Building a National Literature

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The Public Sphere

The Significance of the Public Sphere

The bourgeois revolution of 1848–49 is rightly considered to be one of the decisive turning points in the history of Germany and continental Europe. The outcome of the revolution, which confirmed the predominance of conservative, legitimist power in both Prussia and Austria, created the framework for further change, not least for the unification of Germany. The kleindeutsch solution was the result of an alliance between Bismarck’s monarchic state and a bourgeoisie bent on economic emancipation, who largely relinquished political power after 1866 and responded to the dualism of freedom and unification by favoring national unity. Within the context of this argument, the literature of the Nachmärz thus inevitably takes on a legitimizing function. The issue in question is whether literature was transformed from one oriented toward the concept of humanity to one formulating the special interests of the middle class. This assessment is no doubt justified for works using the political situation as a literary theme—in political poetry, for instance, which was in fact decisively molded by the political reaction after 1848.1 Apart from this, however, we should bear in mind that the evident changes in literature cannot be linked solely to the failure of the revolution. The decisive changes in the literary public sphere must instead be viewed in a broader context, one taking into account the economic sphere—that is, the interdependence of economic and politi-

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The Industrial Revolution, which began in Germany in the 1840s but was not in full force until after 1850, had an equally strong, if not stronger, influence on the conditions of literary production and reception. In Germany the institution of literature changed no less between 1850 and 1870 than did society, although the decisive shift to an industrial mass culture still lay in the future. These changes are best understood if instead of just pointing out isolated, influential economic and political factors, we trace their transmission through the public sphere. The publicly grounded institution of literature is subject to indirect pressures exerted by political and economic issues on the public sphere. Traditional literary history, which is oriented toward authors, works, or genres, cannot contribute much to the solution of this problem, since it remains blind to the institutional character of literature and thus can comprehend diachronic processes only as isolated series of events.

The debate concerning the structural change in the public sphere essentially has been defined since 1962 by the theses of Jürgen Habermas.2 Habermas’s theory basically distinguishes three phases in the development of a bourgeois public sphere: (1) the early middle-class public sphere of the Enlightenment, exemplified in the theories of Rousseau and Kant; (2) the liberal capitalist public sphere of the first half of the nineteenth century, primarily marked by the dominance of parliaments as exemplified in English history; and (3) the late-capitalist public sphere that took shape in all Western industrial nations at the end of the nineteenth century and continues to determine their political and cultural life to the present day. The first two phases are not sharply differentiated by Habermas, because he assumes that the classic bourgeois public sphere was constituted in connection with, or occasioned by, capitalism. He sees a significant break between the second and third phase, which essentially coincided with the transition from liberal to organized capitalism. As soon as capitalism, in theory and practice, abandoned the free market and full competition—in other words, as soon as it became monopolistically organized and political in its attempts to intervene in society through the regulation of the state—the structure of the public sphere, according to Habermas, necessarily changed. An essential aspect of the classic public sphere was its strict separation of the areas of commodity trade and social labor from the state. The autonomy of middle-class society emerged as the result of an economic system in which competing interests were able to balance one another and consequently were not politicized. The inevitable conclu-

2Jürgen Habermas, Strukturwandel der Öffentlichkeit (Neuwied a. Rh., 1962); the following quotations are from the second edition (Neuwied a. Rh., 1965).
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The transition to organized capitalism in the late nineteenth century had to result in structural changes in the public sphere. In Germany, accordingly, we may assume the turning point was the economic crisis that began in 1873 and brought an end to the legitimacy of liberalism. Habermas thus argues: “But now, contrary to these expectations, incomplete competition and declining prices allowed social power to become concentrated in private hands. The fabric of vertical relationships between the collective unities became partly one of unilateral dependence, partly one of mutual pressure. The processes of concentration and crisis tore away the veil of the exchange of equivalent values [Äquivalententausch] from the antagonistic structure of society.” Visible class antagonisms and conflicts henceforth changed the relationship between society and the state; the state was increasingly called on to arbitrate an equalization of power. This is the source of Habermas’s central thesis: the change in the structure of the public sphere was brought about by a process in which, on the one hand, the state was increasingly drawn into the private social domain, and on the other, special economic and social interests became entrenched in the state: “This dialectic of a progressive nationalization of society and the simultaneous socialization of the state is what gradually destroyed the basis of the middle-class public sphere—the separation of state and society.”

This thesis can be extended to literature in the following way: literature was affected by structural change in the public sphere inasmuch as it was traditionally associated with the middle-class public sphere of the private domain, namely, as a mutual understanding between citizens in their human relations. Conditions were ripe for state interference in the institution of literature in the form of a general cultural policy. This interference was fundamentally distinguishable from the censorship politics of the semiabsolutist states of the Vormärz, which resisted the constitution of a public sphere. One can speak of a cultural policy only when the state began to exploit the apparatus of literature in order to resolve pressing social or political conflicts on a cultural level. Such a constitutive cultural policy is not ascertainable for advanced capitalistic states before 1870. It went beyond the capacity of state government, which to a large extent regulated the organs of education and thereby exerted an influence on literature, but otherwise had to be content with a politically motivated press policy.

If we accept Habermas’s theory, then the epochal change did not occur until about 1870, and the Revolution of 1848 did not leave any profound traces because the development between 1850 and 1870 took place under liberal competition capitalism, even though it deviated in

3Ibid., pp. 160, 158.
In some respects (for example, in the importance of banks) from the English pattern. Yet changes in both the political and the literary realm were too numerous and too significant to be passed off as merely peripheral occurrences. The problem of structural change must thus be reformulated so that the historical validity of Habermas’s model can be tested. The first thing that becomes apparent is that Habermas does not always follow the orthodox line, that the structure of the public sphere changed in connection with the rise of monopoly capitalism. When he discusses Alexis de Tocqueville’s and John Stuart Mill’s concept of the public sphere, we find that the crisis in the middle-class public sphere does not coincide with the crisis in liberal capitalism. Tocqueville’s observations on the structure of American democracy, which led him to a new, skeptical assessment of the public sphere, undoubtedly refer to a competitive capitalist society, not to the phase of organized capitalism. The same can be said of Mill’s analyses; they, too, are based on conditions marked by free competition. These examples show that the crisis in the liberal middle-class public sphere became apparent before the outlines of the new structure of advanced capitalism were defined. Habermas’s view was perhaps influenced by the peculiarity of German history. Since industrial capitalism became established in Germany only after 1850 and by 1873 had already precipitated a fundamental crisis, the crises in the middle-class public sphere and in liberal capitalism occurred so close in time as to be regarded as identical.

As early as 1973 Wolfgang Jäger pointed out in his critique that Habermas’s model of the classic public sphere is not applicable to conditions in England in the nineteenth century because it is too closely based on the situation in continental Europe, especially in Germany. Before we examine this contention, let us consider the significance of English history for the theory of the public sphere. Habermas describes English conditions in the early nineteenth century as the model for the development of a political middle-class public sphere. Parliament had been transformed into an “organ of public opinion.” He thus accepts the liberal interpretation of English parliamentarianism which is found in Richard Crossman’s introduction to Bagehot’s English Constitution (1963). Jäger maintains that the true situation does not correspond to this harmonizing picture. Economic interests strongly influenced the structure of public opinion in the epoch between the great electoral reforms of 1832 and 1867. The example of the railway association demonstrates that English capitalism used Parliament (that is, the public sphere) to promote its interests. If one of the constitutive elements of the model of the classic public sphere is that private interests cannot be

*Wolfgang Jäger, Öffentlichkeit und Parlamentarismus (Stuttgart, 1973).*
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taken into account in public deliberations, then it is in fact questionable whether England can serve as the classic example. One can say, rather, that the crisis in the public sphere, which Habermas relates to the rise of monopoly capitalism, had already begun there before 1850; for social as well as economic conflicts were brought into the public realm. The masses, who still had no right to vote, remained a constant problem, which was solved only after 1867.

