

Hegel's Defence Of Constitutional Monarchy And Its Relevance Within The Post-National State.

Eli Diamond

Northwestern University
eli_diamond@yahoo.com

*"The development of the state to constitutional monarchy is the achievement of the modern world, in which the substantial Idea has attained infinite form."*¹

To many interpreters, one of the most incredible claims of Hegel's *Philosophy of Right* is found at its culminating moment: the rational justification of constitutional monarchy, determined by a hereditary principle of succession. Many central questions surrounding the interpretation of the Hegelian political philosophy hinge upon one's understanding of the status of Hegel's argument for constitutional monarchy as the most rational form of government in the modern world. Is the institution of hereditary monarchy a merely given and natural foundation to government that betrays the Cartesian-Kantian revolution through a return to medieval forms grounded upon what lies beyond human reason? Is Hegel betraying his own fundamental philosophical insights in order to conform his argument to the historical reality given in his time?

Many recent commentators have clarified why Hegel's claim that constitutional monarchy is the rational modern form of government is a coherent and adequate explanation of European freedom in the 19th century. Yet they have not given a sufficient account of why, if constitutional monarchy is the most rational form of government, it has gradually receded from prominence in post-Hegelian times, and appears quite anachronistic, if not irrational, from a contemporary perspective. In the interest of defending Hegel, certain commentators have, against Hegel's own expressed intentions,² radically historicized his claim to the rationality of these institutions, without clarifying why constitutional monarchy appears unacceptable in our own times. Should this contemporary shift away from monarchy be understood as an historical refutation of the rationality Hegel sees in this form of government? Or, conversely, are our contemporary attitudes towards monarchy merely irrational prejudices from a Hegelian perspective?

¹ G.W.F. Hegel, *Elements of the Philosophy of Right* (henceforth *PR*), trans. H.B. Nisbet, ed. Allen W. Wood (Cambridge: Cambridge University Press, 1991) 273 (numbers refer to sections of Hegel's text).

² *PR*, 3.

ELI DIAMOND: HEGEL'S DEFENCE OF CONSTITUTIONAL MONARCHY AND ITS RELEVANCE WITHIN THE POST-NATIONAL STATE.

In what follows, I argue that Hegel's philosophical defence of hereditary monarchy is the proper principle of modern European states and not some reactionary historical accommodation. Rather, Hegel's treatment of the constitution in the *Philosophy of Right* offers the adequate institutional expression of the naturally given basis of citizenship at the very foundation of the 19th century nation-state. Yet Hegel was himself aware of the limitations of these naturally immediate national identities, and the inevitable strife that would result at the level of international relations between the European nation states. He also recognized that the constitutional monarchies of European nation states had reached a certain culmination, from which they would only degenerate and give way to a new principle of political life. Yet unable to transcend the historical situation of his own time, Hegel could only point to this future epoch.

Following the work of James Doull, I will look to North American history as the next logical development upon European political freedom. I will examine the character of the post-national state in contrast with the constitutional monarchies of the European nation states, and suggest that while the sovereignty of the Hegelian European state is preserved in these North American states, the basis of civic identity is shifted from a natural, aboriginal nationality to a common adherence to certain universal principles. In addition, the principle of federalism in these post-national states introduces a substantial union of various nations unthinkable from the perspective of the 19th century. Federalism corrects the inevitable tendency towards war between the European nation states through their exclusive particularities, and has hence been partially adopted even by the European community to resolve the tensions which exploded in the first part of the 20th century. I argue that the immediate givenness at the root of hereditary monarchy is the first principle of a nation itself based on a certain natural givenness to its citizenship, while the more ideal post-national citizenship has rendered this principle of succession obsolete to its citizens. I will conclude by considering how, despite the contemporary irrationality of hereditary monarchs, many of Hegel's arguments for hereditary monarchy as an institution which makes explicit the separation of state from society ring true in light of certain problems presented by an elected, highly politicized head of state, and I consider the difficulty of finding a non-hereditary head of state which nevertheless stands above the political fray as the unity beyond the division of opposed factions within civil society.

The argument is divided into four sections. First, I will briefly review various prominent interpretations of Hegel's claim that constitutional monarchy is the rational modern state. Second, through a reading of the relevant passages in the *Philosophy of Right* and the *Lectures on the Philosophy of History*, I will attempt to reconstruct Hegel's argument for the rationality of hereditary constitutional monarchy, showing how he provides the adequate constitutional structure for the European state of the 19th century. Third, I will attempt to show how Hegel himself saw that this European state, having reached its culmination, would degenerate based on certain tensions within itself that it could not contain. Finally, I will consider how this analysis allows us to understand the more universal and ideal basis of citizenship of North American states as constituting a new category of political community more able to reconcile the tensions and confusions of universality and particularity inherent in the European nation state. I will conclude by considering what is the adequate institutional expression of these post-national states

from a Hegelian perspective. Although naturally inherited roles are no longer relevant in this new political context, and although the head of state in post-national states should not be a hereditary monarch, he or she must be selected in some manner which does not subject the office to the political divisions inherent in election. Only in this way can the state as a whole properly transcend the divisions of civil society.

I Literature On Hegel And Monarchy – Approach To The Question

How one evaluates the significance and truth of Hegel's political thought is often determined by how one understands Hegel's claim that the most rational form of modern government is the constitutional monarchy. Evaluations of this claim vary widely: Hegel has frequently been understood to be either conforming his argument to the authority of the Prussian government to protect himself from censorship, or as conforming the realm of the political to his own abstract metaphysical logic.³ Some take Hegel to be pantheistically conferring rationality and eternal validity upon the contingently existent institutions of his time,⁴ thus reducing the value of his description of the state to the level of a historically relative snapshot.⁵ In direct contradiction to this reading, others understand Hegel to be taking flight in reactionary fashion from modern freedom, rejecting the modern state in favour of outdated and already obsolete medieval and renaissance institutions. They criticize Hegel for having betrayed his rational, modern insights into true freedom through a regressive appeal to the naturally given features of medieval institutions such as monarchy, corporations, and political privilege of a landed aristocracy. Other commentators acknowledge that Hegel was attempting to bring together in the ruler both institutional stability and the expression of the will of its citizens, but they conclude that he was entirely unsuccessful in locating this resolution within hereditary monarchy.⁶

³ Both these claims can be traced back to Marx's critique of Hegel.

⁴ Rudolf Haym, *Hegel und seine Zeit*. For a clear refutation of the pantheistic reading of Hegel's famous statement concerning the actuality of the rational and the rationality of the actual, and a succinct clarification of the true meaning of this doctrine, see Emil Fackenheim's "Hegel on the Actuality of the Rational and the Rationality of the Actual" in *The God Within: Kant, Schelling, and Historicity* (Toronto: University of Toronto Press, 1998) 164-171.

⁵ J.N. Findlay interprets this flaw in Hegel's thought in a more benign light, attributing his historicism to Hegel's unimaginative and uninteresting status as political thinker, unable to think beyond the given institutions of his time. See his *Hegel: A Re-Examination* (New York : Collier, 1962) 326-332.

⁶ Michael Levin and Howard Williams, "Inherited Power and Popular Representation: a Tension in Hegel's Political Theory," *Political Studies* XXXV (1987) 105-115. They write: "Monarchy was held to be the essential character of the modern state, yet it is hard to resolve the uncertainties in Hegel's presentation of it. The hereditary principle appears to have no justification. Birth opens up the position to chance just as much as would elevation by popular election – which Hegel regarded as the 'worst of institutions'" (106).

ELI DIAMOND: HEGEL'S DEFENCE OF CONSTITUTIONAL MONARCHY AND ITS RELEVANCE WITHIN THE POST-NATIONAL STATE.

