

THE COVENANT IN ULRICH HUBER'S ENLIGHTENED THEOLOGY, JURISPRUDENCE AND POLITICAL THEORY¹

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ABSTRACT

In this article the 17th century Dutch theorist, Ulrich Huber's contribution to the concept of the covenant is unveiled. This takes place against the background of the more prominent insights regarding the covenant in 16th and 17th century Western political thought, namely the idea of the Biblical covenant (with the emphasis on the conditional nature of God's law), and the secular social contract theories stemming from the early Enlightenment. This investigation gains value as a result of its emphasis on the prominence of the covenant in the inextricably linked disciplines of theology, jurisprudence and political theory; as well as its revitalisation of the complicated nature of the covenant. What also comes to the fore is the role of pre-liberalism in the evolution of the classic law of nature and social contractarianism in the early classical development of political theory.

1. INTRODUCTION

The theological and constitutional connotations regarding the covenant have been approached from a myriad of angles in pre-modern and modern political and theological theory. Emanating from the Reformation were years of constitutional crisis in England and Europe, in which political authors and theologians used the paradigm (and metaphor) of the covenant to support their theories of constitutionalism and democracy. The idea of the Biblical covenant not only emphasised the relevance of God's law (as stated in Scripture), but also gave such law

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a conditional role which elevated the community's sense of responsibility towards God. On the other hand, adherents to a more enlightened social contract theory relied heavily on reason as the measure for the content of the law, coupled with the absence of a conditional and responsible approach towards God. In addition, the theological approach to the covenant varied from support of a single covenant, applicable to both the individual and society, to those ascribing to a more dispensational approach to the covenant (accompanied by a softened regard for the law), which consequently had an influence on Christian jurisprudential and political theory. Covenantal theory also became a complex concept, in both the Christian and secular worlds. It is against this background that the work of Ulrich Huber, prominent Dutch author on jurisprudence and politics, must be understood. Huber's *De Jure Civitatis* has never been translated (from the original Latin), and therefore his contribution towards the upcoming wave of pre-liberal thinking, more specifically within the context of his theological and political perspectives on covenant and testament, has not been sufficiently appreciated. In this regard, Huber's pioneering work on constitutional law is observed against the backgrounds of Reformed, secular, dispensational, and enlightened Christian models regarding the covenant.

2. THE IDEA OF THE BIBLICAL AND POLITICAL COVENANTS IN REFORMED THEOLOGY

The biblical covenant as a unique, biblically-based relationship between God and man, was postulated in the theology of the sixteenth-century Zurich Reformers. In this regard, Heinrich Bullinger played a pioneering role.⁴ According to Bullinger, the biblical text serving as primary witness to this idea of the covenant is Genesis 17, where it is clearly stated that God wished to be the God of Abraham and of his seed; in return Abraham and his seed were bound to walk before God in innocence (McCoy and Baker 1991:104; Baker 1980:17). According to this approach, the law forms the content of the covenant between God and man, as well as between the magistrate and the people. The office of

4 See Heinrich Bullinger, *De testamento seu foedere Dei unico et Aeterno* (1534), translated by Charles S. McCoy and J. Wayne Baker, in *Fountainhead of federalism. Heinrich Bullinger and the covenantal tradition* (1999), 99-138.

magistracy, together with its religious duties and the importance of the Decalogue, gains added meaning and effectiveness within the structure of the covenant. The idea of the Biblical covenant provides a sense of seriousness and urgency in that the political community will be met with God's wrath if it does not live up to its obligations. Political society is responsible within the covenant to fulfil the covenant condition; if not, there is a communal or political guilt that originates from a breach of the conditions. In contrast to the secular inclinations, the idea of the Biblical covenant was developed by Reformed thinkers in Europe, France and Scotland, into a powerful tradition of limited government; it assisted in shifting the political focus from unlimited government to magisterial power subject to the law of God (Raath & De Freitas 2001:285-286).

3. THE RISE OF SECULAR SOCIAL CONTRACTARIANISM, THE PROMINENCE OF REASON, AND NATURAL LAW

After the collapse of the medieval order and the rise of the nation state, the development of secular natural law ideology, was accompanied by the emergence of the idea of the social contract in the political and legal philosophy of Jean Bodin (1530-1596). A state differs from other communities through the presence within it of sovereign power. True sovereignty, to Bodin, is always embodied in monarchy; God's law approves of monarchy, and monarchic sovereignty is no fiction. However, the sovereign power of political authorities is not arbitrary, because the king ought to obey the law of nature, and should govern his subjects according to natural justice (Bodin:1566:187 [204]). If the sovereign commands something contrary to the law of God or nature, the magistrate need not obey him. Because the king is sovereign, he has only natural and divine law above him.⁵ The people must take the oath to the king, but the king ought to take the oath only to God. Therefore, even the coronation oath cannot limit the king's sovereignty — the law of the state cannot limit the power of the sovereign.⁶

5 See Bodin's *République*, dedicatory letter (original added to the third edition of 1578).

6 See Bodin's *République* (1961:1, 8 [148] [100-1]) for a description of this principle.

According to Grotius (1583-1645), the essence of the *vis obligandi* is that it places a metaphysical restraint on man's freedom as a result of which he "ought" to fulfil his promise. This can only be achieved by a voluntary act of the promisor. The question remains, however, as to how the law obtains or acquires this quality. The answer is both simple and inevitable: the inner freedom of man can only be restricted by man's own voluntary submission — the alienation of his freedom and mutual consent required for the formation of society. For the formation of human society mutual consent was required. This express or tacit contract that is the source of the binding force of positive human law, is known as the "social contract". The source of the binding force of this promise (social contract) is the law of nature. Furthermore, individual man and his social instinct are the source of natural law.⁷ According to Grotius, the peculiar property of man is his desire for society, his *appetitus socialis*. Whatever conforms to this social impulse and to the nature of man as a rational social being is right and just; what is opposed to it (by disturbing the social harmony) is wrong and unjust. Since positive law is based on the law of nature, its contents must be in harmony with this law. Therefore, Grotius's humanistic tendencies are easily detected.