Habermas's model is more relevant to early German liberalism than to the English situation. Jäger, however, does not draw the necessary conclusions from this justifiable criticism. The economic basis for Habermas's model is a society of small commodity producers exchanging their wares in a free market. Classic economics describes this market, in which supply and demand are equalized over the long term and the competing owners of commodities are not allowed to gain power over each other. Thus Habermas can conceive of the market as free of political domination: "The produced goods and the producing work forces qualify equally as commodities. Since this condition is satisfied only if every seller produces his own wares—or conversely if every worker possesses the means of production—the second requirement amounts to a sociological one: to the model of a society of small commodity producers." Although Habermas at this point rigorously defines both the economic and the social conditions of the classic public sphere, he ignores the contradiction between these precapitalistic conditions and the competition capitalism of the nineteenth century, in which the majority of workers no longer possessed the means of production. By adopting Max Weber's emphasis on rationalism as the essential characteristic of capitalism and taking as a criterion the sure calculability of relationships, Habermas can extend his early middle-class model into the phase of industrialized capitalism without making the fundamental differences apparent.

In analyzing German developments between 1850 and 1870, Habermas's model of the middle-class public sphere deserves a more precise historical basis than it now has. In particular, the boundary between the early middle-class public sphere and the phase of mature liberalism needs to be more precisely defined. This distinction is basically equivalent to the difference between the liberal theory of the Vormärz and the concept prevailing in the Nachmärz. Since institutionalization of the political public sphere extended in the German states up to 1848 and the constitutional foundation was partly the result of the 1848 revolution, German conditions were different from those in Western Europe. In a primarily agrarian and industrially underdeveloped country such as

5Habermas, Strukturwandel, p. 99.
Germany—which, nevertheless, had an advanced educational system—political theory could continue for the most part to follow the principles of the prerevolutionary Enlightenment (that is, the concepts of Rousseau and Kant) without conflicting with social reality. More precisely, because before 1850 Germany was only a conditionally capitalistic society, in which the dominant middle-class element was made up of professors, jurists, theologians, and officials rather than manufacturers and merchants, a middle-class public sphere based on precapitalistic conditions could endure longer there than in England or France, where Parliament had taken on the function of representing classes. As Lothar Gall has rightly pointed out, early liberal theory in Germany between the time of Wilhelm von Humboldt and Georg Gottfried Gervinus is intentionally not capitalistic. Although it incorporates elements of their doctrine of free trade, these elements are not central to the concept of society. Manchesterism is on the whole, rather, an aspect of Nachmärz liberalism, which formulated and legitimized middle-class interests with much greater clarity. Early liberal theory was in any case only conditionally useful to the commercial middle class, because it presupposed the existence of a society of independent producers. Although it was formulated by intellectuals, the theory remained primarily a petit-bourgeois doctrine tailored to workers and craftsmen. Early liberalism—even its radical democratic and socialistic variations—was based on values that could no longer be realized once capital became concentrated and the majority of workers no longer possessed the means of production. The founders of economic liberalism, such as Adam Smith, were not advocates and theorists of capitalism. Hans Medick rightly cautions us not to consider Smith an advocate of industrial capitalism: "Instead of promulgating unlimited self-interest, he called for restraint...and the structuring of social relations according to the standard of universal brotherhood. Nothing would be more inappropriate than to consider Smith a simple utilitarian and describe his conception of mankind as a pure doctrine of 'economic man.'" A society united through fair exchange may have division of labor, but it is built on equality. The thrust of this argument was directed against the absolutist state and feudal privilege; but when those privileges appeared to be based on economic rather than political factors, the theory became narrow-minded. Yet as long as the relationship between the leading social groups—especially landowners, the capital-


ist middle class, and the workers—seemed harmonious, liberalism could adhere to the theory of the public sphere, which drew a sharp distinction, on the one hand, between the state and the private domain and, on the other, between the political and economic spheres.

Early German liberalism arose in opposition to the monarchic, bureaucratic institutional state, which it found a constant irritation. The government was often prepared to modernize, but only within the framework of a political system determined by the state itself. Even if the interests of the liberal middle class partly coincided with those of the state, state interference was rejected in principle as guardianship. In his attempt to redefine the concept of political liberalism and to distinguish it from state reform movements on one side and the Manchester theory on the other, Gall discusses the prerequisites for liberal theory: “The point of departure for all sociopolitical concepts of the political Enlightenment and early liberalism, as well as the basis for their vehement criticism of the existing social order and its economic and political system, was the idea of a ‘natural,’ given social order, harmoniously prestabilized in some mysterious way by the complementary needs and abilities of its members.” This theory did not serve the haute bourgeoisie but aimed at a utopian, classless bourgeois society opposed to existing conditions. Gall emphasizes that early German liberalism, even when it was radical, was on the whole far more conservative than is generally assumed. Early liberal theory operated according to a concept of order which still largely had recourse to the old European society. To what degree earlier-held concepts were still at work in early liberalism and were incorporated into the rigorous theory of egalitarian middle-class society has no bearing on this study. Indeed, the idea of a natural order, which Gall also emphasizes, is more symptomatic of classical economies. In any case, German theory was not prepared for the social conflicts that sprang from capitalism. Thus Switzerland more than England was seen as the guiding model. Inasmuch as actual social and economic developments after 1850 did not corroborate this theory, its proponents were faced with a fundamental decision. They could insist on the correctness of the theory and accordingly call social developments into question; they could opportunistically support the tendency toward a class society; or they could reconfirm liberal theory revisionistically.

The role Parliament played also shows how different the continental European variant of political liberalism was from the English version. In form and grounding, Vormärz German parliamentarianism was the result of the political theory of the Enlightenment, not the product of

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historical struggles. Far more than in England, the parliaments of the southwest German states were conceived as organs of public opinion. Parliament, Karl Theodor Welcker taught, protects the rights of the people in relation to government. Government and Parliament, the state and the public sphere, must therefore be strictly separated; if Parliament were combined with government, Welcker concluded, the function of parliamentary control would be restricted.

Where the position of early German liberalism was strictly developed, Parliament was considered an organ of the public sphere, not a partner of government. This controversial opinion was primarily held by those who expected the state, above all, to modernize society. They were therefore also antagonistic to the notion of parties tied to interest groups, since the common will, not special interests, was supposed to be the determining factor in the political reasoning (Räsonnement) of Parliament. This absolute opposition of state and public sphere left no real room for constitutional monarchy, in which the rights of the crown and of Parliament were held in balance, for if public Räsonnement were adopted strictly, monarchy would in the final analysis have to be regarded as a historically, but not a morally, legitimized form of rule. But all pragmatic reflection necessarily leads to a revision of this dogmatic position, as the example of Welcker illustrates, because revolution was not in the interest of moderate liberalism. At the same time, however, we see here the beginning of the dissolution of the classic public sphere, because the participation of the parties in government obliterates the strict separation of state and public sphere. This is precisely the tendency one observes after 1848, namely, in the attempt to protect political emancipation and personal economic interests during the phase of liberalization.