Even among Hegel's most sympathetic commentators, there is often the need to explain away Hegel's defence of the rationality of monarchy. In their defence of Hegel from some of the aforementioned misrepresentations, these commentators⁷ underplay monarchy's importance in Hegel's political thought, presenting a Hegelian political philosophy for which hereditary monarchy is either merely incidental or inexplicable. Recently, however, there have been several commentators who have attempted to show the rationality of the importance Hegel ascribed to Constitutional Monarchy, that it is both internally consistent with Hegel's general philosophical principles, and that it gives the adequate expression to the political institutions of Hegel's Europe.⁸ Mark Tunick tries to show that Hegel's argument for Hereditary Monarchy is 'plausible,' although of restricted contemporary relevance, since "Hereditary Monarchy is not a live option for us in the 1990's."⁹ Tunick, however, while clarifying the sense of Hegel's arguments in many respects, does not go on to explain the gulf between this plausibility and its implausibility for contemporary political thought. Bernard Yack offers a very convincing defence of Hegel's claim that constitutional monarchy is the most rational constitution, and concludes that this argument has an *eternal* validity. The fact that constitutional monarchy "is especially difficult to accept in the twentieth century with the disappearance of the monarchies that Hegel's contemporaries knew"¹⁰ does not indicate, on Yack's view, that constitutional monarchy is no longer an adequately rational

⁷ Eric Weil finds in the monarchical element of Hegel's state the one element that is not consistent with the rational modern state. See Eric Weil, *Hegel et l'état : Cinq Conférences* (Paris: Vrin, 1980). Weil writes that Hegel's rational constitution "est l'état moderne tel qu'il existe encore aujourd'hui partout, à une exception près, à la vérité importante aux yeux de Hegel: le principe monarchique" (56). Shlomo Avineri strips the monarchy of almost all of its import, understanding the monarch as merely the "symbol of self-determination" and "a mere symbol of the unity of the state," imagining that Hegel "must have had his tongue in cheek" when writing that the monarchical element was decisively important and the very mark of the modern world. See Shlomo Avineri, *Hegel's Theory of the Modern State* (Cambridge: Cambridge University Press, 1972) 185-189. K.-H. Ilting sees both conservative and liberal aspects as part of Hegel's argument, but these are never brought together into one coherent view. Instead, Ilting identifies the text of the *Philosophy of Right* as conservative, while his Berlin lectures present a liberal view in which the monarch's powers are ceremonial only, and these views "in no way agree." See K.-H. Ilting, "The Structure of Hegel's *Philosophy of Right*," in *Hegel's Political Philosophy*, ed. Z.A. Pelczynski (Cambridge: Cambridge UP, 1971) 90-110, esp. 105-107. Against Ilting, I understand the views in both *PR* and the lectures to be wholly compatible.

⁸ Two of the best treatments of Hegel's account of constitutional monarchy are Alan Brudner, "Constitutional Monarchy as the Divine Regime: Hegel's Theory of the Just State," *History of Political Thought*, Vol. II, No. 1, Spring, January (1981) 120-140; and Stephen Houlgate, "Hegel's Critique of the Triumph of *Verstand* in Modernity," *Bulletin of the Hegel Society of Great Britain*, 35 (1997) 54-70.

⁹ Mark Tunick, "Hegel's Justification of Hereditary Monarchy," *History of Political Thought*, Fall 91; 12(3): 482. Tunick picks this "most metaphysical (and bizarre) of Hegel's claims" in order to show how Hegel is not merely conforming politics to metaphysics, but that the *Philosophy of Right*, "while metaphysical, is also political" (i.e. if *this* argument can be made plausible, *any* of Hegel's arguments can). See Tunick, 483.

¹⁰ Bernard Yack, "The Rationality of Hegel's Concept of Monarchy," *American Political Science Review*, Vol. 74 (1980) 709-720.

institutional expression of our freedom, but that we are simply no longer capable of sustaining the rationality and freedom of the previous age. For Yack, either there is a more rational form of government than constitutional monarchy that has developed in post-Hegelian history which proves that Hegel's argument is simply *wrong*, or else Hegel's argument is right and contemporary non-monarchical governments do not attain the rationality and freedom of constitutional monarchy.

In what follows, I will be arguing a position that does not follow either of these two options. I agree with Yack that Hegel's defence of the rationality of constitutional monarchy adequately grasps the institutional structure of modern European nation-states, and that "his view of the rational constitution is not incorrect simply because it is not possible in our times."¹¹ Yet against Yack, I seek to show how Hegel himself understood the tension inherent in these states that would lead to their eventual degeneration. The post-national states that reached maturity after Hegel's own time, especially the United States and Canada, are founded on a different basis of freedom for which hereditary monarchy is no longer the rational expression. Yet these historical developments, on Hegel's own terms, are in themselves rational expressions of self-determining freedom.

II Hegel's Account Of Constitutional Monarchy As The Rational State In Modern Europe

Hegel's account of constitutional monarchy in the *Philosophy of Right* can be reduced neither to a merely historical account of European political life, nor to an ahistorically rational account. Against any defence of Hegel's views that appeals to what Weil calls "historical excuses," Hegel clearly describes his task in the *Philosophy of Right* as "an attempt to comprehend and portray the state as an inherently rational entity."¹² Consequently, as Weil justly writes, "the Hegelian thesis has the right to be judged according to the standard which it affirms as its own, that of reason."¹³ Yet Hegel is clear that in order for this philosophical grasp of the rational state to be possible, this rational freedom must already be present in the world.¹⁴ It is therefore also important that one

¹¹ Yack, 719.

¹² *PR*, Preface, p. 21.

¹³ Weil 60.

¹⁴ Alan Brudner brings out very clearly how the constitutional monarchy outlined by Hegel cannot be associated with any particular existent regime, and how Hegel thought that this form of government had only been attained "implicitly or in embryo." He saw this possibility especially in Germany, through the way that the German kingdoms themselves championed the principles of the French Revolution. This comes out most clearly, for Brudner, in Hegel's essay on the Wurtemberg Estates. See Brudner, 129-130. Hegel himself makes it clear that one must not think that he is describing any particular state, Prussia, England or France, but that he is giving the universal logic underlying the modern European state in general, which is inevitably manifest in the various historical examples: "In considering the Idea of the state, we should not have any particular states or particular institutions in mind; instead, we should consider the Idea, this actual God, in its own right" (*PR* 258 addition). One could say that it is necessary that all the elements which Hegel describes in his rational constitution must be present in these states, and their reconciliation must be possible and implicit in these countries in order to be apprehended as real

ELI DIAMOND: HEGEL'S DEFENCE OF CONSTITUTIONAL MONARCHY AND ITS RELEVANCE WITHIN THE POST-NATIONAL STATE.

understand how Hegel's constitution is not some fantasy conjured up by the philosophical imagination, but that it must express the reality of political life in the European nation state in some sense already actual in Hegel's time.¹⁵ In order to demonstrate how Hegel's philosophical account of the state adequately grasps the rational freedom of the 19th century European nation state, our explanation must be *both* historical *and* philosophical. In this way we can see what in Hegel's discussion of government is tied to particularities of the 19th century European nation states of Germany, France and England, and what is common more generally to sovereign states, whether national or post-national.

How does Hegel see the moments of his rational constitution develop in the political thought from the early modern period to Hegel's time?¹⁶ Grasping Hegel's understanding of this development will also help to draw out how for Hegel, as Houlgate rightly states, "the institution of hereditary monarchy should not be thought of as fundamentally medieval, but as an essentially modern institution."¹⁷ Even with the emergence of feudal monarchies in the late medieval period, the divided sources of authority¹⁸ in medieval feudalism that persist through the Renaissance stand against the power of the King, who, having no central control over the administration of justice or armed forces, is consequently not sovereign over the power of corporations and communities. This results in the fragmentation of the state by natural ends which are themselves frustrated in turn by the consequent political instability.¹⁹ These various powers are unified into the indivisible and absolute power of the Sovereign historically with the Absolute Monarchies and philosophically in thinkers such as Hobbes and

possibilities, but whether any state actually ever realizes these possibilities is a contingent question which can neither confirm nor refute Hegel's account.

¹⁵ "Since philosophy is *exploration of the rational*, it is for this very reason the *comprehension of the present and actual*, not the setting up of a *world beyond* which exists God knows where." See *PR*, Preface, p. 20. This also explains why Hegel could never have outlined in detail the logic of the post-national state which I discuss below.

¹⁶ Houlgate offers a succinct summary of Hegel's reading of this movement in political history, p. 55.

¹⁷ Houlgate, 59. As Stephen Houlgate says, "Feudalism was this 'polyarchy' rather than monarchy (*VPW* 860)" (55). See also Hegel, *Lectures on Natural Right and Political Science* (henceforth *LNRPS*), trans. J. Michael Stewart and Peter G. Hodson (Berkeley: University of California Press, 1995) 125. Hegel there describes how the sovereign must remove the naturally possessed rights of individuals and corporations and make them state rights which are then granted to individuals and corporations by the state.

¹⁸ (*PR* 278): "...these functions and powers were the private property of individuals, so that what the latter had to do in relation to the whole was left to their own opinion and discretion."

¹⁹ The state in early feudal times "was more of an aggregate than an organism" (*PR* 278). The logic outlined in the section on "Abstract Right," which is for Hegel the principle of medieval society, makes explicit the instability of these individual loci of authority, until the point where, in order for the collection of particular, natural wills to realize their desires and ends, the demand emerges "for a justice freed from subjective interest and subjective shape and from the contingency of power – that is, a *punitive* rather than an *avenging justice*" (*PR* 103).