According to Thomas Hobbes (1588-1679), there can be no valid covenants, and therefore, no justice and injustice, until a coercive power has been established that will compel men to perform their covenants, that is, until the commonwealth is established (Hobbes 1978:xiv, 196). For Hobbes there is but one contract — the contract between individuals who are from the commonwealth. The sovereign is not a party to the contract, and there is no separate contract with him. Therefore, no subject can object to anything that the sovereign does, because to do so would be to object to something he himself has authorised. According to Hobbes, covenants and the consent of the governed in covenant provided the basis of government, with the rights of humans ceded to the sovereign through representation. Justice meant keeping the societal covenant, and because Hobbes had a very pessimistic view of human

7 In this context, natural law theory contained marked differences from the natural law theories that had preceded it. These differences included a decline in the theological content of natural law and an attempt to ground it in reason alone.

nature, the covenantal promises had to be reinforced by the power of the sovereign to make sure that the promises would be kept and the well-being of all would remain secure. While Hobbes had at hand the concept of covenant, by which many people voluntarily entered into treaties with monarchs for protection during the Old Testament, he resorted instead to a more secular man-centred notion. His radical contention favoured government by the people to be sure; but government by God became disqualified (McCoy & Baker 1991:90-91).

By the Christian covenant it is covenanted on man's part to serve God as Christ taught: obedience to be performed to God; and faith in Jesus Christ (Hobbes 1978:xvii, vii, 338-9). Jesus prescribed no distributive laws to the subjects of princes, and citizens of cities; he gave no rules whereby subjects might know and discern what is their own. Subjects and citizens, therefore, should obey their princes in all questions concerning *meum et tuum*, their own and other's rights. It belongs to a Christian city to determine what justice is (Hobbes 1978:xvii, x, 324-5).

Elazar's finding concerning Hobbes's covenantal thought is that more important: biblical psychology begins with God and the awe of heaven, while Hobbes's psychology is purely secular. Here, then, is a kind of a convergence for which it is hard to determine lines of influence, if there are any. Much the same is true of Hobbes's use of the covenant, except that, while one can find efforts to understand the psychological basis of human behaviour elsewhere, the idea of covenant is more unequivocally scriptural, even if filtered through the federal theology of the Reformation. While Hobbes's fundamental covenant is minimalist, to keep the peace, rather than maximalist, to mould humans in a certain way, as in the Bible, he could only take the idea of covenant from one place. Moreover, his distinction between covenants and contracts shows the same understanding of the role of mutual promises and trust that is present in biblical covenants. Hobbes does not cite biblical examples in his presentation of the basic covenants of mankind; he does so in Part III where he presents the paradigmatic commonwealth as described in the Bible (Elazar 1992:21-22).

4. ULRICH HUBER ON COVENANT AND TESTAMENT

4.1 The will and testament of Christ

Hobbes played an important role in establishing the foundation of the social contract in liberal political theory. Proceeding from a distinct Reformational perspective, Huber made it his main duty to refute Hobbes's enlightened absolutism in politics. Huber distinguishes six different usages of the term "testament" in Holy Scripture:

- (1) The testament where Christ and the elect receive the same inheritance (*Testamentum commune, quo Christo & fidelibus eadem hereditas deferatur*);
- (2) The will of the Father by which He bequeathed the sinners to his Son (*Testamentum Patris, quo Filio dederit peccatores in hereditatem*);
- (3) The will of Christ where He promised the kingdom of heaven to the believers in bygone years (*Testamentum Christi, quo fidelibus antiquis declaraverit & promiserit regnu coelorum*);
- (4) The testament in which Abraham received Canaan as an inheritance (*Testamentum, quo Abrahamus hereditatem terrae Chanaënis accepit*);
- (5) The Sinai testament which concerns the same land of Canaan (*Testamentum Sinaiticum, super eadem terra Ghanaanis*); and
- (6) the testament after the death of the testator (*Testamentum post mortem Christi*) (Huber 1694:i.iv.ii.15 [107(1)]).

Huber states that no will was drawn up for the benefit of Abraham. No similar statement was drawn up at Sinai and the faithful of old did not become heirs in terms of a will, which was different to the one drawn up by Christ when He was about to die (Huber 1694:i.iv.ii.16 [107(1)]). In the history of Abraham no testament can be found in the simple narrative as is clearly apparent from Genesis 15. In that chapter everything is transacted between living people and contracts between two parties. A covenant is brought to mind and described with all its circumstances. Verse 18 reads: "On that day Jehova entered into a covenant with Abraham". A promise and an acceptance was concluded which was recorded in the text as a covenant. These two (testament and covenant) cannot co-exist, because they contain the wish of a single person. One should take into account the formal ritual of the slaughter

of sacrifices, which is usual in a covenant but never in a will (Huber 1694:i.iv.ii.17 [107(1)-(2)]). We see, according to Huber, God extending mercy to Abraham by confirming his faith. The bequest of the land of Canaan was not dependent on the death of the testator, because, according to the apostle, it required the drawing up of a will (Huber 1694:i.iv.ii.17 [107(1)-(2)]). We also see that the promise was repeated to Abraham, his son and his grandson. This never happens in the case of a testament. Either in part or as a whole the requisites of a contract or a covenant binding two parties are used. In Genesis 17: 10, says Huber, the following was stated: “This is my covenant between you and me and your seed.” No testator can speak in this way (Huber 1694:i.iv.ii.18 [107(2)]). On Mount Sinai in all the transactions between God and the people with Moses as the go-between, no traces of a will are found (Huber 1694:i.iv.ii.19 [107(2)]). Everything from beginning to end was transacted as a covenant as is clear from Exodus 19:24 (Huber 1694:i.iv.ii.19 [107(2)]). The laws also were added and God stipulated to their observance through Moses. No death of the testator intervenes at any stage (Huber 1694:i.iv.ii.19 [107(2)]). Also the observation that the sacrifice symbolised death and their slaughter provided the requirements of a will is not correct, because the sacrifice contributes nothing to the requirements of a testament, but rather to the covenant as in the instance of the covenant with Abraham (Huber 1694:i.iv.ii.29 [107(2)-108(1)]). The same applies to the case

where Moses is the author in saying: “Here is the blood of the covenant which God entered into with you with all these words.” Note 1: “covenant”, 2: “with you”; 3: “with these words” which were clearly stated in the following manner: Do you promise? I promise. This is to indicate that the entire matter took place between two parties (Huber 1694:i.iv.ii.20 [108(1)]).

To Huber, those people who place testament and covenant next to one another or take covenant and testament to be the same, are alien to Scripture and run contrary to reason (Huber 1694:i.iv.ii.21 [108(1)]). A covenant and a testament cannot go hand in hand and neither can they be drawn up simultaneously (Huber 1694:i.iv.ii.21 [108(1)]). A covenant requires two parties and a testament cannot be drawn up otherwise than at the behest of a single individual (Huber 1694:i.iv.ii.21 [108(1)]). This is done after his death while a covenant is a document between two living people (Huber 1694:i.iv.ii.21 [108(1)]).

