Police and State in Prussia, 1815–1850

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Police and State in Prussia, 1815–1850

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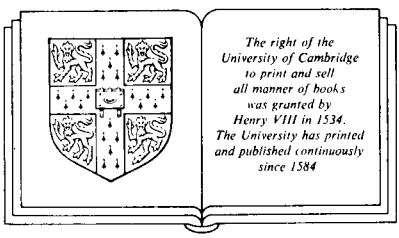
TRANSLATED BY PETE BURGESS



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Preface

Lieutenant Elard von Oldenburg-Januschau incarnated the classical idea of the Prussian *Landjunker* in the Wilhelmine Reich. A retired soldier and East Elbian estate owner he was also for a while a member of the Reichstag and the Prussian House of Deputies. During the first days of the 1918 November Revolution he sought to the last to organise a military counter-revolution in Berlin. When nothing immediately came of his efforts he returned, in the middle of November, to Oldenburg-Januschau, his patrimonial estate. His aim: 'to provide for order and discipline at least within the boundaries assigned to me'. His autobiography recalls:

> In Januschau I was greeted by my old servant with the message that the spirit of revolt had also raised its head here. One of my hands had declared himself master of Januschau and not without issuing threats against my own person. Realising that here on my land and soil this called for swift, personal and vigorous action, I took a solid stick and ventured out into the field where the aforementioned hand was at work. I approached him, took him by the ear and asked him 'Who governs here in Januschau?' When he gave no answer I yelled at him, 'I'll smash you so hard in the mouth you won't know what hit you.' This language he understood. His courage left him and he acknowledged me as his master. Our mutual relationship of trust had been restored.[1]

Historical processes, their rhythms and continuities, contradictions and interruptions, cannot be reduced to individuals. The phenomenon of one palpably violent estate owner, such as Oldenburg-Januschau, though providing us with some pointers, cannot furnish anything resembling a proper explanation. This is all the more true for the pseudo-continuity of Prussian history wielded for propagandistic purposes: the well-known line from Luther, through Frederick II, Bismarck, Wagner, and Nietzsche and finishing with Hitler. Such a cavalcade of stars has nothing to do with historical explanation or historical understanding. The same can be said of approaches which hinge on alleged national characteristics.

Interest in Prussia is often focused on the continuity of the Prussian state. Central in this are the consequences of 'Prussianism'. Did the Prussian state, Prussian society, make a special contribution to the emergence of National Socialism in Germany? Leaving aside the diversity of positions involved, both contemporaries and later observers have argued that this was the case, a contention culminating in the legitimation for the dissolution of the Prussian state. The resolution of the Allied Control Commission in Germany in February 1947, for example, reads: 'Prussia has long been the bearer of militarism and reaction in Germany.'

Any debate on the continuity of Prussia, the Prussian system and Prussianism

understood as a social process critically turns on the issue of the *Sonderweg*, Germany's singular historical path – a term rooted in the idea of a unique discrepancy between economic modernity and social and political backwardness. This thesis, the germ of which was already evident in the nineteenth century, has been the object of renewed attention throughout the two decades or so of critical debate over the nature of the Bismarckian and Wilhelmine Reich of 1871. Historical social scientists have argued that the development of capitalism in the countryside, especially in the East Elbian estate economy (the *Gutswirtschaft*) and even more so in the tempestuous progress of industrial capitalism after the 1850s, did not unseat the 'traditional power elites'. Neither, so the thesis has it, were their 'pre-industrial values' supplanted or revised.[2] These 'traditional' forces and attitudes were able to persist because of the absence, or more properly speaking the defeat, of 'bourgeois revolution' in Germany, and in particular in Prussia.

For Germany, David Blackbourn and Geoff Eley[3] have cast fundamental doubts on the assumption that there must be some correspondence, at the least over the long term, between economic growth, social change, and the forms of political rule and participation – a uniform rhythm of transformation. In fact, closer examination of social and economic development in continental Europe, and elsewhere in the world, reveals no 'norm'. And, in particular, there are no grounds for believing that development in the United States, England or France represents such a norm, let alone an ideal. In fact it is England, the capitalist pioneer, which would be better thought of as 'peculiar'.

Geoff Eley, in common with most other historians, does at least agree that the development of bourgeois society in Germany did exhibit a 'particular form'.[4] The advance of the capitalist mode of production in Prussia-Germany was spurred on not by political revolt by the bourgeoisie but by an aristocratic-bureaucratic 'revolution from above' which had fostered capitalist economic processes – the core of bourgeois revolution – in a number of different stages since the late eighteenth century. The Prussian state plays a key role here. In Germany, the historical points were set by the 'civil' and 'military bureaucracy'.[5] The process through which the state and bureaucracy determined the conditions for capitalist growth culminated in the unification of the *Kleindeutsch* Reich of 1871, pursued and imposed by Prussia through military force.

