that his domestic reform proposals and future vision for Prussian foreign policy are best understood.

⁷³⁰ [anon.] *Das entlarvte Preußische Friedensproject welches unter dem Titel: Wohlgemeynte Vorschläge, auf was vor Bedingungen die itzo im Kriege befangenen Mächte zu einem dauerhaften und ihrem allerseitigen Interesse gemäßen Frieden gelangen könnten [et]c. heraus gekommen, und sehet, was es ist!* (Alethopolis, 1760), pp. 19-20.

⁷³¹ Justi, *Der enthüllte Oesterreichische Schriftsteller, oder Anmerkungen über die so betitulte Schrift: Das entlarvte Preußische Friedensproject, welches unter dem Titel: Wohlgemeynte Vorschläge, auf was vor Bedingungen, die itzo im Kriege befangenen Mächte zu einem dauerhaften [. . .] Frieden gelangen könnten* (Wien, [ca. 1760]), p. 46, see footnote iii.

⁷³² Justi, *Vergleichungen*, p. 312.

CHAPTER 8: CONCLUSION

In this book I have sought to shift the emphasis of our understanding of the German Enlightenment in the direction of greater diversity. In particular, I have suggested that cameralism was a wider and much more nuanced theoretical and practical programme than has traditionally been allowed, and that in such a form it shares important features in common with thinkers such as Genovesi and Smith. Building a theory of natural law on human passions and instincts, Justi formulated the idea of universal natural rights, together with a theory of the state and of political economy, that was highly critical of despotic governments. My point is not that Justi was someone who advanced liberalism, but rather someone who advanced the cameral sciences towards political economy. He was much more alert to the development of commerce than has generally been assumed. Justi advocated a commercial perspective that saw natural rights as applicable to international relations, and he consequently attacked European colonialism.

The argument runs through this book that Justi developed his political thought in rivalry and opposition to the most influential philosopher of his time, Christian Wolff. Instead of emphasising the role of reason, as Wolff did, the starting point for Justi's political considerations was a view of human beings as passionate creatures. With this in mind it has been my intention to demonstrate that the spectrum of German political thought was more open, diverse and fractious than scholars of natural law and cameralism have previously suggested.

I began this book by arguing that the idea that the cameral sciences supposedly prevented the early reception of political economy in Germany is puzzling. On the other hand, it has been claimed in previous scholarship that as the leading representative of the cameral sciences, Johann Heinrich Gottlob von Justi was the founder of modern political economy in Germany. The former claim is based on an outdated German *Sonderweg* thesis,

closely linked with the idea of the belatedness of the German Enlightenment and emphasis on the inability of the German thinkers to adopt 'Western political ideas'. In contrast to such a view, I have sought to demonstrate that German thinkers were already part of a pan-European discourse.

Even if German cameralists did not immediately respond to Smith, it is clear that Justi's political thought is deeply embedded in the series of broader European debates on the foundations of commercial society, the state and international relations. With regard to the claim that Justi was the founder of the cameral sciences, I have argued for a re-evaluation of the concept of cameralism. Moreover, I have argued that Justi can indeed be considered as a representative of a more modern form of political economy. A view of cameralism as mere fiscal propaganda linked to the interests of princes fails to do justice to the bulk of the theoretical work cameralistic writers produced. Understanding cameralism in such reductive terms would necessarily lead to the claim that the main representative of cameralism, von Justi, was not a cameralist after all.