From all of the above the eternal wish of the Son of God is clear, in giving to the chosen the inheritances of the kingdom of heaven, as given to Him by the Father (Huber 1694:i.iv.ii.22 [108(1)]). They were destined to receive this after his death in time. This was a single and unchangeable testament, apart from which no other drawn up by God is found in Holy Scriptures, or any other form of final disposition (Huber 1694:i.iv.ii.22 [108(1)]).

What shall become of the division of the testament into Old and New? The same question, states Huber, is dealt with by the professors at Leiden, and quoted by Hoornbeeckius⁸ where he states:

There are two testaments. The division into Old and New Testaments is not a division into groups but a division of subject in terms of things happening (Huber 1694:i.iv.ii.23 [108(1)-(2)]).

The same thing may vary according to appearance and substance according to diverse considerations of economy and ways of administration, both as far as God and man is concerned (Huber 1694:i.iv.ii.23 [108(1)-(2)]).

They stated, therefore, that there is one single testament divided into two parts, one of which is called old and the other new, according to the decision of Paul in his Epistle to the Galatians 3:24-26 and verse 15 in the subsequent chapter (Huber 1694:i.iv.ii.23 [108(2)]).⁹ The best of these approaches, in Huber's view, is the following: The testament of Christ was originally closed and secret. There is but one single testament divided into two parts, one of which is called "old" and the other "new", according to Paul in his Epistle to the Galatians 3:24-26, and verse 15 in the subsequent chapter. Long ago it was obscure and incomprehensible except by type significance, and thereafter openly and lucidly exposed and preached. This agrees well, says Huber, with the Emperor Leo who called it a closed testament. In his *Novella* 69 he described the testament as a document consisting of mysterious symbols. Like a great cloud it takes away the ability to comprehend. On account of the obscurity of speech he decided as follows about the "closed testament" (*Novel* 42): This obscurity, once the testament is opened, fades away and turns into bright light. This is the nature of the Old and New Testaments and even if Leo states the matter differently, it

8 His *Institutes of Theology* 8:2.

9 Huber also refers to Hebrews 9:24.

agrees, says Huber, with his own views on this matter (Huber 1694: i.iv.ii.24 [108(2)]). To Huber the gist of the matter is that the testament of Christ was originally closed and secret, and then it became open (Huber 1694:i.iv.ii.24 [108(2)]). The executors appointed by the testator have the testament in their hands, and only once he has departed from this life, will they open the will according to public law. Likewise the heirs are informed and if there are no conditions to be observed first, they will receive whatever has been bequeathed to them (Huber 1694:i.iv.ii.25 [108(2)]). They are immediately given the opportunity to accept the inheritance. The heirs should be warned and care should be taken that the wishes of the testator are complied with. Otherwise they will be deprived of the assets as people unworthy of the inheritance. Consequently, there are stipulations and promises that are entered into between the executors of the will and the heirs (Huber 1694:i.iv.ii.25 [108(2)]). A testament is not a contract and an heir inherits in terms of a testament without any contract. Nevertheless, there is nothing to prevent a contract being entered into for the execution of a will (Huber 1694:i.iv.ii.25 [108(2)]). When Christ the Lord approached death, He appointed executors, namely apostles and evangelists, to whom he entrusted his will. They were required to publish it after his death and to make it known to all the people, namely that the kingdom of heaven was bequeathed to all those who believed in Him. There were no strings attached except that they had to accept the inheritance offered to them, which means that they were required to believe and obey the instructions contained in the will (Huber 1694:i.iv.ii.26 [109(1)]). Huber adds:

One should guard against the faulty expression that belief and coherence to the instructions contained in a will are conditions for the devolution of the estate (Huber 1694:i.iv.ii.27 [109(1)-(2)]).

Furthermore, he adds that a condition is nothing other than the addition of a future event, on the occurrence of which something is dependent. Neither the acceptance of the inheritance nor the provisions of a will can in any way suspend the rights of the believers. They can proceed to accept the inheritance without delay and acquire whatever is left to them. It is true that they have to observe the provisions of the will, but this is the result of having accepted the will and not a precondition for acceptance of the benefits (Huber 1694:i.iv.ii.27 [109(1)-(2)]). Huber says that for the rest there are stipulations and pro-

mises binding upon the preachers of the New Testament and the heirs to observe the provisions of the testament. It resembles a covenant but does not apply to the bequest or acquisition of the inheritance. Therefore no agreement can be entered into after the death of the testator to acquire the inheritance (Huber 1694:i.iv.ii.28 [109(2)]).

4.2 The covenant of God with the church

Subsequently, Huber deals with God's covenant with the church. In accordance with the unique testament of Christ, there was a unique covenant with the church, entered into before the testament was opened and came into force, so that the assets of the will could be shared by the faithful of former times. Therefore, in terms of the covenant entered into with the ancestors, the will was confirmed in Christ. This is the doctrine of Paul to the Galatians. The covenant was nothing more than the anticipation of the will through promises. He adds: "The appearance is exceptional, diverse declarations and repetitious ..." (Huber 1694:i.iv.iii.1 [109(1)]). Huber describes a covenant as a public agreement with a durable effect. It is the agreement of two or more people. It is called public in order to distinguish it from private agreements (Huber 1694:i.iv.iii.2 [109(1)-110(1)]). It is impossible to contract both a covenant and a testament at one and the same time. Therefore, if anybody acquires an inheritance on the death of the testator he has no need of a covenant. The right to succeed arises solely from the wish of the testator (Huber 1694:i.iv.iii.3 [110(1)]). Acceptance is solely something decided upon by the heir without any agreement. Perhaps something like an agreement may arise to execute the instructions of the will (Huber 1694:i.iv.iii.3 [110(1)]). The covenant of God with the church takes place prior to the death of the testator so that the faithful of old may become participants of the heavenly asset, which they cannot acquire before the death of the testator.¹⁰ A will assures validity through seeing that as long as the testator lives, it has no validity (Huber 1694:i.iv.iii.4 [110(1)]). Therefore Christ the mediator, in accordance with the cession made in his Father, by the Father, bequeathed the heavenly assets to the elect in his will, because He wanted to make these faithful who lived before the appointed time of his death co-owners of

10 To Huber this is taught by the author to the Hebrews (9:16).

those assets. He expressed his desire in a will in an obscure fashion full of many shadows of figures (Huber 1694:i.iv.iii.5 [110(1)]). Because the validity of a testament cannot be exercised before the death of the testator, it acquires this effect and value through promises, namely conventions and covenants made to them, which point to the death of the testator, and to his strength. In this way they understand that they acquire a portion of the heavenly assets on the strength of a testament which eventually will be confirmed by his death. Thereby they are made of the testamentary promise in the form of covenants and conventions made to them, and which point to the death of the testator (Huber 1694:i.iv.iii.6 [110(1)]). For this purpose the covenant of God was made firstly with the faithful of old — they were made heirs to the heavenly assets. They could not become heirs on the proper and direct strength of the testament prior to the death of the testator as Paul said (Huber 1694:i.iv.iii.7 [110(2)]). The apostle Paul, says Huber, teaches this in Galatians 3:15 *et seqq.*, where he states that a valid will drawn up by human beings cannot be nullified or changed in the slightest. He adds:

We notice that this is a testament not a covenant but others like the Belgians who believe that even a testament can be changed (Huber 1694:i.iv.iii.8 [110(2)]).