Spinoza.²⁰ Citizens, in order to escape the unstable divided flux of late Medieval and Renaissance political life, give over their individual natural wills to the all-powerful undivided sovereign will of the monarch, putting the state on a radically new and rational foundation prior to the division of various particular natural perspectives. This new foundation of the sovereign will is the condition of possibility of a self-determining sovereign state.²¹

Having gathered all authority within the state into one unified source (the absolute monarch), the next stage of development is the self-differentiation of this unified basis of authority, both through granting rights to those spheres of life that express particularity (in relation to society), and in establishing a division of powers (executive and legislative) within the political principle itself. Crucially, the particular wills, which caused such violence and disorder in feudal systems, are now released and ordered through being granted by and remaining within the absolute power of the sovereign's unified will.²² This granting of individual freedom by the monarch builds a close bond between the monarch and his subjects, who are grateful for this newfound security and freedom.²³ Subsequent political history and thought, as manifested through the work of

²⁰ This follows, on Hegel's account, from the Protestant faith, in which all particular, natural interests that are not related to universal self-consciousness are negated. See J.A. Doull, "Hegel and Contemporary Liberalism,

Anarchism, Socialism: A Defense of the *Rechtsphilosophie* Against Marx and his Contemporary

Followers," in *The Legacy of Hegel*, eds. J.J. O'Malley et. al. (The Hague: Nijhoff, 1973) 225.

²¹ "This sphere of self-determination can fall within the sphere of human freedom only insofar as it occupies this supreme position, isolated for itself and exalted above everything particular and conditional; for only thus does it accord with its concept" (PR 279). This is the foundation of modern political thought in which all elements of society are drawn into the absolute power of the sovereign, just as the Cartesian *cogito* is the foundation of modern epistemology through drawing all reality into thought. For this reason, Hegel refers to this collecting of all the functions and powers of the state into the sovereign will as "idealism" (PR 278) in which "the right of reason has been asserted over against the form of private right" (LNPRS 125). Citizens may lose sight of this idealism of the state by taking their independent activities as having some right apart from and outside the state, but in a time of crisis such as war, "that idealism already referred to attains its distinct actuality" (PR 278).

²² See PR 270. Like the second stage of Hegel's articulation of the concept of the free will, the monarch's self-differentiation is the "essential moment of difference, or *real* rationality."

²³ Hegel saw this as a deficiency of the English monarchy of his time, in contrast to Frederick's *Allgemeines Landrecht*: "In England the monarchical element in the constitution lacks that power which in other states has earned gratitude to the Crown for the transition from a legal system based purely on positive rights to one based on the principles of real freedom, a transition wholly exempt from earthquake, violence, and robbery." See "On the English Reform Bill" in Hegel, *Political Writings*, eds. Lawrence Dickey and H.B. Nisbet (Cambridge: Cambridge University Press, 1999) 269.

ELI DIAMOND: HEGEL'S DEFENCE OF CONSTITUTIONAL MONARCHY AND ITS RELEVANCE WITHIN THE POST-NATIONAL STATE.

political economists such as Adam Smith²⁴ and political thinkers like Rousseau, explain how the state is in fact *strengthened* by granting as much individual liberty to pursue private good as possible. It becomes progressively clear how the universal, public good is implicit in this economic sphere, and how individuals in civil society receive a *Bildung* which, along with family life, makes possible the proper relation between state and society. Hegel claims that in his own time, the possibility of bringing these two sources (absolute monarchies and private freedom) together as one is real, and in fact these individual freedoms won throughout the 18th century can only realize themselves within the unified will of the sovereign, just as monarchies can only remain sovereign by inspiring the grateful obedience of subjects through having granted these individual privileges. There is therefore for Hegel an absolute separation of the rational from the natural will, only to put the natural will on a more stable foundation in which it can realize the ends that it seeks.²⁵

Many assume that Hegel, in making appeal to institutions such as monarchy and landed aristocracy, betrays the truly modern character of post-Revolutionary Europe. Hegel wants to acknowledge fully the crucial importance of the advances made for political freedom in the French Revolution, which enshrined reason rather than merely positive authority as the power that should guide human life, and made “the *will* as the principle of the state.”²⁶ Yet the equality of all humans as rational, in Revolutionary France, had taken on the Rousseauian ideal that the *individual* will become principle of the state, that the general will become the empirically general sum of individual and contingent wills,²⁷ with individuals directly ruling their own affairs. The result of this view was that any distinction between ruler and ruled could not be tolerated. For Hegel, the French place the individual will as the measure of the state, thus enthroning personal opinion and caprice rather than reason as the guiding force of human affairs. Yet for Hegel, that reason rule human life is the true, positive meaning of the French Revolution. The *Philosophy of Right* argues that for reason to *genuinely* rule human affairs, citizens

²⁴ PR 189ff.

²⁵ Hegel describes how it is the essence of the modern state to bring these two sides together: “The essence of the modern state is that the universal should be linked with the complete freedom of particularity and the well-being of individuals, and hence that the interest of the family and of civil society must become focused on the state; but the universality of the end cannot make further progress without the personal knowledge and volition of the particular individuals, who must retain their rights. Thus, the universal must be activated, but subjectivity on the other hand must be developed as a living whole. Only when both moments are present in full measure can the state be regarded as articulated and truly organized.” See PR 260 (addition).

²⁶ PR 258.

²⁷ PR 258: “Here, the principle of cognition is again that of separate individuality, but not so much the *thought* of this individuality as the converse of this, namely empirical individuality with all its contingent qualities of strength and weakness, wealth and poverty, etc.”

ELI DIAMOND: HEGEL'S DEFENCE OF CONSTITUTIONAL MONARCHY AND ITS RELEVANCE WITHIN THE POST-NATIONAL STATE.

must submit themselves to the impartial reason of those most fit to rule.²⁸ Hegel believed that a restored monarchy, as constitutional, would not compromise the principles of the Revolution, but stabilize their true realization. The general will as principle of society is best realized as the voluntary, self-conscious obedience to a rational form of government which would assure that the liberal principle of equality of all citizens be concretely realized in a just society.

In this way, Hegel outlines the emergence of the moments of the concept in history through describing the historical genesis of constitutional monarchy. Beyond this, he must also show how these moments can be contained in the state not merely as successive historical stages but as a coherent and stable political system. One of the principal goals of the *Philosophy of Right* is to articulate how the modern state can sustain the freedom of the will without having this freedom dissolve the objective world of laws and institutions. The argument of the *Philosophy of Right* shows how the free individual can only make his freedom real by recognizing how this freedom wholly presupposes rational institutions, which prevent this will's collapse into purely natural and individual interests. This question of how the infinitely free will of the individual to which nothing is merely externally given does not dissolve all institutional order recurs at the level of the state. Akin to the individual, the state, as a collective organism, deliberates concerning its universal ends and desires and wills a certain course of action as a result of this communal reflection. The political formulation of the question of free will takes the following form: how is the infinite free personality of the monarch not merely a tyrannical arbitrariness destructive of a stable order of rights of institutions and individuals? Like the individual citizen who is only free within the prior context of rational institutions, the monarch's will is truly infinite²⁹ and self-determining not in arbitrarily acting according to its own contingent inclinations, but through directing its activity within the structures provided by the executive and legislative powers to which it grants a certain independence. Therefore, Hegel must give an account of the state which is beyond the division of particular natural wills, while being comprehensive and expressive of them,³⁰ since "freedom consists solely in the reflection of the spiritual into

²⁸ On Hegel's critique of a conception of equality that attempts to level the given fact of particular talents in certain individuals and the resulting hierarchies, see *PR* 200.

²⁹ The will is infinite in this positive sense for Hegel in that there is nothing which is opposed to its self-referring totality. The infinite will is not limited or excluded by another, as one finite thing is the limit of another finite thing. Rather, everything exists only in relation to the infinite will, and its relationship to finite things is ultimately a relation to itself as including them within its own activity. For example, the state is infinite, since whatever might initially seem to be opposed to the state (individual wills, family, corporations, the legislative and executive branches of government, etc.) actually finds the origin and source of its legitimate existence in the state. The finite, subordinate activity does not impinge upon or limit the infinite activity, but actually brings about its concrete realization. See *PR* 22.