On this view, social relations and structures were characterised not by a clear line between their component elements but by a patchwork pattern of interfusion and admixture. Social formations were characterised by interests and modes of conduct which had developed 'unevenly'. Blackbourn and Eley's critique represents a major contribution to the analysis of the seminal issue of the synchronicity of change and continuity – that is, the contradictory character of historical processes.

Any attempt to delineate and define Prussia's 'asynchronicities' and social 'patchwork' must begin with the works of Hans Rosenberg. His short essay on the Prussian 'estate-owning class', published in 1958,[6] illustrates an acute

awareness of the abstractness and hence inadequacy of the stereotype of the 'traditional power elite'. The question is not simply that the estate owners absorbed, in fact had to absorb, bourgeois in large numbers into their circles from the late eighteenth century – a process in which the Junker, at least in the 'open country', continued to set the standard of conduct and political predilection – but that these capitalist Junkers, from at the latest the middle of the nineteenth century, availed themselves of all the 'bourgeois' techniques of political mass mobilisation. And their success was considerable: small landowners and also their 'own' agricultural workers and dependent servants overwhelmingly voted conservative. This was the principal popular basis of Bismarck's support. The unique Prussian 'relationship of trust' between master and servant – both as estate owner and factory master – remained intact. The 'pliancy' of the ruled in the given order could be restabilised.

Rosenberg's essay marked a major step in more precisely defining the notion of Bonapartism. The combination of the traditional authority and force of the police and the state with 'modern forms' of mass appeal has been a subject of debate since the rule of Napoleon Bonaparte III.

In his analysis of the Prussian military reforms of the 1860s Friedrich Engels accused the bourgeoisie of a 'notable lack of courage'.[7] After 1848–9 social peace was bought at the price of political subservience. A number of variants of this accusation, often self-accusation, can be found in debates extending back to the middle of the last century. When in doubt – and in view of the growing 'red menace' this was increasingly the case – bourgeois strata and groupings fell back on the 'strong arm' of the state.

Such a moralistic critique of the political timidity and hesitancy of the bourgeoisie would, however, be quite misplaced, as David Blackbourn argues.[8] Economic success and the gradual permeation of bourgeois norms and modes of conduct made it less urgent to seek direct political rule. Moreover, direct control over the apparatus of government did not seem necessary given the administration's policy of modernisation. Certainly, there was no particular urgency for the bourgeoisie to unseat the aristocracy and bureaucracy from their political positions.

However, the form and intensity of political rule in Prussia are not reducible solely to the control exercised by the government and bureaucracy. Domination in Prussia was clearly inseparable from servility. Military discipline was perfectly compatible with the industrial control and organisation of labour. This link between an authoritarian order and self-disciplined zealousness on the part of the dominated throws up the issue of the development of the state and society in Prussia after the late eighteenth century. State and 'civil society' remained separate but interrelated.

In Hegel's *Philosophy of Right* – written in Berlin in the 1820s – 'civil society' constituted the 'system of needs'. Civil society was the 'battleground' of the individual private interest of all against all. Individual interests were defined through a pre-given 'general interest' expressed and embodied in the state, which mediated the individual social spheres and the overall structure. The 'general interest' was the state's province.

In Prussia, the reform legislation of 1807–12 proclaimed the free activity of individual subjects. Motivated not least by fiscal considerations, the reform bureaucracy set about the development of capitalist production in both industry and agriculture. The new commercial society was based, naturally, on the 'rule of law' (*Rechtsstaat*). This meant two things. First, the forms of intercourse of the commercial 'bourgeois' were based on legal instruments. Secondly, officials, as the only 'universal estate', laid claim to the manipulation of these legal forms. This led to a double legitimation for officials: first and foremost they felt responsible for the 'common good'; at the same time, they saw themselves as the protectors of the lawfulness of both social and state relations.

However, the 'rule of law' was far from implying equality before the law. In fact, the Prussian Legal Code of 1794 had confirmed the inequalities between the various estates. Rather, instead of being arbitrary, state interventions, exactions or controls were now to be calculable, checkable and, if necessary, actionable. From this standpoint the rule of law under the bureaucracy might be seen as the apotheosis of the constitution – before any constitutional forms had been attempted for the participation of all in the political process.