The Importance of the Suffrage Issue

The model of the classic public sphere assumes that every citizen takes part in the process of Räsonnement. The citizen body consists of the community of male heads of families—as in Kant, women, children, and dependent persons such as servants and workers are still excluded. This was not a central problem for the chambers of Parliament in the Vormärz, because the political participation of the masses was not an acute issue in the traditional social structure of Germany. The situation

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changed during the 1840s due to social upheaval and the pauperization of a large segment of the lower middle class, as well as to the rise of radical democratic and socialistic movements that broke away from the liberal concept of social order. Pressure developing from below made itself clearly felt during the Revolution of 1848. This pressure was expressed in the debate over suffrage, during which the classic model of the public sphere came under scrutiny. The result was that the liberals cautiously abandoned the logical exposition of their own theory. Contrary to the general assertion of the time that the Frankfurt Parliament of 1848 was chosen in a free, general election, Theodore S. Hamerow rightly concludes that such was not the case. Indirect forms of election that worked to the advantage of the middle levels of society were preferred: "It is a fact that elections for the Frankfurt Parliament were not conducted according to the principle of indirect election, no matter what middle-class politicians might have alleged after the event. For this principle was in direct opposition to practical experience as well as to the political theory of the liberals." In accordance with the stipulations of the Preliminary Parliament (Vorparlament), only those who were independent—that is, not in the service of someone else—were allowed to vote. This stipulation was then used by the states as a justification for sharply restricting the number of legal voters, which benefited the landholders. Laborers and journeymen were discouraged by government measures and liberal propaganda from taking part in elections. According to Hamerow's calculations, their participation was generally below 20 percent and sometimes as low as 2 percent.10

Under the guidance of moderate liberals such as Friedrich Dahlmann, and contrary to the views of the left, the constitutional committees of the Frankfurt Parliament also supported the opinion of the Vorparlament that economic independence was required for suffrage. That this would result in the exclusion of half of all potential voters was more pleasing than not to the middle class. Still, this response was obviously no longer the logical consequence of early liberal theory but a strategy intended to keep social conflicts out of Parliament. In the words of one member of Parliament, Lassaux, it would be like "making the goat the gardener if one allowed the propertyless to decide on the purse of the propertied."11 Similarly, in the suffrage debate of 1849, the liberals of the center and right supported the position that the introduction of

general, equal suffrage without qualification would deliver the state over to the rabble or, in the hands of a clever, unscrupulous politician, could give rise to a new absolutism. Welcker proposed a limited right to vote in the name of freedom, and F. E. Scheller, a member of the Casino party, opposed general suffrage with the argument that it would play into the hands of the conservatives. That this fear was not unfounded, that liberalism could in fact not count on the support of the rural masses, was later demonstrated by the policies of Bismarck and the conservatives. Like Western European liberalism, German liberalism avoided the consequences of its program when social conflicts that had not been foreseen in liberal doctrine arose between the middle class and the masses. Heinrich von Gagern’s opposition to the view that the middle class wanted to perpetuate the underprivileged status of the proletariat must be viewed in this light. The category of class antagonism contradicted the fundamental liberal concepts of harmony. Consequently, Gagern resisted the strategy of the left, which tried to intensify opposition to the point of conflict. Since the model of the classic public sphere assigned economic issues exclusively to the private sector, in 1849 the liberals were more prepared to modify the scope of the public sphere than to deal in Parliament with problematic social conflicts as if they were political factors. Gagern wanted it understood that the middle class was prepared to solve social problems; but he insisted that this occur on a societal level—just as afterward socially engaged liberalism repeatedly emphasized that the social question was economic and therefore could not be solved by political means.

The political shift could be justified if suffrage was stricken from the list of basic political rights; that is, if its connection with natural right was severed and it was instead considered a historical right. Thus Rudolf Haym favored a “class” solution, and Friedrich Daniel Basse mann recommended differentiating the right to vote by means of a census as the only way in which a calming influence could be exerted on the workers. On the whole, however, those who advocated and pushed through an equal voting rights statute still predominated in the Frankfurt Parliament. Yet even during the revolutionary years the liberal camp included forces that, because they feared a destabilization of society, deliberately aimed to restrict the principle of a general public sphere by means of a modified right to vote. The contradictions in the liberal model came to light even before the Industrial Revolution began in Germany and, along with them, the first attempts to prevent their consequences. These could be made in good conscience, because the classes were not yet definitively divided, so that the demands of the...
proletariat remained concealed behind the image of an untamed multitude that would jeopardize the recently won freedom of the middle class.

Industrialization and the Public Sphere

What the Revolution of 1848 foreshadowed became a structural reality between 1850 and 1870 as a result of industrialization. The change could no longer be reversed, and in the long run it sealed the fate of liberalism. Industrialization—whose technological aspect need not be considered here—gradually led to the separation of the industrial proletariat into a distinct class and, even at this point, to a clearer separation between the old middle class and the economic haute bourgeoisie. These societal shifts were clearly reflected in the theory of the public sphere. Liberalism strove for a systematic theoretical reformulation through which the category of a class-bound public sphere would be introduced. At the same time, we find the beginnings of a proletarian theory of the public sphere, although in some respects it was still bound to traditional concepts. We will trace this process of separation, beginning with the decisive consequences of industrialization for the transformation of public opinion.

According to traditional liberal historiography—to which the Marxist historiography of the German Democratic Republic (GDR) also partially adheres—after 1849 the German middle class renounced the achievement of political emancipation in the form of a liberal democratic state, in favor of an economic buildup made possible through rapid industrialization. The result was an alliance between the old political elite—for example, the Prussian Junkers—and the middle class, an alliance that forced Germany out of the mainstream of European development. According to Helmut Böhme, as soon as the middle class saw its most pressing demands fulfilled, it turned away from the revolution and became more conservative: “Thus political conditions in Germany after 1848 were marked by a renewed coalition of old and new forces, which was determined by a division of labor, as it were, between the nobility, the landowners, and the middle class; economic leaders acknowledged the aristocracy, landownership, and bureaucracy as the traditional stratum of political leadership, and these in turn allowed entrepreneurs to function and at the same time tried to provide for the rural and professional middle class, which was threatened by industry.” For Böhme, industrialization resulted in the sanctioning of conservative political leadership, which diverted middle-class demands for power to the economic realm. Because administrative efforts at reform continued
and reactionary measures in domestic policy were combined with liberal economic policy, the middle class could regard national Prussian policy as advantageous to its interests. Thus, Böhme maintains, German liberalism exerted an exclusively economic force: "No really liberal policy resulted from the concentration of middle-class power on industrial progress, natural science, and technology. Rather, the traditional rights of agrarian leadership were preserved, and despite all the entrepreneurial achievements, industrial transformation remained bound to the interests of large-scale agriculture." Böhme concluded from this analysis that the Industrial Revolution never really gave rise to a capitalist order in Germany and that accordingly the people were still denied political self-determination. The feudalization thesis meshes readily with this point of view. The unbroken might of feudal and monarchical powers forced the German bourgeoisie to adjust to the ideology and way of life of the old elite. According to Böhme, liberal politicians, who were thinking principally of the economic interests of their own class, allied themselves with Bismarck and the North German Confederation in order to achieve political freedom through national unity.

In his history of the German empire, Hans-Ulrich Wehler also assumes that the defeat of the middle class in the Revolution of 1848 confirmed the political and social leadership of the landed nobility, and the political impotence of the middle class was sealed by Bismarck's victory in the constitutional conflict of 1866. Wehler considers 1866 the decisive turning point in German history. In the constitutional conflict, liberal parliamentarianism was frustrated by the late-absolutist military state. Wehler regards the confrontation between Bismarck and Parliament as the principal event that established the division of power between the middle class and the old elite for the next sixty years. By presenting the constitutional conflict as a confrontation with fundamental consequences, he makes the conciliation of the liberals following Bismarck's successful foreign policy against Austria seem like a moral collapse that prevented the liberalization of Germany for two generations. "A solution [to the constitutional question] was postponed for almost 60 years. This tactically excellent maneuver represented, therefore, a barely veiled victory for the old regime. The nucleus of the authoritarian state in which the military enjoyed autonomy remained essentially intact." The emphasis here is on the defeat of the middle

15 Ibid., p. 25.
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class, but Böhme and Wehler are essentially in agreement: the middle class proved too weak to hold out politically against the bureaucratic state and the nobility; consequently, the Industrial Revolution had no lasting effect on the political system. Missing from this argument is the thrust of democratization, which might have led to a different development. Ralf Dahrendorf gave the most trenchant formulation of this thesis when he wrote that in Germany industrialization swallowed up liberal principle instead of developing it. This position tacitly assumes that capitalistic industrialization necessarily leads to the liberalization and democratization of the political system. It defends capitalistic industrialization, which, if it had been properly utilized, would have led to a modern liberal society. The flawed development is thus attributed to the failure of the German middle class. The historiography of the GDR arrives at a similar conclusion when, in agreement with Marx and Engels, it blames the subsequent catastrophe on the betrayal of the German bourgeoisie. In both positions the historical process is derived from class consciousness.