But this agrees in one important aspect. It is clear from the phrase “from which nobody can detract” that it is the same as in a testament confirmed by death, because it is not susceptible to change.¹¹ A covenant, like all transactions between living people, receives immediate validity and can always be dissolved in the same way as it has been entered into. Therefore, something which nobody can dissolve or change, ought to be a testament and not a covenant, according to Paul (Huber 1694:i.iv.iii.10 [110(2)]). Paul provides the position concerning a testament confirmed by death. But the promise was made to Abraham. Elsewhere a testament confirmed by the death of Christ could not have involved Abraham who died so many centuries before Christ. Therefore the apostle quotes verse 17: “A testament pre-confirmed by God in Christ” (Huber 1694:i.iv.iii.11 [110(2)]). A covenant is not capable of antecedent confirmation, but draws its strength from the present as soon as both parties have agreed. A will drawn up long before the death

11 He relies on Hebrews 9. I.iv.iii.13.

of the testator only becomes valid after his death and does not come into operation unless the promise of the testator is confirmed (Huber 1694:i.iv.iii.12 [110(2)-111(1)]). We are subject to the curse from which we are freed by Christ who was made a curse for us. This is illustrated and compared to a testament made by man (Huber 1694:i.iv.iii.13 [111(1)]). A will, the bequests of which are pure, cannot be changed once it has been confirmed. But promises were made to Abraham by way of a will which was pre-confirmed in Christ, indicating the strength of Christ's future death. And in this way by covenant or by promises accepted the testament is represented, namely the validity of the will is given to Abraham in anticipation (Huber 1694:i.iv.iii.14 [111(1)]). Therefore, he proceeds to say that the will cannot be changed and the result is the same even if it is pre-confirmed. By means of the covenant the same result is achieved as if it had been confirmed by death and it is not abrogated by any subsequent law. Subsequent contracts between the same people always abolish previous contracts. But a testament made effectively by death or preceding informal agreements referring to the state of death, provides no scope for change (Huber 1694:i.iv.iii.15 [111(1)-(2)]). The promises made to Abraham were of such a nature because they derived their validity from a will confirmed by the death of Christ. These promises were gratuitous and so unchangeable that they were given no other quality by a subsequent law. That is what the apostle sought to demonstrate (Huber 1694:i.iv.iii.16 [111(2)]).

It must be stated that the will of Christ is eternal, because it is unique and unchangeable, gratuitous and it has two dispositions — confirmation and pre-confirmation. Confirmation was brought about by the death of Christ the Testator (Huber 1694:i.iv.iii.17 [111(2)]). A pre-confirmation is made before, when the testament still does not stand in its own strength, but exists only by way of an agreement or promises referring themselves to the death and the time of confirmation, the validity of which is drawn back in this way. But that first disposition very often cedes its excellence to the subsequent. The promises were obscure, foreshadowing events by ceremonies and prototypes, a hindrance and intolerable to those faithful who ardently long for the will to be opened.¹² The latter disposition shows a bright light derived

12 Peter in his synodal oration (Acts 15).

from the reading and professing of the will once it has been opened. It shows a perfect joy as stated by Christ the Lord. Consequently, there are two dispositions. One of them brings forth servitude and the other freedom (Huber 1694:i.iv.iii.19 [111(2)]). The covenant in which the force of the will is represented to the faithful prior to the death of the testator is known as the old disposition (Huber 1694:i.iv.iii.20 [111(2)-112(1)]). It has often been repeated. We can be sure that it is one and the same, representing the validity of the testament and it remained that way. That testament which was confirmed by the death of Christ in no way differs from this. It is the same as the one which afterwards was confirmed by his death (Huber 1694:i.iv.iii, 20 [111(2)-112(1)]).

The principal sections and important aspects of the matters preceding the confirmation by the death of Christ, may be distinguished into three periods: (1) from Adam to Abraham; (2) from him to Moses; (3) from there to the advent appearance of the testator on earth (Huber 1694:i.iv.iii.21 [112(1)]). The beginning of the first period is the statement of the Lord in paradise concerning the crushing of the serpent's head and of the serpent biting the woman in the heel (Huber 1694:i.iv.iii.22 [112(1)]). Implied in these words are the remission of sin, the suffering of the Lord and the gift of eternal life in the will (Huber 1694:i.iv.iii.23 [112(1)]). We believe that all gifts were received by the original faithful and the rite of sacrifice as the Emperor Leo states in *Novel* 69. Therefore they were love-shadowed from the earliest times (Huber 1694:i.iv.iii.23[112(1)]). When Noah thereafter entered into a covenant with God as stated in Genesis 6, concerning his entry into the ark in order to escape the flood, which supposes a reconciliation with God, no express promise concerning the universal inheritance which was earlier made to Abraham was mentioned (Huber 1694:i.iv.iii.24 [112(1)]). But darkness and obscurity, as Leo calls the concealed testament, in the edition of the words, preconfirmed the strength of the death of Christ and of the testament (Huber 1694:i.iv.iii.24 [112(1)]). There is no doubt, according to Huber, that more was meant and understood than what was written. Only that was noted about the testament to the faithful as was necessary for them to acquire salvation through faith and not to doubt regarding the matter and the events, nor to doubt the testimony of Peter about the annunciation of Christ to the people at the time of the flood (Huber 1694:i.iv.iii.25

[112(2)]). As far as can be gauged from the Holy Scriptures, states Huber, this period has a dispensation by promises, which without doubt have been accepted. This is understood by the tacit covenant sanctified by the rite of the sacrifice. They understood that they lost God through their sins and that they will receive Him back through grace and the death of Christ. This strength of death was represented to them by the promises, which means that it was given to them in anticipation. This is what is meant by the word “to represent” in Latin. The death of Christ was represented by sacrifices in another sense, as would appear, and this was the disposition of the first period “by a tacit covenant” (Huber 1694:i.iv.iii.26 [112(2)]). Very bright and shining was the antecedent confirmation made to Abraham, who eventually accepted a direct promise about the highest matter. Therefore, from him the apostle inferred promises by which the anticipated gospel was proposed, because a simple confirmation followed the gospel so that the preconfirmation becomes a pre-gospel (Huber 1694:i.iv.iii.27 [112(2)]).