In terms of his approach to the foundation of a commercial society, Justi's views bore strong resemblance to those of other European thinkers. In Italy, to take one example, Antonio Genovesi moved from a position of post-Pufendorfian natural law after his reading of Montesquieu, towards a theory of trade, rather like Justi. Not unlike Adam Smith, he built on historical anthropologies developed earlier as part of natural law. As Istvan Hont and Hans Erich Bödeker point out, there was a comparable tendency in Germany among the cameralists. This book has added weight to this line of argumentation, in the process shedding further light on the topics involving passionate human nature and self-interest. It has done so by exploring the multifaceted thought of Justi. I have argued that Justi built this on two supporting pillars: firstly, on Schmaussian natural law, and secondly, on a defence of civilisation coloured by his reading of Montesquieu and Claproth. In adopting these models, Justi developed a theory of a commercial society not unlike that of Genovesi and Smith. As such, it is legitimate to note that in Germany there were already in 1760 intellectual developments comparable with the 'Enlightenment' experiences of Naples, Scotland and other 'western parts of Europe'. This claim entails an acceptance that Justi's natural law was not inspired by Wolff, as previously assumed.

Indeed, the consistent linking of Justi's thought with that of Wolff – so dominant in earlier interpretations – is, I maintain, surprising. One explanation lies in the tendency to think of the German Enlightenment as a unitary movement which, prior to Kant, was mainly in the hands of Wolff. However, already in his early years Justi opposed the rationalistic, metaphysical and intellectualist biases of Wolff's political thought. Even when he was very ill and approaching the end of his life Justi remained clear that Wolff and his unitary worldview based on holistic metaphysics were his main intellectual rivals. The foundation of German political economy was not built on an argument to the effect that the human being was a rational agent. On the contrary, Justi perceived the human being as a passionate creature, whose self-interested action – political, economic and social – was guided by his will, which in turn was guided by the instincts and passions of humans. Justi belonged to a further development of a rival project, to a form of Enlightenment Ian Hunter has referred to as 'civil Enlightenment'. We might also fruitfully refer to an anti-metaphysical Enlightenment, or in the case of Justi, passionate Enlightenment. Within this framework my book has sought to move the emphasis significantly away from the notion of a metaphysical Enlightenment towards one of civil Enlightenment. Justi has been relocated from the former to the latter. As an advocate of what later came to be written in the form of a 'losers' history', Justi thus represents a particular strain of Enlightenment thought which has long been discounted. Among the central aims of this book has been to emphasise the importance of Schmauss, one of Wolff's most furious opponents. Until very recently Schmauss had been almost forgotten, and it was believed that he had no followers. But he did, and very influential ones, *primus inter pares* Justi. Justi and Schmauss both belonged to a Göttingen school of natural law. One particularity of this school is that many of its advocates, Schmauss and Justi included, prioritised rights over obligations. They were in Germany marked by their originality at a time when natural law theories often consisted of catalogues of duties, following the most influential example of Pufendorf.

In terms of natural law, and as with his theoretical foundations of the state, Justi was flirting with Hobbes. Justi argued that the state was formed to bring the state of war within a society to an end. Therefore, in contrast

with what has been previously argued, I have demonstrated that he argued that the state was not in the first place the culminating point of humane sociability. This idea was supported by Justi's views on the history of civilisation. The historicisation of the state of nature had been an interest for Justi's Göttingen predecessor Claproth, who argued that reason and the passions are closely related. However, Claproth understood the history of civilisation as a form of progress that had human beings develop from instinctual beings towards more rational beings. For Justi the relationship between instincts and reason was more complicated. He argued that the growth of knowledge and reason is an endless source of new passions, which are increasingly difficult to satisfy. This is what leads to the formation of a commercial society, and finally to the founding of a state.

The main actor in Justi's political thought was the citizen, whom he equated with a *Hausvater*. His starting point here was that there was no pre-existing harmony or unity of being. The unity that arose through the state was a mere construct. The state was a civic creation. It did not consist of any God-given form of living, neither was it a culminating point of an evolutionary process of sociability. The members of the state, housefathers and their families, were prior to the existence of the state. The strength and happiness of the state was fully dependent on the capacity of citizens as *Wirtschaftsbürger*. As such, Justi's redefinition of the concept of happiness as the freedom of families was of central importance. The inclusion of the idea of freedom in Justi's definition of happiness has received too little attention. Under the influence of Montesquieu's definition of freedom Justi argued that it was central to any successful political system. Justi emphasised that the freedom of citizens would ensure diligence, and bring wealth and security to the nation in question. One of the aims of the states was therefore to secure the freedom of citizens along three dimensions: political, judicial and economic.