The 'rule of law' as the precondition and context of civil society gave as much weight at least to 'rule' as it did to legality. Subjects remained merely 'bourgeois': there was no need for *citoyens*. For officials, who – as the 'universal estate' – participated directly in the state, this construction provided scope to advance their own definitions and interests. At the same time their position and legitimation allowed them to derive that 'inner freedom' which Theodor Fontane characterised at the end of the century as the 'Prussian idea'.

More recently, Thomas Nipperdey has referred to the 'Janus head' of the post-1815 Prussian state. Governmental and social reform was never regarded as being in any way antithetical to extensive control over minds and bodies.[9] And the spectrum of repression was wide indeed: the censorship of science and journalism, and police obsession with countless possible misdemeanours not only in streets and public places but also within the home.

There were, of course, alternative paths and critical junctures. The question of continuity would be misplaced were it to turn solely on the search for a one-way street. Gordon Craig has recently indicated some of the possible alternatives in his *The End of Prussia*.[10] For the period of the governmental and administrative reforms after 1807 Craig sees the antithesis and possible alternative paths of development embodied, on the one hand, in Freiherr vom Stein, and on the other in the Mark-Brandenburg *Landjunker*, August Ludwig von der Marwitz. And for the period in which the 'social question' – that is, the activity of the plebeian and proletarian masses in the industrial centres – became the mainspring of both Junker and bourgeois politics of containment, Craig points on the one hand to Bismarck, and on the other to the socially critical author of the 1840s, Bettina von Arnim. Marwitz and Bismarck prevailed. In the case of Marwitz, as the enemy of all things new; in

the case of Bismarck, as the sophisticated political tactician, both Junker and Bonapartist.

Craig's continuing commitment to the *Sonderweg* is of less importance here. What is problematic, however, is that his acute personalisation of history pushes the social context too much into the background. And, critically, he leaves out of account the rise and power of the bureaucracy from the eighteenth century. Ultimately was it not the bureaucracy which prevailed – over Stein *and* Marwitz? Certainly the bureaucracy was by no means merely an instrument in Bismarck's policies, especially his interior policy. And was it not the regulation of social life by bourgeois, but also numerous aristocratic and Junker bureaucrats which made possible the retention of Junkerdom's privileges on such an extensive scale?

Governance does not necessarily entail loyalty. What is indispensable, though, is a minimum of acceptance by the ruled. Oldenburg-Januschau's reference – nothwithstanding his violent intervention – to a 'relation of trust', a relationship promptly 'restored', certainly testifies to the arrogance of power. But his phrase was not merely cynical verbiage. It denoted a ruling claim which distinguished between conscious assent and blind obedience.

How was this equation practised? How could assent, acceptance and obedience be so closely linked? Was the reason really the oft-cited Prussian form of *égalité* – universal conscription? During their three-year military service, reduced to two after 1837, the majority of young men were pledged to the 'King' and 'Flag' in the everyday routinised drill of a monarchic and aristocratic institution. But what role was played by civil officials? What was the significance of the bureaucracy for the characteristically Prussian form of domination?

Critics of the pre-1848 bureaucracy already had bitter experience of its 'commanding tone'. There are even occasional self-critical remarks by officials themselves – albeit a minority. The extent to which conduct in civil society, and in particular in the bureaucracy, was impregnated by military norms is strikingly illustrated by the case of the imposter 'Captain' of Köpenick in which a discharged prisoner, in fact a tailor by the name of Wilhelm Voigt, seriously rattled the civil authority in the town of Köpenick near Berlin in 1906, equipped only with a uniform and commanding manner. The episode dramatically revealed that, even in a capitalist society, Prussia's military bent was by no means confined to officer casinos or aristocratic clubs. Rather, the military style and demeanour cohabited quite happily with the rationality of bourgeois life, both in business and in the administration. No doubt the emphasis shifted. The servile 'subject' (Heinrich Mann, *Der Untertan*) increasingly figured as a subject of criticism and irony: however, he remained a millionfold reality.

The German tradition of the philosophy of the state viewed civil society as subject to state control from above. Order, and its maintenance, was to be and remain the fulcrum of action for every citizen. Hardly surprising then that, in practice, the hoped-for 'trust' in authority and the state inevitably manifested itself as the acceptance of domination and its various injunctions.

The present book seeks to sketch out some of the central lines of development for the first half of the nineteenth century.