³⁰ Yack argues effectively that this is Hegel's understanding of what it means to show that a constitution is rational. It is not rationality in the sense of giving the best reasons for such a constitution that would be more reasonable than counter arguments. Rather, as Yack writes, "a rational structure unifies its opposing moments. Nothing can be left outside the structure, even if it appears contradictory to include it" (Yack, 711). One needs to amend this observation by noting that such a comprehensive explanation must also

ELI DIAMOND: HEGEL'S DEFENCE OF CONSTITUTIONAL MONARCHY AND ITS RELEVANCE WITHIN THE POST-NATIONAL STATE.

itself, its distinction from the natural, and its reflection upon the latter.”³¹ This is the problem to which constitutional monarchy emerges as the solution in modern European life.³²

Hegel thinks that the structure of constitutional monarchy is especially equipped to be both external and immanent to society.³³ He proposes the threefold structure of constitutional monarchy composed of monarchical, executive, and legislative powers in order to achieve this twofold relation of transcendence and comprehensiveness. In what follows I will be focusing primarily on this objective, institutional component of the constitution in order to show how the structure of constitutional monarchy outlined by Hegel fulfills this seemingly contradictory task.³⁴ Through the monarchical aspect of government, the state is external to and transcendent of the divided perspective of natural wills in civil society, while through the constitutional elements, the state is immanent in and comprehensive of civil society. In this way, constitutional monarchy can simultaneously overcome the arbitrary will of the sovereign and the arbitrary wills of individuals in civil society.

show that the constitution *does justice* to all the various elements that it reconciles, such that it no longer ‘appears contradictory’ once given its full articulation.

³¹ *PR* 194. This movement is seen historically as described above: the sovereign power separates itself from the divided natural powers and makes itself absolute. It then distinguishes a realm of natural pursuits from itself, within which individual wills discover the universality implicit in their natural wills through the education of family and civil society.

³² For the best reconstruction of the historical context of Hegel’s political thought, see Terry Pinkard’s *Hegel: A Biography* (Cambridge, Cambridge University Press, 2000), especially Chapter 11, “Hegel’s *Philosophy of Right*: Freedom, History, and the Modern European State,” 469-494.

³³ Alan Brudner brings out very clearly how the constitutional monarchy outlined by Hegel cannot be associated with any particular existent regime, and how Hegel thought that this form of government had only been attained “implicitly or in embryo.” He saw this possibility especially in Germany, through the way that the German kingdoms themselves championed the principles of the French Revolution. This comes out most clearly, for Brudner, in Hegel’s essay on the Wurtemberg Estates. See Brudner, 129-130. Hegel himself makes it clear that one must not think that he is describing any particular state, Prussia, England or France, but that he is giving the universal logic underlying the modern European state in general, which is inevitably manifest in the various historical examples: “In considering the Idea of the state, we should not have any particular states or particular institutions in mind; instead, we should consider the Idea, this actual God, in its own right” (*PR* 258 addition). One could say that it is necessary that all the elements which Hegel describes in his rational constitution must be present in these states, and their reconciliation must be possible and implicit in these countries in order to be apprehended as real possibilities, but whether any state actually ever realizes these possibilities is a contingent question which can neither confirm nor refute Hegel’s account.

³⁴ Hegel does not mean by constitution merely the laws as outlined in a written document, but both the spirit of a nation as expressed in the character and habits of its citizens and the structure of social organization under which they live (*PR* 273-4).

ELI DIAMOND: HEGEL'S DEFENCE OF CONSTITUTIONAL MONARCHY AND ITS RELEVANCE WITHIN THE POST-NATIONAL STATE.

The general intention of Hegel's justification of the hereditary monarchical principle is to provide an institutional corrective to a purely liberal standpoint by demonstrating the priority of state over civil society. The head of state exists beyond the divided realm of civil society's particular interests, and makes the citizenry conscious of this elevation of the state's permanence above the fleeting interests of civil society.³⁵ The immovable unity of the state is embodied in the undivided unity of the monarch's rule, in contrast to the insuperable division of civil society. At the same time, however, the state must be structured such that it can both make the perspective of the particular a concern within the deliberation and activity of government, thus drawing the particular will into the universal will, while also making the universal will actual and effective within particular spheres, thus bringing the universal will into the particular.³⁶

The Monarch is both one moment of the state's power, but also contains the whole state within itself.³⁷ In itself, it is wholly beyond the division of society, but as the Crown in all its constitutional powers, the monarch's will is immanently related to society. Hegel outlines three moments of the monarch's *self*-relation, corresponding to the concept of the free will: unified and undivided sovereignty, self-determining subjectivity, and hereditary succession. These reflect the monarch's individuality, particularity, and universality respectively.

First, the monarch, as *one person*, embodies the state as a *unity* prior to the divisions of particular interests and powers, and maintains the fluidity of these powers so that no particular aspect becomes an absolute end in itself. This points to the same total sovereignty of the state beyond all its elements which is revealed through the ethical moment of war, in which everyone is made to understand how natural ties to material, private goods, even to one's own life, are wholly dependent upon and subordinate to the state. Hegel argues that this can be known without war through the Constitution itself. It is this rational sovereignty from natural determination that grounds the right of pardon granted to the monarch, who, rather than being bound to the natural necessity of revenge, can exercise his rational will and show that nothing is simply fated beyond this willing.³⁸

³⁵ It is equally important, however, to recognize how Hegel demonstrates in *PR* that the universal, common good emerges *through* the particular perspectives which make up civil society and is not imposed from without by the state. See below, n. 41. A good account of this is given by David Peddle in his "Hegel's Political Ideal: Civil Society, History, and *Sittlichkeit*," *Animus* V (2000), 12-45 (<http://www.swgc.mun.ca/animus/2000vol5/peddle5.htm>).

³⁶ This is also what is required of the activity of the individual will, which "consists in canceling the contradiction between subjectivity and objectivity and in translating its ends from the subjective determination into an objective one, while at the same time remaining *with itself* in this objectivity." See *PR* 28.

³⁷ Hegel writes that "the power of the sovereign presupposes the other moments, just as it is presupposed by each of them" (*PR* 285).

³⁸ This first moment of the monarchical principle, its unified sovereignty (276-278), corresponds to the moment of *individuality* in the free will, outlined in paragraph 7 of the Introduction: "the self-reference of

Second, the monarch is a *subjectivity* that makes decisions that are to a large extent arbitrary, in a way that is tolerable to citizens, since it is done from a perspective beyond the political fray. If decisions were made by the legislative power rather than the executive power or vice versa, or by a certain majority interest to the exclusion of others, the whole state would not be reflected in the state's decisions. This moment of arbitrary decision is necessary, because there are always various possible ways of looking at any practical matter, and opposed opinions on these matters can create deep divisions within government. At the same time, as belonging to the well-informed thinking will of the monarch, these decisions will not be wholly arbitrary and devoid of human reason. Monarchical decisions simply reveal the inherently arbitrary moment in all human willing.³⁹

Neither of these two aspects of monarchical rule are difficult to accept, because a single figure representing the whole nation who makes all state decisions official through an act of will is a general feature shared by modern societies. More difficult to see is the necessity that this position be determined by a hereditary principle of succession. We have seen above that no particular power or interest in the state has any independent reality apart from the reality that the state as a whole embodied in the will of the monarch grants to it. Yet at the same time, Hegel has shown throughout his argument that legal rights of persons, the rights of moral subjects, of family, of corporations and so on, express the universal and serve to educate individuals to be willingly receptive to the common good.⁴⁰ Consequently, they have the rational *right* to be recognized by the state. These two sides only make sense together if the authority of the Crown is reason, or the Idea, itself.⁴¹ Hegel writes in the *Science of Logic* that “the Idea is the *rational*; it is the unconditioned, because only that has conditions which essentially relates itself to an

negativity...indifferent to determinacy, [knowing] the latter as its own and ideal, as a mere possibility by which it is not restricted but in which it finds itself merely because it posits itself.”

³⁹ This second moment of a resolving subjectivity (279) represents the moment of particularity described in paragraph 6 of the Introduction, initiating the “differentiation, determination, and the positing of a determinacy as a content and object” that is required in a free will.

⁴⁰ Hegel's account of constitutional monarchy presupposes that one has gone through the argument for the rationality of the various forms of the will and ethical institutions that leads up to his treatment of the state, an argument which reveals, on the one hand, how each discloses a universal element, while, on the other hand, how each form of ethical life other than the state, if made absolute, leads to destruction of the universal. As expressing the universal, these aspects of life are rational, and consequently deserve recognition of their legitimacy from the sovereign state. The state should therefore respect personality, the moral will, family life, civil society, and religion. Hegel even argues that, *qua* rational, the more these independent spheres are accorded their due, the more they will buttress the state's sovereignty. In return, the state is recognized by individuals as securing their own private goods, thus satisfying “the right of the subjective will,” that “the will can *recognize* something or *be* something only in so far as that thing is *its own*, and in so far as the will is present to itself in it as subjectivity” (PR 107).