When it comes to the political dimension Justi's statements are clearly contradictory. He argued that the *Volk* should always have a say in the administration of sovereignty. However, in his concrete proposal he is tempted to avoid giving any serious power to 'democracy'. If, as Justi maintains, citizens do not govern themselves and the monarch has the right to veto the legislative power if it is in the hands of the people, then it is difficult to

regard him as a republican thinker. He is in favour of a mixed monarchy that is limited by fundamental laws and checked and controlled by the people; but this is monarchy that retains power. The economic framework that the state was to provide gave the citizens freedom to seek their own happiness through their own diligence: aided by such measures as the abolition of serfdom and guilds. The main task of judicial power in relation to economy and diligence was to guarantee the sanctity of private property. In sum, Justi's conception of happiness was one that was desacralised and detranscendentalised. The aim of the state was to promote the temporal, material happiness of citizens, and it did not involve any transcendental ideas about perfection, as did Wolff's theory of happiness. In this sense Justi was rather a man of practice than of theory.

Justi regarded the state as a vehicle for civic purposes, to secure the economic advancement of the German economy. He argued that the state was a civic creation serving the purpose of happiness. Everything in the state should be evaluated in terms of happiness, whether or not every action and institution was supporting the assumed will of every member of the state. The supreme power in the state was not God-given, it came from the people who owned the unified forces of the state. These united powers all belonged to the state, but they were not the state itself. People surrendered the administration of these powers to the active supreme power, which could be in the hands of one or many.

The two metaphors Justi used when describing the 'state' were 'machine' and 'body'. This has yet again led to a further anachronistic interpretation of Justi's political thought. For a modern reader the term 'machine' has a connotation of cold and emotionless functioning. The picture of the machine of state is rarely associated with positive aspects of administration or governing. Justi was aware of the negative use of the concept of the machine. He wrote explicitly that in despotic states subjects are treated as mindless machines, and that the state expects machine-like obedience from them. However, this was not what Justi meant by his use of the machine metaphor. Rather, for Justi the machine served as an example of the interconnectedness of everything, of how all things could be organised to support the final happiness of the state and how the machine of the state could be built in such a manner that human weaknesses would be unable to

ruin the machine of the state. Thus for Justi, the machine of the state was a very particular type of machine, since it always consisted of human beings, of members who were moved by passions. The highest point of the science of state would be to know the interconnectedness of everything, and how the passions have an impact upon this.

Justi also embodies a transformation in terms of his conception of the machine. To him the human body was also a machine. However, a human being as a whole was passionate. Therefore, a human being was at the same time passionate and a machine. Against this background, Justi's use of a pool of metaphors becomes understandable. 'Mainspring' is the concept that mediates between the passions and the machine. It was a term with roots in mechanics, but was used to describe motions of the mind. It was an incentive, the motivational force that impelled human beings. Together with the mainspring the concept of 'balance' also gained great importance. The idea was that passions, just like mainsprings, could be set to counter one another. These counter forces would result in a balance. This idea was transformed by Justi in his interpretation of the functioning of the state. Legislative and executive powers could be set to struggle against each other, to check and control each other. This kind of a machine, which can be thought of having a balance of two mainsprings, was in Justi's terms a self-regulating machine.

Justi's ideal state was England, which he praised as the best application of the balance of power idea to a state. In England, the king and parliament balanced each other. Justi's conception of human nature held that unlimited power should never be granted to a single entity. Anyone with too much power was inclined to misuse it. Justi explained the possibility of the balance of power using the notion of mainsprings: the best solution to this problem was to divide the legislative and executive powers, as had been done in England. This had been accomplished without losing the use of the strongest passion within a state, the passion of honour. This typical feature of monarchy still prevailed in England, thanks to the relatively strong position of the king. Justi's discussion of the English constitution exemplifies the degree to which his interventions were embedded in wider European debates. Following Montesquieu, he argued that the form of government that was most suitable for a nation depended on the location and customs

of the nations in question. He was perfectly aware that his theoretical ideals were not applicable as such. The separation of powers required a high level of knowledge. By no means would it be the case that a nation that consisted of inhabitants with meagre capacities could govern itself, not even in part as holders of legislative power. In England this was possible. The advanced level of knowledge and the increased passions connected with it posed a threat to the future of England, further strengthened by the vices caused by increasing wealth. It was quite possible that England might be doomed to decay.

