

**CREON'S SECRETARIES: THEORIES OF BUREAUCRACY AND SOCIAL  
ORDER IN 18TH AND EARLY 19TH CENTURY PRUSSIA**

by

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## **DEDICATION**

To all Antigones

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## Chapter I.

### Introduction

*“Creon’s secretaries handle and dispatch the case of Antigone.”*<sup>1</sup>

(Friedrich Dürrenmatt)

This dissertation does three things. First, it anatomizes the historical forces and conceptual commitments that undergird the configuration of modern bureaucracies. Second, it explains the normative roots of opposition to modern bureaucracies and the conceptual vocabulary employed to resist the bureaucratization of state and society. Third, it explores ways to overcome the opposition between these two fronts by developing a novel theory of bureaucratic legitimacy.

This project is animated by a lifelong fascination with administrative practices. More recently, I have become troubled by the tone of hopelessness that people take on when they talk about bureaucracies. Nobody likes them; nobody seems to know how we could make them better; nobody dares to imagine a world beyond current bureaucratic practices. In this dissertation I seek to change that. What I have in mind is not merely

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<sup>1</sup> “Kreons Sekretäre erledigen den Fall Antigone.“ Friedrich Dürrenmatt, "Theaterprobleme," in *Gesammelte Werke*, ed. Franz Josef Görtz and Georg Hensel (Zürich: Diogenes, 1988), 56-57.

shorter lines at the DMV or clearer forms, but rather a fundamentally new framework to conceptualize the relationship between the bureaucracy, the state, and the citizenry.

I do this by exploring first the conceptual and historical forces that gave rise to bureaucracies and the opposition to them, and then by presenting a historically informed proposal to ameliorate some of the flaws and pitfalls of bureaucracies. In the process, I introduce the notion of *bureaucratic legitimacy* as a supplement to the currently dominant theories of political legitimation. I propose that we incorporate carefully situated citizens into the administrative structure and empower them within the state, against the state. Just as they do in a criminal or civil jury system, citizens, properly prepared and situated within the state apparatus, can provide an essential check on state power and increase the legitimacy of outcomes.

The dissertation culminates in this proposal. First, we have to understand the historical development of bureaucracies, the growth of opposition to them, and earlier attempts at reform. The first two sections of this dissertation explore the constraints that past developments have placed on our ability to reform bureaucracies, while the last section investigates unexplored possibilities for rethinking the structure of bureaucracies and their relation to the citizenry.

Many of the constraints on reform are deeply embedded in our political vocabulary. Traditionally, bureaucracies are understood as agents of the state.<sup>2</sup> Insofar as they are

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<sup>2</sup> Hobbes, *Leviathan*, Book 2, Chapter XXIII, "Of the Public Ministers of Sovereign Power"; A significant amount of current and important work is based on this model. For useful starting places see: Matthew Stephenson and Ethan Bueno de Mesquita (2007) "Regulatory Quality under Imperfect Oversight". *American Political Science Review*. 101(3): 605.; Nolan McCarty (2004) "The Appointments Dilemma". *American Journal of Political Science*. 48(3): 413.; Nolan McCarty and John Huber (2004) "Bureaucratic Capacity, Delegation, and Political Reform" *American Political Science Review*. 98(3): 481.; Jonathan Bendor and Adam Meirowitz (2004) "Spatial Models of Delegation" *American Political Science Review*. 98(2): 293.; Randall Calvert, Matthew McCubbins, and Barry Weingast (1989) "A Theory of Political Control and Agency Discretion." *American Journal of Political Science*. 33(3): 588.

agents with their own will, the sovereign (in a principal/agent relationship) must be empowered to control the “bureaucratic drift” of the agent (the deviation from intended policy outcomes). In democracies, this model acquires additional levels of complexity, since citizens are principals in relation to politicians, who are in turn the principals of political appointees, who in turn might be principals to midlevel career bureaucrats. Under this traditional model of the state, legitimacy is supposed to flow from one end of the chain (the citizens) through all the links of the chain towards the other end (policy outcomes). If all links are operational, then outcomes are “authored” by the sovereign. To say that citizens control the state and authored the outcomes requires confidence in all of these links.