The apostle praises these words of the pre-gospel: “In you all the people will be blessed,” which is a promise concerning his descendants. The promise was fulfilled in Christ. In this way the blessings and promises were spiritual. The faith was received from Abraham, and was inculcated by Abraham (Huber 1694:i.iv.iii.28 [112(2)-113(1)]). It is the custom of God to confirm the faith by producing earthly matters. This concerns the closed and mysterious testament as Leo said, where faith in the highest matters rests on palpable matters (Huber 1694:i.iv.iii.29 [113(1)]). Therefore, God promised the land of Canaan in which Abraham dwelt and the soil on which he trod. God made a covenant with him. He did so solemnly with blood both in the sacrifice and the circumcision so that they shall never be forgotten. The promises received by him are a pre-confirmation of the testament yet to be confirmed with the blood of the promisor. Consequently, they were made testamentary heirs by promises (Huber 1694:i.iv.iii.30 [113(1)]). The ultimate testament was made in the desert with the intervention of Moses. It was more extensive and brighter than the first one. It was a solemn reactivation of the covenant entered into with the Fathers. It served to represent the strength of the testament with a rite, which approached close to the effusion and sprinkling of the blood. This was the claim to the heavenly inheritance as we read in Exodus 24 (Huber 1694:i.iv.iii.31

[113(1)]). Huber stresses that the faithful acquire their heavenly inheritance by the testament confirmed by the death of Christ, both the new and the old. However, the faithful under the old dispensation cannot be admitted to the fruits of the testament without a covenant whereby the testament is pre-confirmed in their favour. For the younger faithful after the death of the testator there is no need for an antecedent confirmation of the testament nor is there a need for a covenant. Nothing more than acceptance, which is faith, is required (Huber 1694: i.iv.iii.33 [113(1)-(2)]).

The people of old were called the heirs of a promise in the Epistles to the Galatians and the Hebrews. After Christ there is nothing of this sort, but there is frequent reference to manifestation and consummation, “the truth of the matter but no promise.”¹³ In short: the agreement with God the Father and the Son brought freedom to the human race. Christ, in accordance with that agreement, made the elect “ignorant” heirs in the blood of the eternal will, because they received no claim prior to the actual effusion of blood. God the Father, promised the people of old the inheritance on the strength of his blood which had been shed (Huber 1694:i.iv.iii.35 [113(2)]). Consequently, because they cannot yet accept the inheritance or conduct themselves as heirs they claim this position through promises made and so by the covenant (Huber 1694:i.iv.iii.35 [113(2)]). They are legally bound by circumcision and the pledge of the land of Canaan. This foreshadows the promises made and, in terms of general grace, all people professing God and their children may use his signs, pledges and shadows (Huber 1694:i.iv.iii.36 [113(2)-114(1)]). Huber doubts whether God made any other will over and above that eternal will. Neither did He enter into any covenant than that one which had the effect of a will. They had to accept the will that went into effect with the death of the testator. This was announced to all the people. The inheritance was distributed indiscriminately by the believers on the strength of a free will through faith. The inheritance is acquired without any agreement or preceding claim. By operation of the law it devolved and was acquired just as if there were a covenant between God and the faithful (Huber 1694:i.iv.iii.37 [114(1)-(2)]).

13 Huber relies on Romans 6:25ff., Timothy 1:9, Titus 1:9. i.iv.iii.34 (113[2]).

4.3 The distinction between covenant and testament

Huber makes an effort to refute the arguments against the unity of testament and covenant (Huber 1694:i.iv.iv, Summary [114]). His stance is based on the fact that a will without the intervention of death cannot exist and that the faithful prior to the death of Christ could not share in the assets of the will, unless there is a covenant of antecedent confirmation (Huber 1694:i.iv.iv.1 [114(1)]). The objection stated is: The difference between the testaments of God and man are as follows: Death is required for a human will so as to remove the fear of alteration. To Huber a possible alteration in the divine testament need not be feared on account of the confidence in the antecedent promise and oath. Huber states that prior to the death of Christ his will could never be changed because of the preceding promise on the strength of the oath which is followed by acceptance as suggested by the objection itself. God promised antecedently, which gave validity to the testament prior to the death of the testator — that is a covenant entered into by Christ and the faithful in order that they might benefit from the testament before they can accept the will (Huber 1694:i.iv.iv.3 [114(2)]). That which has been said about the oath and the objection may be applied to the affirmation given by the Father with regard to the promises of the Son regarding possession of the inheritance and the capacity to draw up a will. This promise may be considered by extending itself to the faithful both new and old. As far as this is concerned there is no difference between them (Huber 1694:i.iv.iv.4 [114(2)-115(1)]). To Huber the promise of the Father in no way abolishes or overspreads the testament of the Son. It is founded on this. Therefore, the promise of the Father does not derogate from the nature of the testament of the Son. It takes effect only after the death of the testator, prior to death only by way of a covenant or a grant of possession in the same way as a testator may appoint his son as heir (Huber 1694:i.iv.iv.5 [115(1)]).