Unlike the above-mentioned interpretations, Annette Leppert-Fögen and Michael Gugel attempt to show that the ideological changes were the result of the process of capitalization itself. It is not their intention to trace the hindrance of liberalism by conservative forces but rather to understand the connection between the change in liberalism and industrialization. From this perspective, the defeat, or compromise, of the middle class, takes on new significance; it proves to be the inevitable result of middle-class interests. Leppert-Fögen emphasizes the division of the middle class into the bourgeoisie and petite bourgeoisie, the latter in turn becoming more sharply differentiated from the proletarian element after 1850. Because of this process of social differentiation, which brought contrasts and conflicts increasingly to view, middle-class liberalism became obsolete between 1850 and 1870. Put more precisely, over the course of the Industrial Revolution the middle class—that is, the petite bourgeoisie—accepted liberalism as its ideology, whereas the haute bourgeoisie abandoned liberalism and in the sixties the proletariat became independent and cast off liberalism’s ideological tutelage. Leppert-Fögen refers to the social goals that brightened the liberal program, but she does not identify them more precisely, putting the empha-

sis instead on petit-bourgeois interests that led these groups to desert liberalism (and support Bismarck). As a result, the position taken by the Progressive party in the constitutional conflict remains unexplained. This party by no means only criticized the authoritarian military state; it also represented certain economic and social interests. The weakness of the thesis lies in its lack of historical concreteness; it too hastily describes the liberalism of the Nachmärz as merely petit-bourgeois and thereby loses sight of the process of transformation that became evident in the constitutional conflict. In particular, we should look more closely at the bond between the middle-class intelligentsia, which assumed ideological and strategic leadership in Parliament, and the economic middle class, whose interests were at stake. The prominent role played in the parliaments by the liberal intelligentsia precludes the conclusion that the economic elite was apolitical and unconcerned about the success of its goals. The intelligentsia still largely articulated the demands of the middle class in this epoch, not least in the delicate matter of defining the class's lower limits. It resorted to the arsenal of classic liberal theory in its reaction to the decidedly changed social situation—with the result that it eliminated some of the central premises of continental European liberalism.

The antagonism between a policy of national modernization and one of liberalization became especially acute in Prussia. Even though Prussia's position in foreign affairs was weaker than Austria's after 1850, the northern state controlled the larger economic scene and was generally very successful in instituting economic policy to further its political goals. Böhme in particular has shown how effective Prussian commercial policy was in eliminating Austrian competition and bringing about the kleindeutsch Prussian solution. This policy should not, however, be regarded simply as a means of manipulating the German middle class. We must also ask to what degree Prussian economic policy was supported and advanced by capitalist forces because it accorded with their interests. Böhme, too, emphasized that the Austrian initiative under the leadership of Johann B. von Rechberg, who sought to take advantage of the difficulties encountered by the Prussian government during the constitutional conflict, was bound to fail because the liberal opposition, which opposed the budget proposed for the army, was on the whole behind the government on economic issues. Thus Böhme concluded that "the Prussia of 1862, with Bismarck as prime minister, concurred with the material interests of Bismarck's commercial policy, once his consistent pursuit of that policy became clear, and the Landtag was able to bring about the shift to a 'new era' because Bismarck's economic policies were carried out in close accord with the front of free-trade
interests forged by Delbrück among agriculture, trade, mobile capital, and the export industry.”\textsuperscript{19} Bismarck was successful in October 1862 because he resolutely pursued Prussia’s economic policy and thereby won over an important segment of the middle class, whose interests were represented by this policy. Both the German Board of Trade (Handelstag) and the Congress of German Economists (Kongress deutscher Volkswirte) supported Prussian economic policy, which aimed at an agreement with France that would open a door to the West and end Austria’s predominance.

It is clear that Bismarck exploited the dynamics of rapid industrialization and economic expansion in order to establish a social and political order corresponding, or at least not conflicting, with the interests of the landed nobility. The situation was more complex for the liberals, since the ideas central to their political concept could not be represented in the Prussian government—that is, in one led by Bismarck. In contrast to the early liberals, those of the new era (1858–62) deliberately focused on the practical questions that emerged and avoided the fundamental arguments that had characterized classic liberalism. Thus, in his \textit{Woran uns gelegen ist} (1859), Carl Twesten advocated a temperate policy that would refrain as much as possible from engaging in theoretical disputes and confrontations over constitutional questions. From the start, resolute liberals “faced the facts”; they, too, accepted the basis of the imposed constitution. They were not interested in reviving the issues of 1848. On the other hand, among the concrete issues on which the liberals wished to focus was the relationship of the economy to national policy. Here we see a significant difference in comparison to early liberalism: at the center of discussion was no longer the formerly postulated separation of state and society but rather a cooperative effort to achieve maximal economic expansion. This included the abolition of state controls hindering economic development but also, despite a basic commitment to free trade, the demand that the state act as a regulatory force. The Progressive party was in no sense opposed to the state, as one might conclude from its position in the constitutional conflict. To complete the process of capitalization, it called on the state to create the requisite conditions by setting a national standard in the marketplace. In the Nachmärz, liberalism used its theory and political position as an instrument; its horizon of expectations differed significantly from that of the Vormärz. What now mattered was “the power of the state to support national economic interests in foreign markets,” where the German economy often found itself at a disadvantage compared to the representatives of other nations, because it lacked political and military sup-

\textsuperscript{19}Helmut Böhme, \textit{Deutschlands Weg zur Grossmacht} (Cologne, 1966), p. 117.
port. Characteristically, the nationalism of the Progressive party was no longer based on national self-determination but on the European constellation of power and Germany's position in it. The wary and timid policy of the conservatives was distasteful to the liberals. Instead of thinking legitimistically, they thought in terms of power politics within the framework of a constitutional solution. There was an "instrumentalization of the liberal desire for reform, aimed at achieving the goals of national and political power." Says Gugel: "Domestic political demands were not primarily concerned with reversing the counterrevolution of the 1850s, with winning back what had been lost in 1849. Nor was the intention somehow to trigger a democratization of society. Rather, the liberal demands gained their true legitimacy through the rationale of expediency and their application to questions of primary national importance, or through proof that they were useful in the development of the national economy."20 This point of view deviates from the prevailing opinion in that it questions the emancipatory intentions of the liberals, so that the constitutional conflict loses its essential significance.

We shall return to this question, but first let us consider the relationship between state and society as the Progressive party conceived it. In their demands for political co-determination, the liberals no longer relied on basic natural principles but, rather, on the logical development of existing historical conditions. Thus, in a speech delivered at the Prussian Landtag in 1862, Twesten argued that a contradiction was created by the discrepancy between the representation of the landed nobility in the upper chamber of Parliament and its actual power: "All real power in the state, apart from the power of government, depends exclusively on number and wealth. But wealth is no longer solely in the hands of property owners; it is found in a variety of circles, and the predominance given to the landowners in the upper chamber is not in accord with actual circumstances. The upper chamber can thus be described as an anachronism under contemporary Prussian conditions."21 The state is no longer regarded as a threat to middle-class society but as the guarantor of social order, for it stands above the contending parties as executor of the law. Influenced perhaps by Hegel's philosophy of the state, the liberals do not give equal rank to the various social forces. On the other hand, they give the state a central function in the management of society, thereby clearly diminishing the importance of the public sphere as the final authority of political control. Whereas classic liberalism proceeded from the sovereignty of the citizenry, according to the

20Gugel, Industrieller Aufstieg, pp. 67, 70.
21June 6, 1862; quoted in ibid., p. 80.
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liberalism of the sixties, the state was a primary force that not only had to be reckoned with but, even more, deserved to be dignified as an institution in its own right because it integrated the divergent interests of society. The liberals of the new era did not want direct intervention; yet here we find the stage set for an intersection of state and society, both on an ideological and on a practical level.