⁴¹ Hegel writes that the state is “the *Idea of the rational* will, which is rational solely because it has being both *in itself* and *for itself*...The state consists of the march of God in the world, and its basis is the power of reason actualizing itself as will” (PR 258).

objectivity, but an objectivity that it has not itself determined but which still confronts it in the form of indifference and externality.”⁴² Rational elements within the state must be justified through the will of the monarch, but the will of the monarch, embodying the rational will itself, cannot be justified within a rational, objective context. It is reason, the rational context within which everything else has the right to be recognized. Therefore, for Hegel, the principle by which authority is bestowed upon the monarch must be wholly self-authenticating. Whereas everything else receives its authority from reason, reason itself cannot be further grounded or justified, because all ratiocination necessarily occurs *within* reason. It is in this sense that Hegel makes the grand claim that the state, like the Aristotelian unmoved mover, is “the absolute and unmoved end in itself.”⁴³

It is the hereditary principle of succession that guarantees this unmoved quality, the *majesty* of the monarch. An elected head of state, and hence the state itself, is associated with one political perspective to the exclusion of others, and generally turns the state on its head, compromising the majesty of the monarch by grounding the sovereign's legitimacy in the attitudes and opinions of the masses, rather than having the sovereign be self-grounded and the source of the rights of the people.⁴⁴ The natural immediacy of succession through primogeniture precludes any justificatory argument that might ground the choice of this individual as monarch, dictating that the monarch will come from *this* certain position in *this* particular family. From the perspective of the ‘understanding’, this seems to root irrationality in the very apex of the state, since rationality from this perspective is precisely the mediating reasons connecting two terms in an argument, in this case, the mediating connection between an individual and his station or role, whether the link be provided through popular election, individual talent, or some other form of legitimacy. On this view, a hereditary monarch subjects the entire state to radical contingency.

Hegel's response to this argument lies in the relation of the monarchical power to the constitution's other two powers, legislative and executive.⁴⁵ He argues that in a fully evolved constitutional state, the particularity of the monarch, which admittedly is wholly

⁴² *Science of Logic*, 755.

⁴³ *PR* 258, 142. Yet Hegel is careful to preserve the distinction between human and divine. In the concluding sections on world history (*PR* 341-360), Hegel stresses the finitude of historical states, which pass over into a higher principle, the world spirit, or God.

⁴⁴ It is for this reason that Hegel compares the justification of hereditary monarchy to the ontological argument for the existence of God. As opposed to cosmological proofs for God's existence, which depend upon what is below God to establish the necessity of his existence, God's existence, according to the ontological proof, belongs necessarily to his essence, making the justification wholly self-grounding without any dependence upon mediating circumstances that could either be or not be.

⁴⁵ Hegel refers to other related consequences of not having a hereditary monarch as the head of state. Hereditary succession avoids faction around the throne that would be inevitable if the position of monarch were not naturally determined.

contingent, should play no role in determining the general will, since the legislative and executive powers together will propose laws and decisions which require nothing but the formal approval of the monarch to enact them. The monarch in this state acts only in concord with the other two powers, and the laws and their application are brought into existence not through the monarch's uninformed and arbitrary whim, but only after having passed through the entire political process.⁴⁶ For Hegel, the strength of the state cannot rely on the personal virtue of a leader, but must be inherent within the political system itself beyond such contingency.⁴⁷

Hegel defines the state as "the ethical spirit as substantial will, manifest and clear to itself, which thinks and knows itself and implements what it knows in so far as it knows it."⁴⁸ Present in this definition is the traditional Trinitarian relation of being, knowing and willing. The will of the sovereign is the immediate existence of the state outside of which nothing has any authority. Without the division of independent legislative and executive powers, government would be based on the natural impulse of rulers, yet with a power specifically designed to determine what is universal for all citizens prior to and standing independently of its implementation in particular situations, the production of universal laws becomes empirically disinterested.⁴⁹ Because of this division, the moments of knowing and acting in this sovereign will are not the monarch's personal opinion and impulse to action. Ultimately, the thoughts of the monarch in relation to the state are the universal thoughts of the legislative power, while the application of this thinking to the reality of society, the principle of activity, is to be found within the executive power. The actual content of the monarch's willing comes from the

⁴⁶ Hegel writes that the monarch's particular character is of no real importance in the decisions of a mature and fully organized state, in which "it is only a question of the highest instance of formal decision, and all that is required in a monarch is someone to say 'yes' and to dot the 'i'... whatever other qualities the monarch has in addition to his role of ultimate decision belong to the sphere of particularity, which must not be allowed to affect the issue" (281). On the same point, see *Hegel's Aesthetics: Lectures on Fine Art*, Vol. I, trans. T.M Knox (Oxford: Clarendon Press, 1975) 193-4.

⁴⁷ See Hegel's criticism of Montesquieu on this point, *PR* 273. On this point see Houlgate, 58-9.

⁴⁸ *PR* 257.

⁴⁹ Kant distinguishes government into two categories, republican and despotic, defining republicanism as that "political principle whereby executive power (the government) is separated from legislative power" (Immanuel Kant, *Perpetual Peace and Other Essays*, trans. Ted Humphrey (Indianapolis: Hackett, 1983) 114.). For Kant, the despotism of both monarchy and democracy lies in the fact that either the ruler (whether the monarch or the people) simultaneously creates the laws in their universality and implements them in their particularity. Here, the Kantian paradox of morality recurs at the level of the monarch's will: If I must be the author of the law to which I am bound, how is the authorship itself not merely an arbitrary exercise of natural will, the will of the tyrant? Some law must pre-exist my self-legislation, but paradoxically, to be free I would also have to be author of this law, *ad infinitum*. The ruler's will, as sovereign, is to include no reference to any moral authority outside its own will, yet at the same time, must not be merely an arbitrary and lawless willing. On this point, see Paul Redding, "Philosophical Republicanism and Monarchism – and Republican and Monarchical Philosophy – in Kant and Hegel," *Owl of Minerva*, 26, 1 (Fall 1994) 36.

constitution as a whole: “with regard to the particular content we see that the monarch is thoroughly dependent; he has no independent knowledge of things, and can decide only according to the assessment of the situation given to him and to the laws that apply.”⁵⁰

Through the internal relation of all three powers within the Crown, the state is sovereign and self-determining, as it acts according to its own well-considered knowledge and will with respect to every decision it makes. As with the individual will, the state is free when it acts upon rational and self-generated ends, rather than merely given, instinctive or reactive ends. This wholly self-contained character of the general will for Hegel constitutes its “infinity.”

The whole constitution emerges out of the dialectical conflict between the universal perspective of the sovereign and the particular perspective of individuals in civil society as a disorderly mass.⁵¹ Its end result is the identification of these two perspectives, as public opinion is purged of its mere particularity and transformed into the rational will of the whole, while the monarch's will, though independent from public opinion, expresses what is universal in individual interests.⁵² Understanding how this is possible depends upon grasping how both sides of this opposition are fundamentally determined by the executive and legislative powers that mediate between them. This identification does not occur by imagining that individuals in civil society can directly rule themselves by assuming a universal perspective beyond their particularity (as in Rousseau or Kant), but rather through the educative function of the constitution. Only in this way is the universality of the state not merely utopian, and the individual interests and social distinctions of civil society preserved.

For Hegel, “the constitution is essentially a system of mediation.”⁵³ It is the executive and legislative powers which mediate between the extremes of civil society made up of particular individuals, and the state as embodied in the universal will of the monarch. In this role, the executive power is more directly related to the universal interest of the monarch⁵⁴ and mediates this universal interest into civil society, while the legislative power is more directly related to the particular interests of civil society, raising this viewpoint into the state.⁵⁵ In Hegel's account of the constitution, there is a fluid continuum from the universality of the sovereign's will down into civil society, and from civil society back up to the apex of the state, so that the relation from one extreme to the other is never external and abstract.

⁵⁰ See Hegel's *Vorlesungen über Rechtsphilosophie* VI, 4: 685, 14-18.

⁵¹ PR 304.

⁵² PR 320.

⁵³ PR 302 (addition).

⁵⁴ PR 304.

⁵⁵ PR 304.

ELI DIAMOND: HEGEL'S DEFENCE OF CONSTITUTIONAL MONARCHY AND ITS RELEVANCE WITHIN THE POST-NATIONAL STATE.

For the sake of the present argument, it is not necessary to outline in detail the exact structure of the legislative and executive powers. The fluid continuity between sovereign and civil society can be glimpsed through Hegel's careful account of the complete mediation provided by the independent legislative and executive powers. The sovereign must maintain this fluidity and ensure that one side is not subordinate to the other. As opposed to republican accounts of the separation between legislative and executive, Hegel shows how one of the most crucial roles for the monarch is as protector of the constitution. While the legislative power determines the universal within the state through generating laws, this power itself exists already as presupposed within the prior context of the constitution itself, which "lies in and of itself outside the sphere which the legislative power can determine directly."⁵⁶ The monarch must ensure that all new laws and all executive decisions are within the spirit of the constitution. The will of the monarch is the prior context within which legislative and executive powers are essential moments.