Huber mentions that there is an objection to the effect that it is awkward to apply an argument valid for a human testament to that which is divine. In a human succession the inheritance goes to the heirs unconditionally upon the death of the testator, but in the divine testament the heirs enjoy co-ownership with the resurrected testator after his death. Therefore there is no necessity to create a fiction (Huber 1694:i.iv.iv.6 [115(1)]). Huber replies as follows: A subsequent diversity

does not suggest a diversity which is distinct from the foregoing. A comparison between a human and a divine testament is found in Paul's Epistles both to the Galatians and the Hebrews. This is not vitiated by the diversity of ways, beyond the custom and scope of the comparison. Clearly there is a difference in that the human testator does not enjoy the inheritance after his death which is otherwise from Christ the testator who is resurrected. But the difference only goes as far as enjoyment of the acquired assets is concerned and does not change the right to provide the inheritance.¹⁴ The apostle himself says this in Hebrews 9. In his Epistle to the Galatians, Paul shows that the assets of the testament are shared with the people of old on the strength of the covenant (Huber 1694:i.iv.iv.7 [115(1)]). Huber's explanation of the distinction between covenant and testament is as follows:

- (a) It is a voluntary disposition of one or two people, which has been repeated on Mount Sinai. What has previously been made was not a testament but a covenant. In Genesis 15 the following words appear: "He entered into a covenant with him" (Huber 1694:i.iv.iv.11 [115(2)-116(1)]), and with the word "testament" is frequently indicated, especially in the New Testament, that a disposition which originally was covenant is now testament. Greek could do nothing other than express with one and the same word that which was translated with the faithful of old and the modern. To Huber that diversity remains which God had placed on them. That which originally was a covenant is a testament today (Huber 1694:i.iv.iv.12 [116(1)]).
- (b) The covenant entered into with Abraham was renewed on Sinai, according to the apostle (Hebrews 9). A greater solemnity was observed, greater attention was devoted in a ceremonial gesture. In this respect the apostle mentions the *novatio* at Sinai as a new Testament *par excellence* (Huber 1694:i.iv.iv.15 [116(2)]). Otherwise nothing is more certain than the old dispensation, namely that the Testament remains the same throughout the ages in which it was closed, that is, from the first promise in Paradise. This was immediately an antecedent confirmation of the testament to be realised by the death of the testator, because the death of the testator served

14 Huber relies on the words of the apostle in Hebrews 9.

as the release of the transgressions committed under the previous dispensation. It is correctly stated, according to Huber, that the Old Testament has a very wide scope, because it reaches backwards on the strength of the saving death of Christ, that is, to the first origin of sin (Huber 1694:i.iv.iv.16 [116(2)]).

- (c) That however, which distinguishes in a notable way the more recent disposition or New Testament from the Old Testament and which is often stated by the prophet and his apostles, is not its appearance but a difference of degree and mode. Once again, this cannot be stated in any other better way than by Paul, who adduces his arguments (Huber 1694:i.iv.iv.17 [116(2)]). He states this in Galatians 4: The difference between old and new faithful sharing in the same inheritance is the same as that between an heir who is a child and one who is an adult, whose claims to the inheritance are equally valid. The infant, as far as enjoyment is concerned, differs in no way from the slave. He is governed, led by the hand, and compelled to do certain things just like the slave. Once he has grown up he understands that he is the heir and the master. He enjoys freedom, full possession, enjoyment and pleasure. His latter position is so much better and more excellent than the earlier as freedom exceeds and surpasses servitude (Huber 1694:i.iv.iv.18 [116(2)-117(1)]). The same applies to the old and new faithful. The faithful of the older generation are like children even though they are heirs who wait for the will to go into operation under the open sky in the land Canaan. They drink under the oak trees. They are reduced to servitude by the flesh, the water and the mass of ceremonies (Huber 1694:i.iv.iv.19 [117(1)]). They have a teacher who like a master leads them by the hand and guards them. The name of the teacher, says Huber, is the law (Huber 1694:i.iv.iv.20 [117(1)]). He prevents them from falling into sin, convinces them of the crimes they have committed, he curses those who do not serve. They look at the lightning flashes, they hear the roar of thunder: all terrible instruments employed to preserve the sanctity of the law (Huber 1694:i.iv.iv.21 [117(1)]). Like slaves they are hedged in, and pressed together with no assistance from the law, from which nothing is derived other than burdens, vile threats and statutes which are not good. They offend and are driven to Christ. Under

the most irksome yoke they ardently wish for the time of the fulfilled testament. They hope to acquire with difficulty those assets, which so much easier are provided by an inheritance after the death of the testator (Huber 1694:i.iv.iv.22 [117(1)]). Consequently, for the sake of sinners, the law comes near to being a covenant according to Galatians 3:19 — in the widest sense of the word universal. It has no particular bearing on sin. Added thereto is the promise of the guardian and the mentor whose function it is to watch over and to bring to an end. Huber says that is the law up to the time the will is opened.

- (d) On that day of opening the will, freedom will be proclaimed and bestowed, with full and perfect joy, effusive grace, knowledge, the strength of the Holy Spirit (Huber 1694:i.iv.iv.23 [117(1)-(2)]). From this it is abundantly clear that nothing has been said about the preponderance of the new dispensation over the old, because this difference is not understood: The child's right to inherit and that of the adult is the same. They have the same capacity, they are brought into the will and made part thereof. The only difference is that the child has a more obscure understanding of his rights and therefore he enjoys them less freely and fully. Consequently, to both the old and the new heirs the same capacity is given, made known and inculcated. The assets of the will are confirmed by promises directed towards the death of the testator. They were the same as those which, after the will was opened, were provided to the heirs and received by them (Huber 1694:i.iv.iv.24 [117(2)]). Once the testament is opened it is not necessary to show any imitations which, like the conditions of the will, serve as darkness to the eyes. There is no need for a foretaste of earthly items to those to whom the celestial property is offered. Nevertheless, the teacher and guardian or master drives and binds us to Christ while we are still far removed and hidden. The Lord Himself offers and provides us the communion which is the great benefit of the opened will. The difficulty reaching Him over so many obstacles have fallen away. Of old few have broken through but many came to a halt halfway through the course and were given an opportunity to rest their feet.

- (e) The apostle in his Epistle to the Hebrews 8:9-10 testifies that the direct grace of God which was more than abundantly sent into the hearts of people awakened in them the joy of Christ (John 17). But the Spirit of knowledge, faith and love of God, also the adoption as children in which is contained the right to inherit, were fully poured out into their hearts. This was done according to the prophecy of Jeremiah 31:31. From all this it is clear that the diversity of both testaments, the old and the new, is such that it agrees with what the apostle has said. It is sufficient to specify only modal differences between them.
- (f) There is a widespread prejudice against the idea of an old and new covenant; similarly a distinction between the Old and the New Testament does not mean a form of diversity (Huber 1694:i.iv.iv.27 [118(1)]). In actual fact, that which is old should be designated by the word covenant and that which is new by testament, although in Greek there is only one word, “disposition”, to express both testament and covenant. Latin uses both terms and therefore there is an old and a new testament. But covenant and testament cannot co-exist because they contain conduct of a diverse and opposing nature (Huber 1694:i.iv.iv.28 [118(1)]). The dispositions of God as far as they are dependent on the decision alone, are testaments. The same become covenants whenever the consent and promise of man is involved. Not every declaration of a single person is a testament, but only a declaration with death in mind is a testament according to human usage and of God in his Word. Huber adds:

But I support the view that it is unique. The Law of Succession requires no agreement and it does not come up for consideration or testamentary succession, unless it does so afterwards when the will is put into operation (executed). Consequently, that translation of testament as a covenant to acquire the inheritance of heaven is neither Scriptural nor does it agree precisely with the nature of affairs (Huber 1694:i.iv.iv.29 [118(1)-(2)]).