The Conception of Public Opinion in the Nachmärz

Even before postrevolutionary liberalism was reshaped in the new era and resumed its confrontation with the conservative powers, an attempt had been made after the failure of the revolution to reformulate the goals of political liberalism, particularly in the debate with classic liberal theory. The first part of Ludwig August von Rochau’s Grundsätzen der Realpolitik (Principles of Political Realism), which initiated the revision of classic German liberalism, appeared in 1853. Rochau regarded this revision as a necessary self-criticism of liberal doctrine which he felt obliged to undertake. During the revolutionary years he had returned from exile in France and had offered his services as a writer to the liberal center while strongly attacking both the right and the left. As the editor of the Constitutionelle Zeitung, he was expelled from Berlin once the reactionary forces in Prussia were again firmly in control. Unlike other exiles, however, he remained in touch with the German situation, and with Grundsätzen took a decisive part in the political debate. Rochau’s book was regarded as an important contribution to this debate. Heinrich von Treitschke, who at the time was still considered a radical liberal, remarked that he “knew of no book that destroyed preconceived illusions with a more cutting logic.”

Rochau’s plea for a policy oriented toward the realities of power politics rather than abstract principles was above all an attempt to find the key to the defeat of 1849. For this reason, it is reasonable to begin with his discussion of the contending parties in the Frankfurt Parliament and to analyze his conclusions, which are presented as natural political laws, against this background. At bottom, his reaction was no less ideological than the liberalism he had forsworn; yet it included some aspects of reality that classic liberalism had screened out. Rochau’s sympathies were undoubtedly not with the conservatives. He did not find it difficult to expose the fundamental contradiction of all conservative ideologies: in order to defend the status quo against liberal

and democratic theories, conservatives had to develop their own ideas and concepts. Consequently, he ended up in the very camp he was fighting against—idealism. Once the actual circumstances had changed, concepts such as authority could not restore them. Rochau reacted against the use of state power to enforce such authority by once again advancing the classic argument of early liberalism: "With the help of a good police force it may be possible to manipulate the citizenry like puppets, but the right to express criticism, which is the opposite of authority, cannot be taken away from them." At this point Rochau, in the tradition of the Enlightenment, takes it for granted that Résonnement will eventually prevail in bourgeois society, so that in the final analysis human progress will not be impeded. As a liberal he had faith in the enlightened state, which does not rely on authority or material force but is able to make its precepts judicious through reason: "Respect for justice and law and those who serve them, which is indispensable to a state, can today only result from a free and reasonable conviction, from a conviction that in their origin and content, justice and law will answer public need, and that in the administration of justice and law, the authorities will do their duty."23

Rochau’s limits on the right correspond to his limits on the left with respect to democratic and socialist forces. The Democratic party, which in the Frankfurt Parliament consistently supported liberalism, became entangled, in Rochau’s view, in a fundamental contradiction: it believed in “the independent power of ideas and principles,” in the efficacy of popular sovereignty, the public sphere, the general will of the people, and majority rule; but it could never muster enough strength to carry out these ideas. For Rochau, this contradiction was manifest in the democrats’ application of the principle of the popular vote to further the interests of their party: “The character of the National Assembly, elected by universal suffrage, could be impugned by any party, only not by those calling themselves democrats. With the National Assembly, the Democratic party denied its own principles and itself.” This formal construction readily lends itself to the objection that the National Assembly was in fact not the result of a direct, universal vote—that the middle class had the advantage, due to the method of voting—but this does not affect the substance of Rochau’s argument. He did not regard himself as an apologist for the bourgeoisie, which in his view did not exist in Germany, but rather as a spokesman for the middle levels of society (Mittelstand), the educated and enlightened middle class (Bürgertum): “One can point to few improvements in public conditions which have not been brought about with the eager help of the Mittel-

23Rochau, Grundsätze, pp. 122–23.
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Rochau accused the Democratic party of a lack of realism when it denounced this educated middle class as bourgeois and sought to exclude it from political participation: “Politics cannot with impunity disdain the middle class as if it were an appendage to a doctrine; it cannot dispense with it in an emergency and leave it to its own devices, as it could for instance the peasant class; it cannot extirpate it, as it could perhaps an aristocracy. It has to come to terms with it.” Rochau uses classic liberal theorems and applies them; however, when he deals with the conservative forces and the state, he reverses the relationship between doctrine and class affiliation. Whereas early liberalism wanted with the help of theory, to develop a free middle-class society, for Rochau liberalism was already the Weltanschauung of the Mittelstand. Even the arrival of the proletariat changed little in Rochau’s notion of this relationship, because he viewed it as a simple addition to the Mittelstand: “Instead of recognizing the proletariat merely as an addition to the Mittelstand; instead of merely borrowing from the proletariat those strengths in which it was superior to the Mittelstand—boldness, courage, and capacity for sacrifice—one thought that with the help of the proletariat the Mittelstand could be dispensed with.” With surprising candor, Rochau pointed out that only economic, not political, arguments could deflect the middle class from a democratic point of view. But in this he contradicted himself, since he had shortly before maintained that the German middle class, unlike the French, was not an economic class but a status group characterized by its education. As Rochau clearly recognized, the economic interests of the middle class contradicted a radical interpretation of basic liberal principles.

That Rochau was here not only an analytical observer but at the same time was adhering to a position—one, incidentally, which points ahead to the liberalism of the new era—is made clear by his discussion of socialism. Rochau is not opposed to social reforms as long as they are undertaken by the state on a social and economic level. But he protests vehemently against the politicization of the social question to which socialism was committed. For Rochau, proprietary rights remain the clear limits of all social measures, limits that he sees as moral, political, and economic. On the strength of his experiences in France, he speaks out against state intervention in the economy, because he is convinced that in the long run the productive forces created by capitalism will solve the social problem: “Again, the great tool of social reform that German national policy has at its disposal is the freedom of the economic movement. It gives the greatest possible latitude to the spirit of

24Ibid., pp. 138, 139, 141, 143.
In complete accord with liberal tradition, the public and private spheres are separated; existing social problems, whose presence is not denied, are removed from the political sphere, either by being left to themselves or by being left to the national government—whereby they were nevertheless politicized indirectly. Rochau’s indecision, his vacillation between demands for a strong state and an independent economy, illustrates the transitional character of his work.

But Rochau’s apology for the *Mittelstand* does not exclude criticism of its political theory; and it is precisely this criticism that made his book important for postrevolutionary liberalism. The moderate liberalism that preceded the revolution perceived constitutional monarchy as the fulfillment of its political demands—control of the state by a parliament in which the public sphere could become established. This construction was derived from contract theory (*Vertragstheorie*). By bringing a historical and political point of view to bear on this abstract theory, Rochau came to a different conclusion in his discussion of the Constitutional party. To him, constitutional monarchy is a historical compromise reflecting the position of the contending parties. In a decisive break with concepts of natural law, Rochau describes the confrontation between the crown and Parliament as a pure power struggle devoid of rational deliberation: “Political power recognizes no boundary other than another power, and between incompatible powers a war of extermination is a necessity that no *Räsonnement* can prevent.” The inner fragility of constitutionalism as a political theory is due, according to Rochau, to the impossibility of guaranteeing a balance between monarch and citizens. If a monarch has sufficient strength, he can abolish the government at any time; but if the people are stronger than the monarch, the monarch will essentially be superfluous. Thus Rochau concludes: “Constitutionalism, consequently, has not worked out well in practice in the prevailing German political system, and only deliberate self-deception can hide the fact that there is no foundation for it within the present German power structure.”