Justi's rhetorical play with the perfection of the Chinese constitution can be interpreted as evidence of his recognition of the difference between theoretical ideals and their application in practice. Justi was clearly in favour of a mixed monarchy and separation of powers. However, these were distant from the reality of the Holy Roman Empire. Consequently, he developed the idea of an unlimited monarch who would govern justly, according to his perfect reason. Justi calls China's emperor an unlimited monarch. However, if one studies Justi's definition of the unlimited monarch somewhat closer, it is noticeable that unlimited power in this context means that legislative and executive power are held by one person. This does not however mean that they could be used against fundamental, civil or natural laws. Even the most unlimited monarch was bound to respect these. In other words, Justi's unlimited monarch corresponded with the idea of government that was, in fact, more widely known as limited monarchy (*monarchia limitata*). He made an innovative, rhetorical move by defining limited monarchy in terms of an unlimited monarchy. It certainly made it easier to sell the idea of limiting the prince's power to absolute rulers.

Justi's international thought has been the most misunderstood and somewhat neglected part of his thought. Justi's critique of Wolff's *civitas maxima* and his defense of universal monarchy have never been properly examined. This has a great deal to do with the fact that the international theories that cameralists developed have since been discounted, and so it has not been recognised that cameralists were after all interested in theorising the international order. This was in turn a result of the widespread assumption that cameralists were only interested in reforming domestic administration. Furthermore, only during the last few decades has there been

a true realisation that political and international thought are necessarily entangled and intertwined: through the study of one, it is possible to gain more knowledge of the other. The clearest example of the gains to be made here relates to our understanding of the relationship between the law of nature and the law of nations. The latter was often an application of the former. In addition, the latter can be used to give insights into the former, since the state of nature (*Naturzustand*) among states was an empirical example of the state of nature.

Justi's anti-metaphysical and anti-Wolffian attitude was also apparent in his international thought. It has been argued that Justi adopted Wolff's law of nations (*ius gentium*). This was impossible for Justi. First of all, Justi vehemently opposed Wolff's necessary law of nations, which was an application of his natural law. According to Justi, it was not possible to use Wolff's perfectionist metaphysics, built on universal reason, as the foundation for a universal law of nations. For Justi, the basis of a law of nations was the universal right of self-preservation, which was founded on passions and instincts. The second part of Wolff's law of nations, his voluntary law of nations, found no greater favour with Justi. *Civitas maxima* was the theoretical device from which Wolff deduced the principles of the voluntary law of nations. This could be equated with the reasonable will of the most civilised nations, and the greatest state could even be imagined as having a ruler with a degree of authority over the members of the greatest state. The idea of the greatest state, which was built on holistic metaphysics, was an abstract construct of reason alien to reality. For Justi this undermined the sovereignty of independent and free states. It would encourage states to impose their own civil laws on other states. Europeans in all the other three Continents did do this; Europeans, who were assumed to be the more civilised nations, were imposing their own laws on other nations that they regarded as barbaric. Justi argued that they were called barbaric only in order to justify the atrocities of 'civilised' Europeans.