Most importantly for the current argument, it is crucial to notice one feature of this account of hereditary monarchy, the way in which this principle of rule is particularly appropriate to the 19th century European nation-state. Though the constitutional monarchy is the regime through which citizens can be ruled by impartial reason, this is not some impartial, cosmopolitan reason identical in all constitutional monarchies, but a universality that emerges directly out of the natural basis of state unity, and which is thus different for each such state. The impartiality of rule from within the state, when entering the realm of international relations with other states, becomes a particular will among other particular wills, which together express a common universal humanity.⁵⁷ In conformity with this basis for a political community, the European nation state demands, as Alan Brudner describes it, "the indwelling of the state's person in one whose title rests on his simple naturalness, abstracted from all spiritual qualities and achievements."⁵⁸ The basis for the monarch's rule is based firmly on *purely* natural characteristics, which, through the mediation of legislative and executive powers, produces an impartially rational ruling principle. As long as the constitutional nature of government is respected, the monarch's natural individuality should contribute to guarantee public freedom and the rule of reason within state and society. But because all intellectual capacities, moral virtues, and other spiritual qualities play no rule in the basis for the monarch's rule, there is of course no absolute guarantee that a monarch will not flout the other constitutional powers in the constitution, confusing his particularity with his universality.

This natural particularity, which is the initially ungrounded presupposition of the monarch's rule, should ideally in most cases be irrelevant to the actual universal will of the state, yet it remains *alongside* this universal will with the perpetual occasion for

⁵⁶ PR 298.

⁵⁷ PR 336-340. I will expand upon this idea of the nation state as immediate union of universality and particularity in what follows.

⁵⁸ Brudner, 127.

confusion on the monarch's part between the universal will and his natural particularity. As Brudner writes, "in essence united with the universal, subjective particularity remains in fact outside of it."⁵⁹ This immediate contradiction between the universality and infinitude of the monarch's will with his natural, finite particularity moves the historical dialectic through which the monarch progressively grants various rights to individuals, corporations and communities, in order to overcome their opposition and alienation from the monarch's will and become genuinely infinite and comprehensive of society's ends. But this natural presupposition of the monarch's rule remains as a residue which can always assert itself at the expense of the universal rationality it should secure. We must now examine how these characteristics of the hereditary monarch, the presupposed natural foundation to the monarch's rule, and the immediate identification of these natural characteristics with the rational rule of the state, are identified by Hegel as fundamental features of the nation state itself, features which Hegel understood to lie at the heart of the likely corruption of these nation states.

III Hegel's Awareness Of The Seeds Of Degeneration Of The Nation State And The Dawn Of Something New

Hegel's principal targets in the *PR* are two opposed yet equally dangerous political abstractions:⁶⁰ the cosmopolitan,⁶¹ universalist democratic individualism driving the French Revolution to dangerous extremes, and the anti-enlightenment reactionary nationalism that locates the unity of the state in the fellow-feeling of an aboriginal *Volk* connected through its natural characteristics.⁶² One of Hegel's main tasks is to show how the modern state, through the principle of constitutional monarchy, already reconciles within itself the rational equality of individuals and the felt natural civic bonds beyond the mutually exclusive abstractions of these two inadequate positions. The constitutional monarchy outlined by Hegel as the rational modern state provides a stable reconciliation of these two forces. Yet Hegel also made clear that this form of life had reached its apex, and having been grasped self-consciously in its rationality, could only degenerate from this full actuality, much as the Aristotelian account of Greek social life signified the decline of the Greek world and the dawn of a new world historical epoch. He writes in his Preface:

⁵⁹ Brudner, 127.

⁶⁰ Hegel writes: "what lies between reason as self-conscious spirit and reason as present actuality, what separates the former from the latter and prevents it from finding satisfaction in it, is the fetter of some abstraction or other which has not been liberated in the form of the concept" (*PR*, Preface, 22).

⁶¹ See *PR* 209.

⁶² See Hegel's critique of Fries in the Preface.

As the *thought* of the world, [philosophy] appears only at a time when actuality has gone through its formative process and attained its completed state. This lesson of the concept is necessarily also apparent from history, namely that it is only when actuality has reached maturity that the ideal appears opposite the real and reconstructs this real world, which it has grasped in its substance, in the shape of an intellectual realm. When philosophy paints its grey in grey, a shape of life has grown old, and it cannot be rejuvenated, but only recognized, by the grey in grey of philosophy; the owl of Minerva begins its flight only with the onset of dusk.⁶³

Hegel not only indicates *that* modern European states have reached their point of completion from which they can only degenerate, but he concludes his consideration of the European nation state in *Philosophy of Right* with a reflection upon its inherent limitation which suggests the direction of this degeneration. He refers to the individual state or constitution as an “*immediate actuality*” of the Idea of the state.⁶⁴ The world of Spirit determines itself into “*immediate natural actuality*,” and the states represent a series of “*immediate natural principles*.”⁶⁵ Hegel writes the following concerning these immediate natural principles: “*Since these are natural, they constitute a plurality of separate entities such that one of them is allotted to each Volke in its geographical and anthropological existence.*”⁶⁶

Each nation is united by the natural characteristics of geography, language, character and customs particular to that state. Yet the unity of the state is not merely to be found in these natural characteristics. Hegel writes that “*the nation state [das Volk als Staat] is the spirit in its substantial rationality and immediate actuality.*”⁶⁷ The sovereignty of each state is a unity of particular nationality with the universality of the state. Thus, beyond the natural individuality that differentiated each European state from others, Hegel identified a humanism common to the European spirit in general.⁶⁸ Yet the natural basis

⁶³ PR, Preface 23. See also Hegel's *Introduction to the Lectures on the History of Philosophy*, trans. T.M. Knox and A.V. Miller (Oxford: Oxford University Press, 1985) 113-114; and *Die Vernunft in der Geschichte*, 67.

⁶⁴ PR 259.

⁶⁵ PR 346.

⁶⁶ PR 346.

⁶⁷ PR 331.

⁶⁸ In fact, against the account of inevitable conflict outlined in the *Philosophy of Right*, Hegel (wrongly) predicted in his *Lectures on Fine Art* that this common humanism would ensure that the individual nations would no longer enter into military conflict with one another. In a discussion of what may be the topics of future epics, Hegel writes: “*these might have nothing to describe except the victory, some day or other, of*

for citizenship in each of these nations remains exclusive of all other nations and in tension with the universal human rights⁶⁹ realized in each of the states: "The principles of the *spirits of nations* are in general of a limited nature because of that particularity in which they have their objective actuality and self-consciousness as *existent* individuals."⁷⁰ A state which founds the universality of its culture on its natural particularity is prone to confuse the universality of its culture with this exclusive nationality. This was a confusion which was held at bay for almost a century after Hegel's death through the inherent stability and greatness of these nation states, but it proved itself endlessly destructive in the first half of the 20th century.

Hegel showed a remarkable awareness of this inevitable conflict of states stemming from the fact that their citizenship was founded on exclusive particularity. He predicted "ceaseless turmoil not just of external contingency, but also of passions, interests, ends, talents, and virtues, violence, wrongdoing, and vices in their inner particularity. In this turmoil, the ethical whole itself – the independence of the state – is exposed to contingency."⁷¹ For this reason, commentators like Bernard Yack are not right in writing that "it is still true that Hegel was wrong about the direction in which modern European states and political sentiments were developing," since Hegel himself was aware that the decline of the nation state, with its institutional expression in constitutional monarchy, was inevitable. That "Hegel's hopes for the continued development and spread of the rational constitution foundered on the rocks of growing individualism and nationalism of the nineteenth and twentieth centuries"⁷² is not to be taken as a contingent historical fact that escapes Hegel's political dialectic. It is rather an inevitable fact that Hegel himself saw to be implicit in the altogether immediate connection between universal rights and naturally determined citizenship within the nation state, the very same immediate connection that we have seen belongs to the rule of this state's hereditary monarch.

living American rationality over imprisonment in particulars and measurements prolonged to infinity. For in Europe nowadays each nation is bounded by another and may of itself begin a war against another European nation; if we now want to look beyond Europe, we can only turn our eyes to America." *Hegel's Aesthetics: Lectures on Fine Art II*, 1062.

⁶⁹ See PR 209: "It is a part of education, of *thinking* consciousness of the individual in the form of universality, that I am apprehended as a *universal* person in which respect *all* are identical. A *human being counts as such because he is a human being*, not because he is a Jew, Catholic, Protestant, German, Italian, etc..."

⁷⁰ PR 340.

⁷¹ PR 340. Of course, this inevitable conflict in world history not only points to the limits of the nation state, but the transient finitude of historical states in general. Every state is finite and can disappear both in relation to its own internal order and its relation to other states.

