

The Magistrates should be Elected by the People¹

[On the recent internal affairs of Württemberg, in particular the inadequacies of the municipal constitution]²
 (1798)

To the people of Württemberg

It is time that the people of Württemberg ceased to vacillate between hope and fear, to alternate between expectancy and frustrated expectations.³ I will not say that it is also time for everyone who, in the midst of change or in preserving the old, seeks only his own limited advantage or the advantage of his class [*seines Standes*] and consults only his own vanity, to renounce these paltry desires, to cast aside these petty concerns, and to fill his soul with concern for the general [good]. For men of nobler aspirations and purer zeal, it is time above all to focus their undirected [*unbestimmten*] will on those parts of the constitution which are founded on injustice, and to apply their efforts to the necessary change which such parts require.

Peaceful satisfaction with the present [*dem Wirklichen*], hopelessness, and patient acceptance of an all-too-vast and omnipotent fate have given way to hope, expectation, and courage to face the new. A vision of better, juster times has come to life in the souls of men, and a longing and yearning for a purer and freer destiny has moved all hearts and alienated them from the present reality [*der Wirklichkeit*].⁴ The urge to break down paltry barriers has fixed its hopes on every event, every glimmering [of change] – even on

Political writings

criminal actions. From what quarter could the people of Württemberg expect more just help than from the Assembly of their Estates? Time and deferment of the satisfaction of their hopes can only refine their longing and separate the pure from the impure; yet it can only intensify the urge to remedy a genuine need, and any delay will make the longing eat more deeply into men's hearts, for it is not just a fortuitous attack of light-headedness which will soon pass away. You may call it a paroxysm of fever, but it can end only with death, or when the diseased matter has been sweated out. It is the effort of a still robust constitution to expel the illness.⁵

The feeling that the political edifice as it still exists today cannot be sustained is universal and profound. The anxiety that it may collapse and injure everyone in its fall is also universal. – With this conviction in our hearts, is this fear to become so powerful that it will be left to chance to decide what shall be overthrown and what shall be preserved, what shall stand and what shall fall? Ought we not ourselves to try to abandon what cannot be sustained, and to examine with a dispassionate eye what makes it unsustainable? Justice is the only yardstick for such a judgement, and the courage to do justice is the only power which can honourably and peacefully remove the unstable edifice and produce secure conditions in its place.

How blind are those who like to believe that institutions, constitutions, and laws which no longer accord with men's customs, needs, and opinions, and from which the spirit has departed, can continue to exist, or that forms in which feeling and understanding no longer have an interest are powerful enough to furnish a lasting bond for a nation [*eines Volkes*]⁶

All the attempts of pompous bungling to restore confidence in constitutional elements and arrangements in which no one any longer has faith, and to conceal the gravediggers behind a screen of fine words, not only cover their ingenious instigators with shame, but also prepare the way for a much more terrible outburst in which vengeance will ally itself to the need for reform and the ever-deceived, ever-oppressed mass will mete out punishment to dishonesty.⁷ To do nothing when the ground shakes beneath our feet but wait blindly and cheerfully for the collapse of the old building which is full of cracks and rotten to its foundations, and to let oneself be crushed by the falling timbers, is as contrary to prudence as it is to honour.⁸

The Magistrates should be Elected by the People

If a change has to happen, then something has to be changed. So banal a truth needs to be stated, given the difference between fear which must and courage which will; for whereas those who are driven by fear may well feel and admit that change is necessary, they nevertheless display the weakness, as soon as a start has to be made, of trying to hold on to everything they possess. They are like a spendthrift who is obliged to cut his expenditure but cannot dispense with any article he has hitherto required and has now been advised to do without, and who refuses to give up anything – until he is finally deprived of dispensable and indispensable alike. No nation [*Volk*], including the Germans, can afford to display such weakness. In the cold conviction that a change is necessary, they should not be afraid to scrutinise every detail; the victim of injustice must demand the removal of whatever injustice they discover, and the unjust possessor must freely give up what he possesses.

This strength to rise above one's own small interests for the sake of justice is presupposed in the following enquiry, as is the honesty to will this end, and not just to pretend to do so. Only too often, wishes and zeal for the common good conceal the reservation 'in so far as it coincides with our own interest'. Such willingness to consent to every reform takes fright and grows pale as soon as demands are made of those who express it.