Rochau wrote at a time when the Prussian constitution was on paper but, due to the muzzling of the liberal powers, was not inhibiting the conservative forces in the slightest. What consequences did Rochau draw from this observation? His argument is historical and grants constitutionalism the role of a preparatory force. Its function, however, cannot go beyond this, because in its pursuit of liberal principles it would have to abolish the monarchy. Without saying so directly, Rochau is using the principle of

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25 Ibid., p. 151.
26 Ibid., pp. 125, 127.
popular sovereignty as a standard of judgment; he points out the inconsistency of constitutional monarchy, yet does not draw the expected conclusion that liberalism would eventually have to establish itself as a democracy. For Rochau has precluded this argument by using the historical situation, not the theory, as his point of departure. His response is thus vague—a partial defense of the constitutionalism of the Gotha party, which he had previously refuted theoretically. Rochau sees a chance for the kleindeutsch, pro-Prussian point of view once the Prussian state again pursues its own interests. This would lead to a situation reminiscent of 1848—that is, to liberalization, to an alliance between the state and liberal theory. This prognosis was to be realized five years later—in fact, within the framework of the very constitutionalism whose fragility Rochau had demonstrated.

Rochau recognized the weakness of the German Mittelstand, which in contrast to the French bourgeoisie never became dominant. This Mittelstand was strong enough to criticize the absolutism of the state but not strong enough to prevail over it. Nevertheless, Rochau maintained in 1853 that without the Mittelstand, politics could not be practiced in Germany. The result was that he arrived at a position whose inconsistency he evidently did not recognize. On the one hand, as we shall see, he opposed the idealism of the Liberal party and sought to secure liberalism by strengthening the middle class economically; on the other, he realized that because the German middle class was not unified it lacked political impetus. To resolve this contradiction, Rochau put his trust in social evolution, which would lead to the triumph of the moderate middle class. Leadership eventually had to fall to the rational, enlightened middle class, as opposed to the narrow-minded nobility and the irrational proletariat. The historical argument is directed particularly against the nobility, which Rochau denied any meaningful function in society: “The German aristocracy brought ruin upon itself; it perished from its inability to adapt its role to changing historical circumstances.” Rochau’s political “realism” has little to do with a defense of the existing order but equally little to do with a plea for the people, whose ability to rule is even more emphatically questioned: “But it is idle to appeal to the sovereign will of a people who lack both the ability and the desire, who perhaps have not yet even become aware of their own identity.”

These demarcations are reflected in Rochau’s concept of the public sphere. From the classic liberal premise that the general will should manifest itself in the public sphere through rational deliberation, Rochau drew the conclusion that the public sphere must be either re-

27Ibid., pp. 60, 42.
stricted or reduced in its importance for the formation of political will. Above all, a different reasoning is given for the efficacy of public opinion. In Rochau’s work it has changed from an emphatic construction to a set of opinions that have to work together if they are to exert influence: “An isolated opinion, an isolated intelligence, an isolated fortune means little or nothing in a state; to matter politically, opinion must become public, intelligence must become common property, and prosperity must become native to at least one class.” It is no longer the idea that decides the issue but the sum of existing empirical opinions: “Ideas have only as much power as is given them by the people in whom they reside.” This reversal of the classic model, in which the rational idea was primary, results for Rochau in the inability to make a distinction in the public sphere between right and wrong ideas: “Thus, an idea which, whether right or wrong, inspires an entire people or time is the most real of all political powers, a power that only poor judgment would undervalue or go so far as to ridicule.”

By pragmatically replacing the distinction between right and wrong ideas with the distinction between effective and ineffective ideas, Rochau, perhaps unwittingly, explodes the classic concept of the public sphere, which assumes that practical issues have the force of truth.

The importance of public opinion becomes relative; it must be considered because it expresses the spiritual condition of a people. The logical consequence of this interpretation would be to disallow any normative power to public opinion and to acknowledge it as a mere empirical factor of political life. Characteristically, Rochau hesitates at this point. He is skeptical about attributing a particular power to hope, truth, and right; yet he does not abandon the idea of civic freedom. He resolves this ambiguity through historical relativism: although it is impossible to apply the idea of civic freedom to “underdeveloped” nations, it is equally senseless to attach such feudal concepts as legitimacy to a European nation. Thus for Rochau there is a power beyond public opinion which is responsible for the adoption of ideas—that is, history itself.

There is, however, a second means of guaranteeing the rationality of public opinion: the exclusion of irrational elements. Rochau is thus decidedly against a universal and equal right to vote, for universal suffrage gives the “poorer social strata” a problematic preponderance and hence a dangerous influence on Parliament, the organ of the public sphere. Here Rochau assumes an intrinsic relationship between material means and rationality, on the one hand, and poverty and irrationality, on the other. He thus justifies restricted suffrage (a census) on the

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28Ibid., p. 45.
grounds that the voices of the masses would debase the will of the people, thereby paving the way for dictatorship. To illustrate his point he cites Bonapartism in France. Rochau's conclusion is that "historical experience speaks for a census, and political good sense is at least not against it."²⁹ The political good sense (Vernunft) to which Rochau refers is no longer the Räsonnement of the classic public sphere but, rather, a prudent consideration of the real political forces. With this in mind, he advocates moderate participation by the people in the development of the political will, namely, participation that will not imperil the predominance of reason—that is, of the Mittelstand.

Rochau characteristically combines the devaluation of the public sphere with a higher valuation of the state, whose existence is no longer derived from natural right, in accordance with contract theory, but treated as a historical factor: "In practice, constitutional policy has not gone in this direction beyond unsuccessful attempts and in theory, has not gone beyond fantastic images, grotesque like Plato's republic or idyllic like Rousseau's social contract, but in any case historically untrue, politically unusable, and even philosophically untenable." He replaces the classic doctrine of contract, which was oriented toward individual rights and popular sovereignty, with a pragmatic foundation that introduces the fundamental concept of power on the model of scientific law: "A study of the forces that create, sustain, and change the state is the point of departure for all political understanding, whose first step leads to the recognition that the law of strength exercises a similar rule over the life of the state as the law of gravity over the corporeal world."³⁰ Parallel to the devaluation of public opinion is a devaluation of the importance of law. Rochau emphasizes the priority of the state over the law.

The decisive question, of course, is who controls the state or, in abstract terms, what is the relationship between the state and society? In Rochau, liberalism in fact becomes concrete, since he views social forces as primary; because the state is dependent on these forces, its political form must always reflect real forces. The social force that Rochau hopes will succeed is not the conservative elite but, rather, civic groups that would accede to state power with the help of public opinion. To this extent Rochau does not, as has occasionally been claimed, defend pure power politics, supported by government and an army, but desires civic forces to be articulated in public opinion, which can then be used to influence power politics. This desire unquestionably places Rochau in the liberal tradition—with the reservation, however, that for

²⁹Ibid., pp. 88-89.
³⁰Ibid., pp. 27-28, 25.
him public opinion can exercise lasting influence on policy only when it has a social basis: "A weak, uncertain opinion of the moment has no right to political consideration; but to the extent that it becomes established as a lasting view and is raised to a true conviction, it grows in its importance to the state." We must bear in mind that a policy that does not take public opinion into account is inconceivable for Rochau, for the state cannot in the long run govern in opposition to the people: "A state policy that dissociates itself from the national spirit forces into being an opposing national popular policy." Rochau's political thinking was determined by the idea of a political balance between the power of the state and social power. Thus his viewpoint in 1853 cannot yet be regarded as an apotheosis of the state, although it represents a fundamental shift—the state and its material power moved increasingly to the center, and the public sphere became an instrument for the formulation of political claims to power. Rochau speaks of the power and greatness of the state, "which is essentially determined by the support of a powerful public spirit." This formulation is directed against the reactionary Prussian government; yet at the same time it concedes that greatness and power in a state are relatively independent values.