⁷² Yack, 719.

IV Beyond Hereditary Monarchy: The Emergence Of Post-National States And Their Difference From European Nation States

In the light of Hegel's awareness of the imminent degeneration of the rational nation states of Europe, his occasional comments about America are of great interest. For example, in the introduction to his *Lectures on the Philosophy of History*, Hegel writes:

America is therefore the land of the future, where, in the ages that lie before us, the burden of the World's History shall reveal itself – perhaps in a contest between North and South America. It is a land of desire for all those who are weary of the historical lumber-room of Europe. It is for America to abandon the ground on which hitherto the history of the world has developed itself... as a Land of the Future, it has no interest for us here, for, as regards history, our concern must be with that which has been and that which is.⁷³

Hegel's philosophical history, as explained above, is necessarily retrospective in nature. As such he has little to say of American freedom, which in his time remained largely undeveloped. The task thus falls to contemporary political philosophers to extend the Hegelian reflection upon political life and rational constitutionalism to an analysis of North American freedom as it has emerged from post-national states such as the United States and Canada. What are the principal philosophical differences between these polities and the constitutional monarchies/nation states described by Hegel in the *Philosophy of Right*? In what way are these post-Hegelian developments confirmations or refutations of Hegel's political thought, and to what degree can these states be understood to be rational and free by Hegelian standards?

Hegel makes a distinction between constitutions "that are based on nature and those based on freedom of the will."⁷⁴ Roles in the natural state are determined by the natural factor of birth through noble families and heroic dynasties, who own these stations in life as private property handed down from generation to generation. In the modern world this divine dependence on nature has transformed into systems grounded upon the principle of freedom of the will. As Hegel writes, "Every concept begins in immediacy, in nature, and strives towards rationality. Everything depends on the extent to which rationality has replaced nature."⁷⁵ Following the political thought of Hegelian philosopher James Doull,⁷⁶ I suggest that in the historical movement from modern European nation states,

⁷³ *LPH* 86-87.

⁷⁴ *LNRPS 1817-18* 135.

⁷⁵ *LNRPS 1817-18* 135.

⁷⁶ James Doull is a Hegelian who has attended to post-Hegelian history in order to continue Hegel's reflection on politics into what he sees as a new 'post-historical' epoch. Doull articulated clearly his own relation to the Hegelian philosophy in an important 1970 debate with Emil Fackenheim entitled "Would Hegel Today Be a Hegelian?" Doull writes: "Hegel, now alive, would be a Hegelian still. Subsequent

ELI DIAMOND: HEGEL'S DEFENCE OF CONSTITUTIONAL MONARCHY AND ITS RELEVANCE WITHIN THE POST-NATIONAL STATE.

such as England, France, and Germany, to post-national federal states, such as the United States, Canada, and eventually, the European Union, there is exactly this kind of deepened rationality described here by Hegel. With the mutual destruction of European nation states throughout the wars of the 20th century, the degeneration which Hegel saw implicit in the political life of modern European states and their mutually exclusive and potentially antagonistic immediacy, the heritage of European freedom is taken up in a more rational and universal form in the context of post-national, especially North American, states.

What is the meaning of the political category “post-national state”, and how do these states differ from the nation states interpreted and given their logical form by Hegel in the *Philosophy of Right*? Doull makes two striking claims about modern nation states in the post-modern epoch. First, “there are no longer in Europe nation states,” and, second, “in North America there are not, and never have been, nation states.”⁷⁷ Doull reiterates the dangerous ambiguity that Hegel identified in the European nation state: “it is at the same time a particular national community having its own language, customs, animation, exclusive of other such communities, and is founded on universal human rights which are not abstract but pervade the whole range of its interests.”⁷⁸ While these elements of cultural particularity and universal rights were reasonably well ordered throughout the 19th century, World War I undermined this order through the collision of these states with one another. By World War II, the Nazi party had completely collapsed the distinction between the rational and natural elements of race and language exclusive of all other peoples, making these particularities the basis for political community. Through this last European conflict emerged the realization that the plurality of nations founded upon exclusive particularity could no longer maintain their sovereignty and

history would seem to have made obvious and accessible to many a way of thinking hardly any but himself could see already at the time of the French Revolution.” See “Would Hegel Today Be a Hegelian,” *Dialogue* (1970) 226. His reflections upon post-Hegelian political history are grounded on his understanding of the development of a third historical stage of the philosophical Idea, following the ancient and modern manifestations. He reads the three syllogisms outlined by Hegel in paragraphs 574-577 of the *Encyclopedia* as offering the logical outline of these three historical stages. Hegel gives the summation of the second stage of philosophical history, and can merely point to the emergence of a third stage whose development had not yet unfolded. It is to clarifying these post-Hegelian developments in history and philosophy that Doull dedicated his whole career. On the three syllogisms and the significance of post-modern philosophy from a Hegelian perspective, see Doull's last article, “Hegel's *Phenomenology* and Postmodern Thought,” in *Philosophy and Freedom: The Legacy of James Doull*, eds. David Peddle and Neil Robertson (Toronto: University of Toronto Press, 2003).

⁷⁷ James Doull, “The Philosophical Basis of Constitutional Discussion in Canada,” in *Philosophy and Freedom: The Legacy of James Doull*, 17. For Doull, the US has made clear the logic underlying this new post-national form of state, while Canada is still trying to self-consciously articulate its status as a post-national state. Doull writes of the US: “The United States is the first post-national state, the first state based not on national particularity but on rational principles, whose history is essentially the development of those principles. Americans were from the first conscious that they attempted something new, and of consequence for the human race: there began with their independence a “*novus ordo saeculorum*.” See Doull, “The Philosophical Basis of Constitutional Discussion in Canada,” 133.

⁷⁸ Doull, “The Philosophical Basis of Constitutional Discussion in Canada,” 23.

consistently realize the universal rights of rational humanity without some form of common government to keep in check the destructive tendencies of European nationalism. The original aim of the first steps towards a united Europe in the 1950's was the integration of the national economies, especially those of Germany and France, to such an extent that conflict between states would become impossible. In entering into the economic and political union of the European Union, each member nation "is no longer a sovereign nation simply but has imparted something of its sovereignty to these larger associations."⁷⁹

What are the principal distinguishing features of the post-national state, upon which the post-war European community has to some degree modeled itself? I will focus upon two defining characteristics of this form of political union as it is manifested in both the United States and Canada.⁸⁰ First of all, North American states, in contrast with European states, are not founded on nationality. From the beginning settlers on the American continent have understood themselves to forming a new country of immigrants, with no one having any claim to a kind of aboriginal citizenship status that would distinguish them from new Canadian and American citizens. Being Canadian or American is not tied to a specific linguistic or cultural community.⁸¹ As a result of having been founded upon a more universal foundation derived from the enlightened humanism of the European tradition, Doull writes that these North American post-national states "need not succumb to the logic which has made the nation state obsolete as the primary form of political community."⁸²

The second aspect that differentiates post-national states from European nation states is their structure as *federations*. While the sovereignty of the nation state is absolutely one and undivided, embodied in the single person of the monarch, federations are structured upon the principle of shared sovereignty.⁸³ Both the US and Canada are structured upon the relation between sovereign states or provinces to one another and to a

⁷⁹ Doull, "The Philosophical Basis of Constitutional Discussion in Canada," 22.

⁸⁰ A third important difference, the deeper absorption of the society of individuals into the state through democratization, will not be discussed here.

⁸¹ From Plymouth to the present day, there are of course exceptions in which citizens have understood life in America on the model of a uniform nation state, but I would argue that these remain exceptions to the general tendency of the American spirit.

⁸² Doull, "The Philosophical Basis of Constitutional Discussion in Canada," 30. Doull writes the following of this more universal foundation upon individuals as *human*: "The humanistic and afterwards the rational-scientific culture of the modern age addressed itself to individuals as human and only secondarily as a particular nation and language. That culture, as modified by the particular bent and character of the several European peoples who had part in the occupation was the model for the new beginning in the Americas" (Doull 33).

⁸³ See Alexis de Tocqueville, *De la démocratie en Amérique* (Paris : Flammarion, 1981) 195 : "La souveraineté, aux Etats-Unis, est divisée entre l'Union et les Etats, tandis que, parmi nous, elle est une et compacte; de là naît la première et la plus grande différence que j'aperçois entre le président des Etats-Unis et le roi en France."

