An age of change

- Paradoxes of the Ancien Régime
- Paradoxes of Restoration Constitutions
  - "entrepreneurs, from enlightened despots to constitutionalists" (LD)
  - same generation, changing intellectual references
  - reception of the French experience
  - legal training, appropriation of discourse

INTRODUCING THE MAN
Man of learning, man of power

- Louis XV (1722-1774)
- Regnier van Oudenaarde (1774)
- Dutch occupied
- Historical work

Press and Propaganda from 1750 to 1850

The Significance of Public Opinion,
Raepsaet as ideologue and political leader

- Flemish 'constitution'
- Clergy
- Nobility
- Third Estate, "Villes, Pays et Chatellenies"
- Cities • Four Members
- Countryside • Chatellenies
- "Départissance dans une infraction de chartes particulières"
- Revolt against Joseph II (1787)
  • Jus renoncent, feudal law, central synallagmatique
- Tentative codification (1790)

Raepsaet arrested

Ciceron nous rend tout permis losqu'il s'agit de la sureté personnelle

RAEPSAET AND FRANCE

RAEPSAET AND FRANCE
Raepsaet and Revolution

- Destruction of religious and civil freedom
- Substituted "la licence à la morale, la bassesse à l'honneur, la charlatannerie aux talents, la perfidie à la sincérité, l'insulte à la commiseration, le luxe à l'aisance, et les concussions à l'intégrité"
Raepsaet and 'Restauration'

"un people, tel que les Belges, ennemi juré de toute nouveauté, n’oublie pas que depuis tant de siècles il a vécu heureux, content et riche à l’ombre de ses lois régulées [...] Quel d’eux a été aussi heureux que la France depuis vingt ans?"

[... as the Belgians, sworn enemy of any innovation whatsoever, does not forget that it has lived happily, satisfied and rich, under the protection of its laws [...] What has been the success of all these constitutions the French have adopted for the last 20 years?]

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Raepsaet and 'Restauration'

"Le consentement des états ne suffit pas seul dans l’espèce; il est de principe que tout engagement doit se résoudre de la même manière qu’il a été contracté: et tant donc que la cession des Pays-Bas concerne encore le consentement de toutes les puissances qui ont concouru aux traités de Ryswyk, Rastatt, d’Utrecht, Baden et Anvers, à celui des barrières"

[The consent of the estates is not enough in this case; every obligation should be terminated in the same way it has been contracted. The cession of the Low Countries should thus be agreed to by all powers that concluded the treaties of Ryswyk, Rastatt, Utrecht, Baden and Antwerp, the Barrier Treaty.]

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- Principes du droit public
- Pratique, relative à l’aliénation des souverainetés et spécialement de celle des provinces belges
Back to the future?

• 1814 and 1706

"Donner à notre royaume la consideration et l’influence dans la Balance de l’Europe"

• One or two?
  - 1 Dec 1813: William I “sovereign Prince”
  - 15 Feb 1814: Provisionary Government in Brussels
  - 29 Mar 1814: Constitution adopted in the North

• International context: Castlereagh, Napoleon
  - 21 Jun 1814: 8 articles (London)
  - 1 Aug 1814: William I proclaims his sovereignty in Brussels
  - 1 Oct 1814: Congress of Vienna
  - 3 Mar 1815: Napoleon goes abroad
  - 16 Mar 1815: William “King”

L’amalgame
Consent

CASE: EXTERNAL RELATIONS IN THE 1815 CONSTITUTION

Discussions in the Constitutional Committee

(17)

Art. 56:

Hij geeft daarom kennis aan de beide kamers dat Francis
Cernaye, om de hulp en de zekerheid van het ppe
stelbare de verzoeken en verlangen, in reden
en andere woordelijke., worden door de Raad met
het begrip., den en dat de Raad behandeld op
ondersteun consent.

Kop 1/10/2016
Voet 7
Discussions in the Constitutional Committee

[Similarly, the right to conclude alliances and treaties, and to ratify them, is conferred on the King. He will notify these actions to both Chambers of the States-General, as soon as he judges that the interest and security of the Kingdom allow for this. In case treaties and alliances, concluded in peacetime, contain any cession or exchange of a part of the Kingdom’s territory or of its possessions in other parts of the world, the King will not be able to ratify them, outside the case where he would have obtained the approbation of the States-General.]

Napoleonic William of Orange

[The King would be forced to do something, namely carry on the war. And as soon as I admit, that the King can be forced to do anything against his will, he would not be the Chief of Government any more. In that case, I would know neither King, nor Kingdom, nor Royal dignity]

(Quaeven, meeting of 12 May 1815, Van Maaren, Aanteekeningen, p. 40)
Raepsaet’s Doctrinal Allegations

"Le Prince ou le Souverain [...] n’étant naturellement
que l’Administrateur & non le Propriétaire de l’Etat : 
au Qualité de Chef de la Nation, de Souverain, ne lui
donne par elle-même le droit d’aléner"  

["The Prince or Sovereign [...] is by nature but the
Administrator and not the Owner of the State. His
quality as chief of the Nation or sovereign, does not
center out of itself the right to alienate.

Le droit des gens ou principes de la loi naturelle,
appliqués à la conduite il aux affaires des nations &
des souverains, London [Necchiéld], 1756, 1, 226-227.

Voet

EPILOGUE: ENTER THE MONOCRATE (J. GLISSEN)