Justi's defence of universal monarchy was published in the middle of the War of Austrian Succession. His treatise on the topic was one of the many proposals for building a lasting peace in Europe. What makes the text so remarkable is that Justi's arguments differ so strongly from prevailing conventions. Universal monarchy was conceived in extremely negative

terms, and had traditionally been used to criticise the tyrannical and oppressive politics of opponents. As such, the way Justi challenged these conventions was very innovative and original. But if one sets Justi's treatise in the framework of the remainder of his political thought, it truly appears to be an anomaly. How could an author who believed that the greater the power, the more likely it is to be abused, defend the idea of a universal monarch with power over the whole of Europe? Yet closer study of the pamphlet reveals that Justi was using the idea of a universal monarchy as a rhetorical device to defend the formation of larger commercial monarchies in the Holy Roman Empire. In his view, strong, reformed commercial monarchies would save Germany from future wars. In short, Justi's essay on the universal monarchy is a comment on the dismemberment of Germany. His essay is yet another example of how international and political thought were intertwined in the early modern era.

The vast majority of eighteenth-century theorists of political order argued that the peace of Europe was secured by the system of the balance of power. As Emer de Vattel had argued, the constant involvement of all European nations in negotiations, customs and commerce made Europe into a theoretical and practical whole, a sort of republic. In order for peace to prevail, no one power should become dominant within this republic. Any state which became too strong ought to be balanced by other states, preferably by alliances and other peaceful measures. However, in some cases military measures might be needed. Justi argued that the balance of power between states was a chimera, unlike within states. It was merely a disguise for envy. Prussia's and England's enemies Russia, France and Austria, were envious and wanted to weaken their adversaries. This wish was justified by reference to the balance of power. Justi's conception of power in qualitative terms – as perfection of administration – led him to accuse the balance of power doctrine of being a source of endless wars and bloodshed. Justi regarded the notion of balance as something that could justify intervention. Any improvement within a state would be regarded as negative by its neighbouring states. Through this mechanism the balance of power doctrine would result in 'reciprocal slavery'. In short, the idea that the balance of power would guide the course of peace and war in Europe concealed the workings of passions and jealousy. It was merely a variation of the reason

of state doctrine. Like individual human beings, states were moved by passions and not by chimerical doctrines of the balance of power or reason of state: the latter were only a way to justify injustices.

In Justi's international thought, equal and independent states remain in a state of nature. However, this did not imply that states would be in a constant war of all against all. The mechanism of the Golden rule and the law of retaliation guided the fortunes of war and peace in the world. The law of nations was valid between states. No nation was entitled to injure another, nor endanger its self-preservation. The question was how any law of nations based on the law of nature could be binding whilst no civil authority existed beyond states? How was any obligation possible in the absence of a higher authority that would bind the members to respect their rights and duties? This lack of enforcement was precisely the reason that Thomasius and many other natural law theorists did not consider the law of nations to be a 'real law'. The solution to this problem was found in Schmauss's natural law. To Schmauss and his 'disciple' Justi, the only authority in the state of nature was that of the law of retaliation. Any injustice was punished by the injured. This judge was stronger than any civil judge. The other side of the coin of the law of retaliation was the Golden rule: 'do unto others as you wish them to do unto you'. Revenge, the instinct on which the law was based, was a natural instinct shared by all human beings. The Golden rule had its foundation in feelings of sympathy. These antipodes, lust for revenge and sympathy, guided the international order. It was the result of the balance between them.

Justi argued that there were two advisable ways for nations to act in the international arena. Both of these ways respected the Golden rule. These paths were the path of exchange and the path of isolation. With these options Justi opted for international trade and the freedom to refrain from trade. He had a strong belief in the self-organising mechanisms of trade. For Justi, the countries which came closest to being stable political and economic societies were China and England. China had chosen the way of a 'philosopher', who lived in isolation and concentrated on the inner development of the state, existing in a kind of closed and limited commercial society. England, on the other hand, was a 'man of the world' who had chosen the path of exchange and was governed accordingly. One might easily

assume that China, the great monarchy, would function as the role model for Prussia. However, because of the web of connections already existing among the European states, Justi did not consider this to be a real option. Prussia was already the rival of other European states. Justi believed that internal reform and the choice of neutrality as its foreign policy would be the best way to guide Prussia along the slippery road of a man of the world.

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