ELI DIAMOND: HEGEL'S DEFENCE OF CONSTITUTIONAL MONARCHY AND ITS RELEVANCE WITHIN THE POST-NATIONAL STATE.

unifying federal sovereignty. The constitution of each country offers a division between powers assigned to the federal and provincial/state levels of government. While the federal union has a priority over the state or provincial unions, both the federal and state/provincial unions are wholly sovereign within the specific powers designated to that level of government. The state/provincial level of government exercises sovereign power over matters determined by the particularity of its historical, geographical, and cultural situation, especially important in light of the huge size and variety of both North American countries. As sovereign in these domains of life, the provinces and states satisfy the demand that government reflect its naturally determined particularity. Yet these particular sovereignties must also transcend these differences at the level of the federal union in order to achieve their common purpose. The federal union works to ensure concord between the more regional sovereignties, individual rights among its citizens, security in relation to external threats. Clearly outlining what is common to all the sovereign parts within the union allows for a peaceful arbitration of their differences by the federal government, in contrast to the violent conflicts of the European nation states.⁸⁴

Both the internal and external sovereignty of states described by Hegel is retained in post-national states.⁸⁵ Sovereignty for Hegel, as described above, is the ability of a

⁸⁴ F.L. Jackson explains this federal-provincial relationship as it occurs in Canada in the following terms: "The fact is that Canada is both one and divided, and it is one and the other equally. Sovereignty itself is shared; and because it is, the centripetal pull toward a federal unitary state and the centrifugal force that maintains provincial autonomies are counterbalanced. Canada is this tension and reciprocity." F.L. Jackson, "The Legacy of the Canadian Confederation," in *Surviving Confederation* (St. John's: Harry Cuff Publications, 1986) 146. This is to be distinguished from the European Union, and its relation of particular nation states related to one another through a bureaucratic structure that regulates their common economy. The independent histories, each developing its own way of life over centuries apart from other member states, is only very difficultly brought under the union, which must, for the moment, have a merely economic unifying force. The side of universal human rights and economic super-structure is only externally related to the particular linguistic communities of the former nation-states.

⁸⁵ Because of what was historically actual for Hegel in his time, the idea of a *federation* of these immediate states was an empty genus without the sovereign power to meaningfully gather the interests of several countries into a unified will. Without this self-determining power to know and will a certain course, this federation is empty and without any genuine right over its constituent sovereign members. In his lectures, Hegel states that beyond merely dissolving into world history through the inevitable conflict of states, "several states may form a league and sit in judgment, as it were, on other states, or they may enter into alliances (like the Holy Alliance, for example), but these are always purely relative and limited, like the ideal of perpetual peace." (see *PR* 259 [addition]). Hegel denies that international alliances compromise the sovereignty of their constituent members, in whom ultimate decision rightfully lies. So long as the institutions and powers required to be a sovereign state are retained by the members of the Alliance, agreements between nations have only the status of treaties which can be broken through the sovereign will of the involved states. Conversely, insofar as independent states relinquish the powers and institutions characteristic of a sovereign state, they are deluded in thinking that they can act as a completely sovereign nation within their new nation. Post-national federations as found today in North America and currently developing as the European Union were not yet historically actual for Hegel, who could only base his analysis upon the European nation states of his time. These federations would eventually realize the rational sovereignty of nation states as described by Hegel, yet on a more universal foundation beyond the inevitable conflict of these naturally immediate actualities.

nation to gather its various and divided interests into a unified, 'infinite' will, which can act freely and rationally based on its knowledge and deliberation upon a course of action. Hegel defines the state as sovereign in very precise terms: "the ethical spirit as substantial will, *manifest* and clear to itself, which thinks and knows itself and implements what it knows in so far as it knows it."⁸⁶ In contrast with the rupture and loss of sovereignty of the European nation states after the two World Wars, the post-national states of North America emerge as the restoration of the unity of universalist and particularist elements described by Hegel, as preserved through federalism upon a more ideal and secure foundation of universal citizenship.

On this account, post-national states emerge as a corrective to the instability Hegel identifies at the heart of the European nation state: a merely presupposed and given foundation to citizenship and political roles, and an immediate and undifferentiated identity of these particular aspects of nationality with its universal, rational principles of citizenship, both of which lead to the inevitable confusion of universality and particularity. As we have argued, hereditary monarchy is the institutional articulation of exactly these characteristics: namely, the presupposed naturally given familial basis which grounds the hereditary principle of succession, and an immediate identification of these naturally determined characteristics and the impartial rule of reason. The nation state, united by natural characteristics, forms a kind of political family of which the hereditary monarch is the appropriate apex. Significantly, Hegel refers to both the monarch and the nation state as a whole as "immediate individualities," "immediate actualities," and "immediate natural principles."⁸⁷ Yet it is precisely these two characteristics of European nation states that determine a hereditary monarch as the suitable head of state which are transformed within North American post-national states. The ground for citizenship is not the particularity of nationality, but a principle prior to any particular nationality within which one can integrate a variety of nations or particular sovereignties into a more general sovereignty. The identity of particular national characteristics with universal and rational freedom is no longer immediately identified, but is differentiated through the federal structure, where the state-provincial level of sovereignty preserves the integrity of particular historical communities, and the federal sovereignty secures the universal rights of all citizens. It would seem therefore that the immediate principle of hereditary monarchy is no longer adequate to the political reality of post-national states like Canada, the United States, or the emerging European Union.

What then is the adequately rational principle of rule within these post-national states? If they are indeed sovereign in a Hegelian sense, government must be ordered such that the head of state, as representing the sovereignty of the whole, lies beyond the divisions of civil society. The principle of selection must therefore involve a certain givenness, since the justification and legitimacy of the state's sovereignty as embodied in the leader should not come from any particular perspective within civil society, but as

⁸⁶ PR 257.

⁸⁷ PR 280, 331, 346.

Hegel shows, should be the self-originating source of its own legitimacy. Whatever principle of selection is suitable for the head of a post-national state must therefore avoid both the extreme of the natural principle of hereditary monarchy and the elective basis of a politicized Presidency.⁸⁸ A landed aristocracy and a hereditary monarch played important roles within nation states in making explicit the proper Hegelian relation between the state and civil society, a quality which must be somehow retained within a rational post-national constitutional structure. This head of state could be appointed based upon experience and distinguished service to the state, a figure who has earned the respect of the country as a whole beyond political or regional factions. Like the hereditary monarch of the former age, this head of state would not act and interfere beyond need in the constitutional process, but would play the role of protector of the constitution, intervening if the spirit or letter of the constitution were being compromised by either the executive or legislative powers.⁸⁹

Obviously, a much fuller justification for understanding this transition from nation states to post-national federations would be required beyond the one provided in the limited space above. Yet if the preceding account is plausible, the fact that hereditary monarchy appears to our contemporary perspective as not wholly rational can be accounted for by the political developments which distinguish states in Hegel's time from our own. If this degeneration of the nation state is indeed already recognized as implicit by Hegel himself in the *Philosophy of Right*, and if the post-Hegelian disappearance of nation states and the emergence of North American federations can indeed be grasped according to this Hegelian logic, the irrationality of hereditary monarchy from our contemporary perspective can be understood neither as a historical refutation of the truth of Hegel's rational modern state, nor as an indication that contemporary political life falls short of the rationality of Hegel's constitutional monarchy. Rather, it would provide a

⁸⁸ See Doull, "The Philosophical Basis of Constitutional Discussion in Canada," 130-132, for his Hegelian critique of America's elected presidency and separation of powers. The election of the head of state and his belonging to a specific political party imports the individual, particular perspectives that characterize civil society into the realm of the state, making the president, as the person who embodies the common life of the state, subject to party loyalty, factional interests of lobbyists, corporations, and public opinion. As Doull points out, certain situations of extreme crisis and certain heroic presidents throughout American history have been able to mobilize the loyalty of Americans so strongly that "a virtual unification" of the sovereignty of the state and the office of the President as Commander in Chief is achieved. With a sovereign will beyond the division of factional strife and private interests, the priority of the state over civil society that is so often hidden from view in the American polity is made explicit (Doull, 85). Yet without the proper institutional expression of this relation between state and civil society, the sovereignty of the whole is dependent upon the particular character of the president or contingent circumstances.

⁸⁹ Practical consequences of my argument include the claim that the monarchical element in the Canadian constitution is no longer adequate to its status as a post-national state, just as a hereditary monarchy could never be the first principle of any constitution adequate to the European Union, since it draws together so many disparate nations within its federation. At the same time, Britain's constitutional monarchy, left over from its days as a fully sovereign nation state, will become increasingly inappropriate to its political reality as the country faces the extent to which this sovereignty no longer exists within the contemporary European reality. This vestige of a past national sovereignty will also interfere with the British acceptance of the European Union as a genuinely effective federal government.

ELI DIAMOND: HEGEL'S DEFENCE OF CONSTITUTIONAL MONARCHY AND
ITS RELEVANCE WITHIN THE POST-NATIONAL STATE.

deeper confirmation both of the rationality present in our own institutions and of the Hegelian political philosophy in general.