Huber continues:

Besides, if the disposition of a single God is that eternal wish about the safety of the elect, then it is unique and unchangeable. ... But if by that disposition is understood a statement made to people in time, this without acceptance achieves nothing and cannot be separated from it. Linked thereto are contract and covenant and the testament cannot be considered apart from them (Huber 1694:i.iv.iv.30 [118(2)]).

- (g) Linked to the death of Christ the Lord and the opening of the will there is no scope for a covenant to be entered into whereby the heavenly inheritance will be given and accepted by the faithful (Huber 1694:i.iv.iv.31 [118(2)]). Huber's conclusion has to be considered against the background of his view in the preceding chapter:

[A]s far as the devolution and acquisition of an inheritance is concerned, a covenant was necessary before the testament could be valid. Once that has been fulfilled by the death of the testator, an acceptance of the inheritance is accomplished forthwith and there is no longer any need or scope for a covenant for the acquisition of the inheritance. Nothing but the joy of the opening of the testament and the devolution of the inheritance resounds throughout the world (Huber 1694:i.iv.iv.32 [118(2)-119(1)]).

Huber concludes that up till then he had encountered nothing to show that prior to the covenant of Christ any will was opened or that after Him a covenant was concluded:

I maintain on the strength of this that no grant of our safety took place by way of an agreement or a covenant in the way that it is generally stated as if the testator demands or stipulates something from the heir on which premise he would leave the estate to them. The formula of such a stipulation or promise can only be found in the way the will is executed and administered (Huber 1694:i.iv.iv.33 [119(1)]).

In the following chapter (5) Huber states the distinctive relationship between the covenant and the testament even more clearly: There was one covenant and one testament on which the law of the church was established. A covenant was available to the faithful of former times in the same way as a will is available to the modern faithful. The covenant was nothing but the anticipation of the testament. There was a difference in the degree of clarity. It was infrequent. The effusion of the Holy Spirit was by no means sluggish. There was a parsimony of ceremonies and they were later on abolished completely. The right of the faithful of olden days was just as valid as that of the modern believers in terms of the testament (Huber 1694:i.iv.v.1 [121(1)]). Furthermore, the Old Testament is nothing other than a foreknowledge or anticipation of the New Testament. It gave to the people of old, by means of promises, exactly the same as that which the New Testament gives to the more recent faithful. It is impossible for their vocabularies to have a more real distinction (Huber 1694: i.iv.v.4 [122(1)]).

5. ULRICH HUBER ON THE POLITICAL COVENANT

5.1 Natural law and the enforcement of law

Huber's views on the Biblical covenant differ from Hobbes's in two important respects: Firstly, Huber maintains the testamentary character of Holy Scripture, to which the covenant is subject. Secondly, whereas Hobbes's conception of the covenant encapsulates the whole of the Christian community, Huber's views on the Biblical covenant are limited to the church only. Huber states that the state originated from the sinfulness of man apart from a desire for association and the dislike of confusion. The good people could not protect themselves unless many of them were united in such a way that there was unanimity amongst them. Although Huber advances a theory of a political covenant, it is not directly attached to his treatment of the Biblical covenant and testament as the foundations of the church. Furthermore his exposition of the political covenant is largely a criticism of the monarchical implications of Hobbes's political theory. To Huber there is a covenant between the rulers and the subjects. This he explains in the course of his discussion of the nature of the democratic state (Huber 1694:i.ii.iv.1 [37(1)]). Hobbes observes that it is possible for rulers to cause injury to and betray their subjects on the basis that they are not bound by any covenant in that the state consists of an agreement of individuals with individuals and not with the majority or with the rulers (Huber 1694:i.ii.iv.1 [37(1)]). This Huber refutes by quoting the political contract whereby democracies are constituted in which all are bound as a group and individually (Huber 1694:i.ii.iv.1 [37(1)]). This is particularly the position where the contracting parties belong to the majority and consequently to the rulers. This, says Huber, has been confirmed by many and it is considered that in a democracy there is an obligation in a twofold respect (Huber 1694:i.ii.iv.1 [37(1)]), one amongst individual and citizens and the other by those who are in the majority with their inferiors. The majority are not bound in any respect, except to that which has tacitly been excluded (Huber 1694:i.ii.iv.1 [37(1)]). It follows from these that a state, which is the majority part of the population, may be guilty of causing an injury to individuals (Huber 1694:i.ii.iv.1 [37(1)]). Huber refers to Hobbes's view that

there is no agreement between a few and many if together they constitute a body — it is an agreement of individuals with individuals (Huber 1694:i.ii.iv.6 [38(1)]). However, according to Huber, many people, seeing that they are not individuals, acquire the right of all to vote. Therefore, they are not held liable in terms of the agreement (Huber 1694:i.ii.iv.6 [38(1)]). In fact, nothing can be attributed to the wishes of a single individual after an agreement to save many had been entered into (Huber 1694:i.ii.iv.6 [38(1)]).

To Huber a democratic covenant may be described as follows: Individual citizens contract with each other in the following way: “Do you promise to obey that which the greater part of the population decides upon?” “I promise.” “And do you in turn promise?” The other person likewise promises. In this way the entire population is joined together, and from the time of the fusion there is no longer a majority (Huber 1694:i.ii.iv.8 [38(1)]). Whatever the division of the majority entails, is a matter that everyone has to decide for himself. Whatever the majority decides, everyone is considered to have decided himself (Huber 1694:i.ii.iv.9 [38(1)]). Consequently, if something has been decided very harshly, everyone has to impute it to himself, as much against himself as against others (Huber 1694:i.ii.iv.9 [38(1)]). An agreement entered into by a majority, which was not valid at the time it was entered into, cannot be violated by the majority (Huber 1694:i.ii.iv.9 [38(1)]). To this Huber replies that this agreement of individuals entered into with individuals, has in mind the defence of the community, which the contracting parties have in mind for themselves (Huber 1694:i.ii.iv.9 [38(1)]). It is valid and there is no one to deny. This condition must be upheld by individuals no less than the agreement itself (Huber 1694:i.ii.iv.9 [38(1)]). To that extent the public welfare, which is often against the interest of an individual, provides the motivation (Huber 1694:i.ii.iv.9 [38(1)]). The authority to enforce the political covenant does not arise from the biblical covenant or the precepts of Scripture, but from man’s reason and natural law.