The convergence of state and society in Rochau's theory becomes especially acute when he turns to the solution of social problems. The postrevolutionary liberalism of the 1850s existed during a transitional phase in which social problems revealed themselves more distinctly as class conflicts. To be sure, this antagonism was not always admitted openly. It is characteristic that Rochau once again tries to make a claim for the proletariat's usefulness to the Mittelstand as a goad, as an instrument that could be put to use or held in check according to the demands of the political situation. The liberals felt threatened principally by conditions in France—that is, by Bonapartism, which in the postrevolutionary atmosphere had taken advantage of democratic forms to create a quasi dictatorship. Between 1850 and 1870, therefore, the question of suffrage was also a question of how the masses could be controlled. This issue played a role in the debates of the National Assembly; in subsequent years it was confronted by both liberals and conservatives. The conservatives could count on the reliability of their rural constituency; the liberals feared the masses' economic dependence on the conservative elite and consequently sought to restrict the conservative elite's influence. In the new era, the positions of the democrats and the constitutionalists moved closer together; even such former liberals of the left as Franz Leo Benedikt Waldeck, Johann Jacoby, Johann Carl Rodbertus, and Hermann Schulze-Delitzsch worked within the bounds

31Ibid., pp. 33, 35, 34.
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of the imposed constitution and no longer called for a fundamental change in the right to vote. Although the supplemental law concerning the regulation of municipal government (Novelle zur Städteordnung) was still the occasion for a fight against the three-class system because it divided voters into social classes, no unified position emerged. The majority of liberals supported some form of restriction, and when the Progressive party was created from a coalition of opposition liberals and democrats, the liberals dropped from consideration the issue of the franchise, calling it an insoluble problem.

During the time of the constitutional conflict, suffrage took on new importance. The government and the landed middle class now stood on opposite sides—at least on certain issues. Since the three-class franchise benefited not only the landed nobility but also the economic middle class, the Conservative party became distrustful. It began to consider the political advantages of an equal vote. As soon as the conservatives took up the cause of general suffrage as a means of mobilizing the rural vote, the liberals—especially the left wing of the party—found themselves in difficulty. They perceived that they had lost their influence over the rural and urban masses. The mass of rural voters was under the influence of the conservatives, and Ferdinand Lassalle and the workers’ movement were agitating in the cities. In 1862 in Berlin, Lassalle publicly called for universal suffrage in Prussia in order to create a political base that would push through social demands. The liberals regarded this politicization of the social question a serious threat. The party opposed the political organization of the workers which Lassalle was striving for, especially in a form that would diminish the influence of the liberal intelligentsia. In view of the unresolved constitutional conflict, the liberals advocated the creation of a unified front. Thus in December 1862 they rejected the demand by the leaders of the workers’ educational association Vorwärts (based in Leipzig) for an equal right to vote. Because of this turn to the three-class franchise, to which the Progressive party, after pressure from the right and the left, was now more favorably disposed, the political connection between the liberals and the proletarian masses was severed. Afterward, the concept of universal political participation, a constitutive element of the classic model of the public sphere, was intentionally restricted so that a parliamentary majority would be assured. The liberals defended a franchise that gave them the support of only 15 percent of the qualified voters (535,000 out of 3,549 million).32

Pressure from the right and left resulted during the 1860s in the breakdown of the entire social outlook of the liberals. The claim to

universal political representation, which the liberals still upheld, was
defended by equating civic society with the *Mittelstand* or, in other
words, by attributing a greater political maturity to the propertied
classes. As Gugel in particular has stressed, the strategy of the liberals in
matters concerning suffrage and the political opposition was already
largely determined by fear that they would be outvoted by the pro­
letarian masses. Even if one objects that Gugel underestimates the an­
tagonism between the nobility and the middle class in the 1860s, he
convincingly shows that as members of the middle class the liberals in
fact felt themselves threatened. Organized socialism was declared to be
in fundamental violation of their own image of society, since it no
longer recognized the middle-class structure of ownership.\textsuperscript{33} Where the
recognized material disadvantage of the workers was taken seriously—
as in the left wing of the party—an economically oriented cooperative
policy was advocated which would in the long run transform the pro­
etariat into a socially integrated petite bourgeoisie. For only when a
certain degree of education and well-being became commonplace, the
argument ran, could the efficacy of a democratic system of government
be counted on.

**Civic Freedom and the State**

**during the Constitutional Conflict**

The constitutional conflict between 1862 and 1866 was the phase of
Prussian history when confrontation with an authoritarian government
forced postrevolutionary liberalism to explain its position. In the con­
text of this book, not all aspects of this conflict are equally important.
In the forefront was the issue of civic freedom and of Parliament’s
position with respect to the state. The events of this conflict will have to
be largely omitted here.\textsuperscript{34} Although Heinrich August Winkler argues
that the constitutional conflict represented the decisive confrontation
between the nobility and the middle class, he points out that this opin­
ion, held by the liberals, did not precisely describe the situation, because
the Liberal party represented neither the rural nor the urban pro­
etariat.\textsuperscript{35} This gap between self-image and political reality largely
shaped the strategy of the Progressive party in its struggle with
Bismarck. It aimed to secure civic freedom and reformulate the role of

\textsuperscript{33}Ibid., p. 172, n. 87, and p. 174.

\textsuperscript{34}For the relevant literature, see Ernst Rudolf Huber, *Deutsche Verfassungsgeschichte seit 1789*, vol. 3 (Stuttgart, 1963); Heinrich August Winkler, *Preussischer Liberalismus und deutscher Nationalstaat* (Tübingen, 1964); and Gugel, *Industrieller Aufstieg*.

\textsuperscript{35}Winkler, *Preussischer Liberalismus*, pp. 24–27.
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Parliament without fundamentally questioning the state and the government. The concept of a constitutional state above political parties made it possible for the liberals to draw a distinction between the existing government and the state, so that a revolutionary situation could be avoided.

The quarrel between Parliament and the crown came to a head in two specific areas: in the issue of the right to contest the budget, which was decisive for the army bill, and in the issue of ministerial accountability, which touched on the general character of the constitutional monarchy. A clash ensued between the government and the Landtag when the lower chamber decided on September 23, 1862, not to appropriate necessary funds for the reorganization of the army. Bismarck, the new prime minister, with the support of the crown, announced to Parliament that the government was determined, if necessary, to govern without an approved budget. He disputed the Landtag's right to appropriate money, insisting that a principle of mutual agreement was in force. As a result of Bismarck's strategy, the military question, which naturally included social and political problems, became a fundamental constitutional issue. This change was readily apparent to the liberals. Thus Heinrich Rudolf von Gneist expressed vehement opposition to a compromise suggested by Bismarck and insisted on the right of the Landtag to attach conditions to the budget appropriation: "We would be surrendering the right to contest the budget and the constitutional right to participate in legislation if we did otherwise. Any compromise would only make a muddled situation more muddled, a contradictory situation more contradictory. But precisely for that reason we can expect the government of the state to act according to the constitution and its oath."36 Twesten addressed the Landtag in a similar vein on September 16, 1862, when he strongly opposed an attempt to withdraw the consent of Parliament in military matters. At this point it was important to the liberals, as Twesten pointed out, to put the constitution to the test; the radical wing preferred to abolish it rather than reach a compromise that would leave unclarified what rights the Landtag had in the decision-making process. Finally, in October 1862, the Preussischen Jahrbücher reported a fundamental constitutional conflict, which involved the question whether the government had to take the nation and its elected representatives into consideration: "In a word, what is important in this conflict is that the traditions from the period of the absolute state should be forgotten and that the resignation and self-restraint should be exercised which every free state needs in order to