Far from this hypocrisy, let each individual and each class [*Stand*] look first to themselves to weigh up their own rights and circumstances before they make demands on others and look outside themselves for the cause of the evil; and if they find themselves in possession of inequitable rights, let them strive to restore the balance in favour of others. Anyone who wishes may regard this demand to begin with oneself as blind and ineffectual, and the hope for this kind of injustice set aside for [...] ⁹

So long as it is not in one's power to reform or reverse those reforms which have already been attempted and found to be harmful, it is as well not to go beyond those changes whose consequences can be foreseen and assessed throughout their entire extent, and to be content with eliminating the sources of abuse.

Both in earlier and more recent times, the primary cause of all the troubles of the provincial assembly [*Landschaft*] was the presumptuousness of the senior officials.¹⁰ The Council [*Ausschuß*], of course, found it very convenient to employ men to speak and write on its behalf (or even, at a pinch, to think for it). Meanwhile, a

Political writings

large proportion of the Council's members spent their income in comfortable ease, and no doubt looked after their own spiritual welfare on the side, leaving the country's affairs to run their course as providence and its leaders wished. To be sure, the common herd fared badly if one of its herdsmen proposed to lead it east, and another west. The majority naturally followed the one who had the key to the hayloft, who could tempt them with fairer words and more ably conceal his wolfish nature beneath his sheep's clothing. In this way, the Council – and with it the country – was led by the nose by the Council's officials.¹¹

The Council itself was never presumptuous. But its consultants and lawyers were. It was merely indolent, and it unthinkingly put its name to all the high-handed actions of these officials. It was they who seduced the Council into a [degree of] generosity towards the Court which was equalled only by the frivolity of the reasons which were adduced in order to justify such expressions of devotion. It was they whom the Court sought to enlist, because it was sure of attaining its end once it had managed to harness the lawyers and consultants to its interests. It was they who determined whether the complaints and wishes of individual classes [*Stände*] were to be heeded. It was they who took charge of the incoming documents and kept their existence secret from the Council until such time as they chose to bring the relevant matter up for discussion. And in fact, no priest has ever exercised greater control over the consciences of his penitents than these political confessors did over the official consciences of the Councillors to whom they were answerable.¹²

The consultants in the narrower sense had, incidentally, nothing to do with financial matters. They were not privy to the operations of the secret account. The self-interest of the members of the Council could therefore expect no favours from them. They were not consulted over the making of appointments, and they played no direct part in any election. This ensured that the lawyers were at a marked advantage, even if they were without talents or knowledge. But even in the elections, the indirect influence of the consultants was unmistakable. A candidate for office had every hope of outdoing the favourite of a lawyer if the most influential consultant was his friend and advocate.

Fortunately, the Council has also at times had right-minded and

The Magistrates should be Elected by the People

well-disposed men as consultants;¹³ and although they did keep the Council on leading-strings – because it had not learned to walk unaided – they never (or at least not knowingly and deliberately) led it into the mire.

As far as the Diet is concerned, the dangerous influence of this monstrous officialdom has increased rather than diminished. We have grown accustomed to regarding the consultants as essential elements of the provincial assembly's constitution [*der land-schaftlichen Verfassung*]. Their official sphere of influence has been enlarged. They have reaped benefits from the rivalry of the deputies. They have contrived to make themselves independent of the Council, their employer and judge in official matters. Until the Diet [was set up], the Council could dismiss an incompetent consultant without argument, and it did so on more than one occasion. Now, perhaps, the consultant might demand that the ruler, to whom he betrays the interests of the provincial assembly [*Landschaft*], should be his judge [. . .]

[. . .] as long as everything else remains as it was, as long as the people do not know their rights, as long as there is no collective spirit [*Gemeingeist*], and as long as the power of the officials remains unchecked, popular elections would serve only to bring about the complete overthrow of the constitution.¹⁴ The chief priority is to place the right of election in the hands of a body of enlightened and upright men who are not dependent on the Court.¹⁵ But I fail to see what kind of election might give us any expectation of an assembly of this kind, however carefully one defined active and passive [kinds of] eligibility [. . .]