The German manuscript for this book was completed in the early part of 1981 and published in 1982 under the title *'Gemeinwohl', Polizei und 'Festungspraxis': Staatliche Gewaltsamkeit und innere Verwaltung in Preußen, 1815–1850* (Vandenhoek & Ruprecht: Göttingen). Some small changes have been made for the English edition: Chapter 4 has been cut in some places. The excurses and appendices contained in the German edition have been dropped and replaced by extracts from a number of original texts which it is hoped will prove informative and illustrative for a readership probably less acquainted with the continental European or Prussian-German police context. The body of the text itself has not been amended to any great degree. I have also dispensed with a detailed treatment of literature published since the German date of publication. In my view nothing which has been published since then would require any fundamental revision of my argument here. The only exceptions would be some work on the origins of the modern state and the emergence of the police in England. I turn to these briefly below.

Klaus Eder's extensive study raises a number of issues on the development of the state in the modern period.[11] Working on the basis of Habermas's theories, he proposes that the pre-bourgeois model of order of hierarchy and the justification of norms by traditions have been replaced by 'equality' and 'discursiveness'. Bourgeois society and the bourgeois state have, accordingly, followed the principle of the legitimation of norms and values via argumentation. This is translated into practice in communication between theoretically equal subjects. Equality and discursiveness are also, in Eder's view, the guiding principles of juridical procedure. These principles have been adopted, used and increasingly applied by the bureaucracy and officialdom. However, their efficacy, at least for the Prussian-German case, was obstructed. This 'pathogenesis' of the bourgeois state is rooted in the 'autonomy of administrative practice' which, especially in Prussia, subverted these principles of civil order.

This seems to me to pass over one key point: bureaucracy not only sought control over civil society, as Eder contends. More crucially, administrative practice constantly embraced the application or threat of direct physical force. Violent assertion, not domination-free communication, was integral to the basic pattern of officials' conduct. And where the 'common good' demanded it, the ultimate resort to the 'strong arm' of the state seemed entirely legitimate.

The work of Clive Emsley on the development of the police in England raises two points of importance for the brief comparative section at the end of Chapter 6 below. Emsley shows convincingly that police practice 'on the ground' in eighteenth-century England was by no means as casual, easy-going and ineffective as has been broadly imagined. The London 'new police' of 1829 thus marked a much less dramatic change than previously supposed. Emsley also confirms Robert Storch's position, already discussed here: the 'new police' were particularly concerned to assuage the fears of the 'proper-

tied classes'. However, Emsley poses an intriguing simultaneity: the policeman might appear not only as a dreaded official but also at times as 'the individual to whom resort could be made in a variety of troubles'. These effects of the 'new police', unintended as they largely were, stimulated acceptance of the new state organ amongst those who were its primary targets. This is certainly a major point. The image of subjects cooperating with the police, even invoking its action, is very different to one of strictly maintained distance or open hostility. Nevertheless, despite raising this issue Emsley does not explore just how closely related surveillance of and aid to the poor and destitute were. Reliance on the police by the policed enhanced the primary role of these agents of authority – that of controlling the 'dangerous classes' of the proletariat. Thus the containment of the disorderly and suspicious continues to hold good as the real 'sub-text' of all attempts to combat crime and safeguard order, not only in Prussia or France but also in nineteenth-century England.

I am indebted to my colleagues and friends at the Max-Planck-Institut für Geschichte, Göttingen, for the many stimulating discussions which formed the backdrop to this present work and in particular to the generous support of its director, Professor Rudolf Vierhaus, who made possible the present English edition. I also wish to express my gratitude to Robert Berdahl (University of Illinois, Urbana-Champaign), David W. Sabean (Cornell University) and Gerald Sider (CUNY) who never hesitated to share their thoughts on issues of police and *Herrschaft* with me. I remain, of course, responsible for what is flawed in this text.

The English edition of this book would not have been possible without the strenuous efforts, patient support and friendly cooperation of the translator, Pete Burgess. To him I extend particular thanks.

Translator's note

Readers are referred to the glossary for explanation and translation of terms used within the Prussian administrative bureaucracy.

In order to avoid the 'his/her' formulation, the translator has used 'their/them' to refer to the gender-neutral 3rd person singular.