5.2 Covenant and social contract in Huber’s political theory

The theory that civil society and law are the results of a contract, dates from long before the time of Huber. Already in the second book of his *Republic*, Plato puts in the mouth of Glaucon the theory that men found

that the evil of suffering injustice was greater than the advantage of doing it and, therefore, made a contract that they would not do or suffer it. Plato writes:

[A]fter a taste of both, therefore, men decide that, as they can't evade the one and achieve the other, it will pay to make a compact with each other by which they forgo both. They accordingly proceed to make laws and mutual agreements, and what the law lays down, they call lawful and right. This is the origin and nature of justice. It lies between what is most desirable, to do wrong and avoid punishment, and what is most undesirable, to suffer wrong without being able to get redress; justice lies between these two and is accepted not as being good in itself, but as having a relative value due to our inability to do wrong. For anyone who had the power to do wrong and was a real man would never make any such agreement with anyone — he would be mad if he did.¹⁵

The implications of Glaucon's statement are that the contract was a contract between the best thing, which is to do injustice without paying the penalty, and the worst thing, which is to suffer injustice without being able to take revenge. This compromise was, therefore, the beginning of law, because men called what was in accordance with the compact just and lawful, and what was contrary to it, the reverse. This view was surely not common among the Greeks, and least of all accepted by Plato himself. But although this view was not new, there was nevertheless a new additional element to this theory that was added in the seventeenth and eighteenth centuries, namely that consent was binding and that this was used as justification for the law-making power of the sovereign. Glaucon merely presented the theory as an explanation of the origin of law. He did not suggest that this "contract" was in any way "binding" on those who make it or that it provided a basis for the validity of legislation. To him, it *explained*, but he did not suggest that it *authorised*.

Thus by taking the maxim *pacta sunt servanda* and grafting it onto the ancient theory, the writers of the seventeenth and eighteenth centuries expounded that the sovereign's right to govern was based on a contract whereby each man agreed to give up the freedom he had in the state of nature (before the founding of society) in order to gain the advantages of a single settled rule over all. His consent bound him in

15 Part 1 Book 2, 104.

such a way that it justified or authorised the rule of the sovereign. The decrees of the sovereign, his commands, thus derived their binding force, that is, were law, from this original compact. These theories were motivated mainly by political considerations. The collapse of the medieval order left a gap that required a new theory; but those who advanced these theories did so because they considered that the limits of the sovereign's power could be determined on a consideration of its true source. In other words, the theory was invoked to define the powers of the sovereign. It is thus not surprising that there was not one universally accepted theory of the social contract. In fact, there were very many, each in the final analysis taking that form which best suited the particular theorist's view as to what the extent of the sovereign's powers should be. Two main variants of the theory can, however, be detected. Both of these had in common the theory that the future members of a society to be created jointly resolved to unite themselves into an independent political society and that they accomplish this union by entering into a contract with one another, the so-called *pactum unionis*. At this point however they diverge. According to the one variant, no further contract is entered into, the legislative power of the sovereign deriving from that single pact. According to the other, the members of the inchoate society then enter into a contract with an inchoate sovereign, the so-called *pactum subjectionis*. Each variant of the theory was used to justify both absolute and limited sovereignty, although it would seem true to say that the latter theory was more commonly used to limit the powers of the sovereign on the basis that the members of the society to be formed agreed to obey the sovereign only if he governed in accordance with the paramount purpose of their union, which purpose was usually considered to be some ethical concept such as freedom.

It is important to note, however, that the theory of the social contract itself raises another question, which it leaves unanswered: What is it that makes this "fundamental pact" binding? It certainly cannot be the law of the sovereign, for as he derives his law-making power from this pact, it must logically stand behind him. The law that makes the social contract binding must have existed before the sovereign, for it is from this law that he, in the final analysis, obtains his authority to legislate. A solution to this problem was found in the theory of natural law. Huber's social contract theory is based on the idea of a double

contract scheme: the *pactum unionis* binds the “body” of the political society together, while the transfer of power to a sovereign person or body is regulated by the *pactum subjectionis*. Because the covenant of the Old Testament is no longer valid, says Huber, he reverts to natural law as the power, which legitimates and makes the social contract binding. In this respect he follows Grotius, as opposed to Hobbes. For Grotius, and his followers, the binding force of the promise on which the social contract is based, is found in the law of nature. It is binding in terms of a rule of the law of nature. Thus Grotius says that as the social contract is the mother of positive human law, so the law of nature is its grandmother. This makes the social contract binding in terms of the law of nature. Whereas for Grotius, individual man and his social instinct are the source of natural law, for Huber man’s enlightened reason is the source of human conduct. Together with the secularisation of the social pact, the Old Testamentary law had no direct legal effect in the state. Natural law, knowable by man’s reason, is now the basis of the legal arrangements in the state. Not only did Huber’s legal and political theory play a meaningful role in the secularisation of the post-medieval theories of law and politics, but he can also be regarded as one of the progenitors and founders of liberal enlightenment in jurisprudence.

6. CONCLUSION

To Huber the social contract and natural law are the bases and roots of the constitutional order — men conclude a social contract legitimating the political order. This contract is binding and enforceable, because it is based on and sanctioned by the tenets of natural law. Therefore, Huber’s views on the social contract clearly reflect the influence of enlightened theology and corresponding views on politics. Huber’s social contract does not flow from or receive its binding force from the Biblical covenant in the line of the Zurich Reformation and the Puritan reception, and further refinement thereof. Huber’s is a manifestation of dispensationalism in so far as the Old Covenant merely served to make the New Testamentary will of Christ binding and ensuring its validity and enforcement. This development is similar to the views of John Milton (1608-1674), which were coloured by Neo-Stoic conceptions of social contractarianism. England was gradually secularised under the influence of a post-Puritan generation, which contri-

buted to a separation between the religious and secular covenantal traditions (Elazar 1996:45). The modern theorists of the post-Puritan generation embraced the idea of a secular covenant, at first reducing divine involvement to a peripheral place, and then gradually eliminating that involvement (Elazar 1996:45). Huber parted with the theocratic line of federalism in the Reformed fold, and his theory served as an important pre-liberal manifestation of secular politics and jurisprudential thinking. Huber's pre-liberal approach to politics and law provided the platform from which John Locke and Jean-Jacques Rousseau could launch their secular visions on political and legal theory based on natural law.

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