The German Constitution (1798–1802)¹

[Introduction]

Germany is no longer a state.² The older teachers of constitutional law had the idea of a science in mind when they dealt with the constitutional law of Germany, and they accordingly set out to specify a concept of the German constitution. But they could not reach agreement on this concept, and their modern counterparts finally gave up looking for it. The latter no longer treat constitutional law as a science, but as a description of what is present empirically without conforming to a rational Idea; and they believe that it is only in name that they can describe the German state as an empire or body politic.

There is no longer any argument about which concept the German constitution falls under. What can no longer be related to a concept [*begriffen*] no longer exists. If Germany were supposed to be a state, we could only describe the present condition of the state's dissolution as anarchy (as a foreign scholar³ of constitutional law did), were it not that the parts have reconstituted themselves into states which have retained a semblance of unity,⁴ derived not so much from a bond which still exists as from the memory of an earlier one. In the same way, fallen fruit can be seen to have belonged to a particular tree because it lies beneath its branches; but neither its position beneath the tree nor the shade which the tree casts over it can save it from decomposition and from the power of the elements to which it now belongs.

The German Constitution

The health of a state generally reveals itself not so much in the tranquillity of peace as in the turmoil of war.⁵ The former is a state [*Zustand*] of enjoyment and activity in isolation, in which government is a wise paternalism which makes only ordinary demands upon its subjects; but in war, the strength of the association between all [individuals] and the whole is displayed, both in the extent of the demands which this association has managed to impose on individuals and in the worth of what the latter are prepared to do for it of their own initiative and inclination [*Trieb und Gemüt*].⁶

Thus, in the war with the French Republic, Germany has found by its own experience that it is no longer a state. Both in the war itself and in the peace which concluded it, it has become aware of its political condition. The following are the tangible results of this peace: some of the finest German territories have been lost, together with several million of the country's inhabitants; a burden of debt, which weighs more heavily on the southern than on the northern half, prolongs the misery of war far into the peace; and apart from those states which have come under the rule of the conquerors, and hence also of foreign laws and customs, many others will lose what is their highest good, namely their existence as independent states.

The present peace affords an opportunity to consider the inner causes, or spirit, of these results, which are merely the external and necessary appearances of this spirit. Besides, this consideration is in itself worthy of anyone who does not simply surrender to current happenings but recognises the event and its necessity. By such recognition, he distinguishes himself from those who see only arbitrariness and chance through the eyes of their own vanity, and thereby convince themselves that they would have exercised wiser and more effective control over all that happened. For most people, such recognition is of importance only because they [can derive enjoyment from]^a it and from the intelligent judgements on individual things which it makes possible, not in order that they may learn by experience how to act better on a future occasion. For there are very few people who can act in these great events in such a way as to direct

^a *Translator's note:* *Werke* (p. 463) fills the bracketed lacuna in Hegel's text with the words *brüsten können* ('can brag about'). I find no evidence in the passage for this pejorative term, and conjecture instead *unterhalten können* ('derive enjoyment from') or some similar expression.

Political writings

their course, whereas the others must serve the events with understanding and insight into their necessity. But those who learn from the experience of mistakes which are^b an expression of inner weakness and imprudence are not so much those who have made the mistakes: on the contrary, they are merely confirmed in their habit of making them. It is others who take note of [*kennenlernen*] them and are enabled by this insight to profit accordingly; and if they are at all capable of doing so, and if their external circumstances make this possible, they are in possession of an insight which may well be lacking in the thought of a private individual.

The thoughts which this essay contains can have no other aim or effect, if expressed publicly, than that of promoting an understanding of what is, and hence a calmer attitude and a tolerant moderation both in words and in actual contact [with events]. For it is not what is that makes us impetuous and causes us distress, but the fact that it is not as it ought to be; but if we recognise that it is as it must be, i.e. that it is not the product of arbitrariness and chance, we also recognise that it is as it ought to be.⁷ But it is difficult for human beings in general to rise to the habit of trying to recognise and think [in terms of] necessity. For between the events and their free apprehension they interpose a mass of concepts and ends, and they expect what happens to conform to these. And when it doubtless turns out otherwise in most cases, they get round their concepts by arguing that, whereas these were governed by necessity, the events were governed by chance. For their concepts are just as limited as their view of things, which they interpret merely as individual events and not as a system of events ruled by a spirit; and whether they suffer from these events or merely find that they contradict their concepts, they find in asserting their concepts the right to complain bitterly about what has happened.