Abbreviations

ALR	*Allgemeines Landrecht*
APP	Archiwum Państwowe we Poznaniu
APW	Archiwum Państwowe we Wrocławiu
BA	Bundesarchiv Koblenz
GG	*Geschichte und Gesellschaft*
GS	*Gesetzsammlung für die Königlichen Preußischen Staaten*
GStA/PK	Geheimes Staatsarchiv Preußischer Kulturbesitz Berlin
HistA Köln	Historisches Archiv der Stadt Köln
HStAD	Hauptstaatsarchiv Düsseldorf
HZ	*Historische Zeitschrift*
JbWG	*Jahrbuch für Wirtschaftsgeschichte*
KA	*(Kamptz') Annalen der preußischen inneren Staatsverwaltung*
KO	Kabinetts-Ordre
KZSS	*Kölner Zeitschrift für Soziologie und Sozialpsychologie*
MdI	Ministerium des Innern
MEW	*Marx-Engels-Werke*
NCC	*Novum Corpus Constitutionum*
NPL	*Neue politische Literatur*
Reg.-Bez.	Regierungsbezirk
RP	Regierungspräsident
RR	Regierungsrat
Sgr	Silbergroschen
SOWI	*Sozialwissenschaftliche Informationen für Unterricht und Studium*
StADT	Staatsarchiv Detmold
StadtA AC	Stadtarchiv Aachen
StadtA DO	Stadtarchiv Dortmund
StadtA IS	Stadtarchiv Iserlohn
StadtA TR	Stadtarchiv Trier
StAK	Landeshauptarchiv Koblenz
StAMS	Staatsarchiv Münster
Tlr	Taler
VSWG	*Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte*
ZfG	*Zeitschrift für Geschichtswissenschaft*
ZfS	*Zeitschrift für Soziologie*
ZStA II	Zentrales Staatsarchiv der DDR, Merseburg

Glossary

Allgemeines Landrecht (ALR)	Prussian Legal Code, promulgated in 1794. However, it was not applicable in every Prussian Province: large parts of the Rhine Province – all areas to the west of the Rhine and the area around Düsseldorf and Elberfeld – fell under the Napoleonic Code.
Bezirksregierung	District Government: part of the post-1808 Prussian provincial administrative structure. They comprised a number of officials with life-tenure (*Beamte*) (specific officials are referred to individually). The *Bezirksregierung* administered a Government District (*Regierungsbezirk*).
Gesinde	Servants bound by the provision of the Servants Ordinance (*Gesindeordnung*, 1810).
Gutsbezirk	Independent estate district: a unit of administration in which jurisdiction was exercised by the Junker estate owners.
Gutsherrschaft	Mode of domination within an independent estate district (*Gutsbezirk*) constituted by the simultaneity of administrative–political and economic control. The Junker estate owner (*Gutsherr*) was entrusted with first instance jurisdiction, although the court may have been presided over by a justiciary, and also exercised local policing (*gutsherrliche Polizeigewalt*).
Gutswirtschaft	Estate economy of East Elbia (*Gut*=an estate), based on the extraction of a surplus from unfree labour.
Häusler, *Heuerlinge*, *Kossäten*	Cottagers or small peasants with little or no land: often called on to perform labour for the landowner, and rewarded in cash or kind, including lodgings.
Instmann (pl. *Instleute*)	A type of cotter, working on the East Elbian estates, living in their own households but also sometimes housed in barracks. Paid in cash and kind, they were subject to the Servants Ordinance.
Justitiar	Legal officer of a District Government.

Kaufsystem	'Merchant system', where the producers own the means of production but sell their product to a merchant.
Kreistag	Body responsible for electing the *Landrat*.
Landrat	Elected official responsible for administration in a 'county' (*Kreis*). Oversaw the mayors of the towns (*Bürgermeister*) and villages (*Amtmänner* and *Dorfschulzen*).
Landsturm	Home Guard.
Landwehr	Militia.
Oberpräsident	Permanent commissioners of the Ministries responsible for the 'administrative conduct' and 'state of welfare' of the provinces to which they were assigned.
Oberregierungsrat	Senior executive official ('senior councillor'). Two in each District Government would be subordinate to the *Regierungspräsident*. As an *Abteilungsdirigent* each was responsible for one of the two Departments in each District Government.
Offiziant	Lower 'executive' police officers.
Präsidium	Comprised the President and heads of the two Departments of a District Government. They organised administrative procedures and were responsible for discipline and appointments.
Regierung	*Bezirksregierung* (see above).
(Regierungs-)Assessor	Junior official of a District Government (after three years as *Regierungsreferendar*)
Regierungspräsident	The senior offical of a District Government.
Regierungspräsidium	Synonym for *Regierung*.
Regierungsrat	Official ('councillor'). From six to eight in each District Government. Together with an *Assessor* they were responsible for one branch of administrative activity.
Regierungsreferendar	Administrative trainee. Obtained their post after three years as an *Auskultator*.

Staatsrat	Council of State: advisory body to the crown. Established in 1817, it comprised members of the royal family, central government ministers, heads of the main central agencies (e.g. the mint), senior military, and the senior officials of the provinces (*Oberpräsident*). A member of the Council of State was also termed a *Staatsrat*.
Verlagssystem	Putting-out system, where the direct producer works under contract to a putter-out (*Verleger*) who may supply some of the means of production.