36 Quoted in Claus-Dieter Krohn and Bernd Peschken, eds., Der liberale Roman und der preussische Verfassungs konflikt (Stuttgart, 1976), p. 98.
exist.” The *Preussischen Jahrbücher* declared the conflict increasingly “a struggle of the middle class [Bürgertum] against the Junkers, who were associated with absolutist tendencies.”37 We should bear in mind, however, that the liberals were not unified on the important question of constitutional rights. Whereas the liberal left that formed around Waldeck, Schulze-Delitzsch, and Jacoby considered the right to determine the budget a political weapon that could be used against the anti-constitutional government, the majority took the position that financial and real considerations justified Parliament’s participation in the issue of the military budget. They sought to dissociate themselves entirely from an interpretation of the conflict which could be construed as an abandonment of legality. One can nevertheless agree in principle with Ernst Rudolf Huber when he defines the logic of the conflict, from the liberal-left point of view, as a confrontation between the principles of monarchism and parliamentarianism.38 Prussian constitutionalism, as Huber emphasizes, was an obscure concept; under certain conditions it could be defined as a parliamentary system. Yet characteristically, the majority in the liberal opposition, despite their readiness to resist, did not decide in favor of this radical interpretation.

The issue of ministerial accountability offered one possibility for directing the constitution toward a parliamentary system. According to the Prussian constitution of 1850, ministers were accountable only to the monarch. Although they had the right to speak and offer opinions in chambers, they were not subject to the disciplinary power of Parliament. The confrontation between Bismarck and the lower chamber on the occasion of a quarrel concerning representative Hans Victor von Unruh led to the drafting of a law dealing with ministerial accountability; ministers could be brought up on charges of bribery, treason, or infringement of the constitution. But the adoption of this draft by the lower chamber changed little in the political situation, because its rejection in the upper chamber and by the crown was a foregone conclusion. It showed, however, how limited liberal intentions were in bringing about reform, since no request was made for parliamentary ministerial accountability; the conflict between government and opposition was transferred, instead, to the sphere of the administration of justice, which was thereby saddled with political responsibility.

This avoidance of power politics characterized the attitude of the liberals in the constitutional conflict, who ultimately proceeded from a harmonious concept of the relationship between state and Parliament

38See Huber, *Deutsche Verfassungsgeschichte*, 3:337.
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(the public sphere). If the liberals repeatedly stressed the legal point of view with respect to Bismarck, this was in accordance with liberal tradition, for in liberal theory the grounding of political sovereignty did not follow intrinsically, as it did for the conservatives, but was derived from the constitutional guarantee of universal rights and duties. Thus we should not assume, as Gugel does,\(^{39}\) that the strategy of the liberals was due only to a lack of political determination; we must also recognize that liberal theory was neither prepared for nor capable of facing conservative power as long as it was unwilling to draw revolutionary conclusions during a conflict. That the liberal opposition was not prepared for such fundamental dissent, which ultimately could not be confined to specific issues, may have been due primarily to the fact that domestic and foreign economic interests were at stake, thus requiring cooperation with the government. The leaders of the Progressive party were largely in agreement with Bismarck’s foreign policy against Austria. But from the beginning their sympathies were influenced by economic interests—in particular, by the desire to establish a unified national market.\(^{40}\) The constitutional conflict was inopportune for the Prussian economy; the chambers of commerce in particular held the position that business must not be harmed by political confrontations. Extension of the constitutional conflict to economic policy, therefore, would have encountered decided opposition from the economic sector. The issue of Kiel harbor made this very clear: when the chambers of commerce of the coastal states vehemently demanded its construction, the liberals refused their support.

The outcome of the constitutional conflict left no doubt that national and economic interests were more important to the middle class than taking an opposition stance, which would have exhausted the possibilities afforded by the constitution. The victory of the Prussian army at Königgrätz and the devastating defeat of the Progressive party in the Landtag elections of July 3, 1866, signaled a general reaction in favor of the government and its policy of strength. Twesten voiced the opinion of the moderate wing when he wrote in his essay “Der preussische Beamtenstaat” (The Prussian Bureaucratic State), which appeared in the Preussischen Jahrbücher in 1866, that parliamentary government in Prussia was really nothing more than an appendage of the bureaucratic state.\(^{41}\) This admission of weakness opened the way for a compromise with the government and at the same time signaled the secession of the


\(^{40}\)On this, see Böhme, Deutschlands Weg zur Grossmacht, and Gugel, Industrieller Aufstieg, pp. 154–56.

\(^{41}\)Preussische Jahrbücher (1866), p. 146; see also Winkler, Preussischer Liberalismus, p. 97.
left wing, which sought to maintain the constitutional rights of the Landtag over the government. Bismarck's readiness to ask for indemnity was received positively by the right wing, whereas the Waldeck group insisted on the chamber's right to consent and accordingly rejected the compromise. The right wing perceived the Indemnity Act as a kind of atonement by the government for its illegal actions and thus decided against further opposition. It supported instead a constructive participation in policy making.42 The adoption of the Indemnity Act (September 3, 1866) by a vote of 230 to 75 finally sealed the fate of the opposition and confirmed the lower chamber's consent to government policy of 1862 to 1866. But Bismarck's request for indemnity also made it clear that he wanted to cooperate with the Landtag and not, as he might have done, use the opportunity to humiliate Parliament. Through the Indemnity Act, Bismarck noticeably separated himself from conservative ideologues, thus assuring himself of middle-class support for his policy. Huber prefers to see the indemnity issue neither as the surrender of the middle class (the classic liberal interpretation) nor as the submission of the crown to liberalism (the conservative interpretation of Carl Schmitt), but rather as an alliance from which both sides profited.43 More recent works have corroborated this view, although in a different sense than Huber intended; the opposition of the liberals contained an element of compromise from the start, since they never really contested the state's claim to leadership and explicitly sought cooperation on economic issues. They became convinced that demands made in principle had no practical effect and saw the settlement of the conflict as a renewed opportunity to make a contribution in practical political matters.

The constitutional conflict consolidated a tendency already evident in the new era, though not yet clear-cut: the transformation of the political public sphere into an entity that was restricted with respect to the state, even in its goals, and no longer open to the proletarian masses. On the other side, a proletarian counter-public sphere split off during those years. Even if one were skeptical about the thesis of a fundamental liberal struggle for the political emancipation of the people, one could not fail to recognize that the shift in political climate between 1860 and 1866 did not favor emancipatory demands. This counters the thesis that the liberals essentially advocated the same goals and interests in 1866 as in 1860.44 The reversal of public opinion after the Prussian victory over Austria must be understood as a gauge of these changes. One need only

42See Huber, Deutsche Verfassungsgeschichte, 3:357.
43Ibid., p. 368.
44Thus, for instance, Gugel, Industrieller Aufstieg, p. 140.
compare Rochau’s interpretation of 1853 with Hermann Baumgarten’s later critique of liberalism in order to measure the degree of change. Baumgarten, who belonged to the moderate right in 1848 (favoring hereditary kingship) and later was close to the Badenese circle around Franz von Roggenbach, in 1866 not only drew practical conclusions from the changed situation but expanded them into fundamental reflections on the importance and function of the middle class which show some not insignificant differences from Rochau’s point of view. Rochau still contended that policy making was impossible in Germany without the middle class, whereas Baumgarten was already contesting the necessity of middle-class participation in power.