It is no doubt recent developments above all which have afflicted the Germans with this vice. In the perpetual contradiction between what they demand and what happens contrary to their demand, they appear not only censorious but, when they talk only of their concepts, untruthful and dishonest; for they attribute necessity to their concepts of right [*Recht*] and duties, whereas nothing happens

^b *Translator's note:* I follow T. M. Knox (p. 144) in reading *sind* ('are') for Hegel's *ist* ('is').

The German Constitution

in accordance with this necessity, and they are themselves all too accustomed on the one hand to a constant contradiction between their words and the deeds [of others], and on the other to trying to make of the events something quite different from what they really are, and to twisting their explanation of them to fit certain concepts.

But anyone who tried to understand [*kennenlernen*] what normally happens in Germany by looking at the concepts of what ought to happen – namely the laws of the state – would be utterly mistaken. For the dissolution of the state can be recognised primarily from the fact that everything is at variance with the laws. He would likewise be mistaken if he took the form^c assumed by these laws to be the true ground and cause of this dissolution. For it is precisely with regard to their concepts that the Germans seem dishonest enough not to acknowledge anything as it is, and not to present it as either more or less than the facts actually warrant. They remain true to their concepts, to right and the laws, but the events tend not to correspond with these, so that whichever party [*Seite*] stands to gain an advantage by doing so strives to reconcile the two by means of words with the force of concepts. But the concept which embraces all the others is that Germany is still a state today only because it once was a state, and because those forms whose inner life has [now] departed are still with us.

The organisation of that body known as the German constitution took shape in [the context of] a life quite different from that which later invested it and does so now. The justice and power, the wisdom and valour of times gone by, the honour and blood, the well-being and misfortune of long-deceased generations and of the manners and relationships which perished with them, are [all] expressed in the forms of this body. But the course of time, and of the culture [*Bildung*] which develops within it, has cut the destiny of that age off from the life of the present.⁸ The structure in which that destiny resided is no longer supported by the destiny of the present generation;^d it stands without sympathy for the latter's interests and is unnecessary to them, and its activity is isolated from

^c *Translator's note:* *Werke* reads *Form*, whereas Rosenkranz, *Hegels Leben* (Berlin, 1844), p. 241 reads *Farbe* ('colour'). The word is indistinct in the original manuscript.

^d *Translator's note:* *Geschlechts*; Hegel's manuscript reads *Schicksals* ('destiny' or 'fate'), which is plainly an error.

Political writings

the spirit of the world. If these laws have lost their former life, the vitality of the present age has not managed to express itself in laws. The vital interest of each has gone its own way and established itself separately, the whole has disintegrated, and the state no longer exists.

This form of German constitutional law is deeply grounded in that quality for which the Germans have become most famous, namely their drive for freedom.⁹ It is this drive which did not permit the German people to become subject to a common political authority [*Staatsgewalt*], [even] after all the other peoples of Europe subjected themselves to the rule of a common state. The obduracy of the German character has never yielded sufficiently for the individual parts [of Germany] to sacrifice their particular characteristics to society, to unite in a universal [whole], and to discover freedom in common, free subjection to a supreme political authority.

The quite distinctive principle of German constitutional law has an unbroken connection with the condition of Europe [as it was] when the nations participated directly in the supreme authority, and not indirectly through laws. Among the peoples of Europe, the supreme political power was a universal authority in which each was accorded a kind of free and personal share; and the Germans have not wished to transform this free personal share, which is dependent on the arbitrary will, into a free share independent of the arbitrary will and consisting in the universality and force of laws. Instead, they have based their most recent condition entirely on the foundation of the previous condition of an arbitrary will which, though not opposed to law, is nevertheless lawless.

The later condition arises immediately out of that condition in which the nation constituted a people without being a state. In that age of ancient German freedom, the individual stood on his own in his life and his actions; his honour and destiny were not based on his association with a class [*Stand*], but on himself. Relying on his own sense and powers, he was either destroyed by the world, or shaped it to please himself. He belonged to the whole by virtue of custom, religion, an invisible living spirit, and a few major interests. Otherwise, in his activity and deeds, he did not allow himself to be limited by the whole, but imposed restrictions on himself, without fear or doubt, solely on his own [initiative]. But what lay within his sphere was so very much and so completely himself that it could