This basic model of political legitimacy was developed before states were complex and before bureaucracies were capillary and omnipresent. It is ill-suited, on its own, to provide for a satisfying or accurate account of state legitimacy in modern times.

The basic model of political legitimacy suffers from three principal shortcomings: first, the links between the sovereign and policy outcomes might not hold; second, even if they do, citizens might perceive that they do not; third, it is a purely procedural model of state legitimacy. These shortcomings together contribute to a lack of agency for citizens, a lack of accountability, and ultimately the aforementioned sense of hopelessness associated with bureaucracies. Even in bureaucracies that manage to minimize Kafkaesque conditions, people can feel that they are confronted with an administrative behemoth that treats them as a silent and passive mass, without regard to the subtle distinctions on which individuals found their sense of identity. These themes might ring familiar to a range of political

scientists and political theorists who have been grappling with citizens' sense of a loss of efficacy, trust, and influence.

The only way to improve these conditions is to empower citizens at both ends of the chain. Democratic practices empowered citizens at the beginning of the chain, but the expansion of bureaucracies has contributed to a sense of de facto disenfranchisement at the other end of the chain (outcomes). A genealogical account of bureaucracy's development provides useful pointers on how to remedy this situation by empowering people not *against* bureaucracies, but *within* bureaucracies. The motivation to do so, the problems a reform effort will encounter, and the conceptual barriers to this proposal will form the backbone of this dissertation. Finally, the last chapter elaborates and defends this particular model of bureaucratic legitimacy.

Before we can improve on current conditions we must understand their structure and internal logic. As such, I understand political theory to function within the realms of both imagination and limitation. Political theorists probe the coherence of conceptual links. They tell us about the implications of our commitments, about what cannot be done, about the institutions that are not attainable and the worlds we have foreclosed by our choices. But they also tell us what our world could look like. Many political theorists are dreamers and quiet poets, exploring with their imagination the kinds of political societies we could build and the kind of people we could become. Political theory flourishes at the boundary between imagination and limitation.

In this dissertation, I apply this framework to the study of bureaucracies. Political theorists have largely neglected the normative foundations and conceptual possibilities of bureaucracies. I seek to address this omission in two parts: first, by exploring the

limitations historical developments have built into bureaucracies and, second, by imagining what, within these limitations, could be done to reconceptualize bureaucratic institutions and practices.

## **Dürrenmatt**

The *Leitmotif* of this endeavor is borrowed from Friedrich Dürrenmatt's saying that in modern times "Creon's secretaries handle and dispatch the case of Antigone." I do not accept this statement as axiomatically true. Instead, I seek to probe the ways in which it encapsulates limitations on political realities and possibilities for change.

These words first appeared in a 1954 essay on theater and politics, in which the Swiss playwright Friedrich Dürrenmatt described the transformations of modern political realities that have reshaped all attempts to stage theater.<sup>3</sup> For Dürrenmatt there can be no more true tragic protagonists. We live in a world where political power has become so gigantic, convoluted, brutal, and mechanical that tragic heroes cannot arise.<sup>4</sup> Even if they somehow did arise, they would simply struggle futilely in the long corridors of power, never heard and soon forgotten. The modern state does not allow for heroic agency. It has become far too anonymous, too labyrinthine, and too bureaucratic for a meaningful engagement with the community it administers.<sup>5</sup> Its disciplinary powers are everywhere, yet it is hardly visible.

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<sup>3</sup> Ibid.

<sup>4</sup> "riesenhaft," "weitverzweigt," "verworren," "grausam," "zu mehanisch," "oft einfach auch alzu sinnlos"

<sup>5</sup> "Der heutige Staat ist jedoch unüberschaubar, anonym, bürokratisch geworden."

Theater in earlier times presumed a visible world of state and power, of direct struggle and direct confrontation. Modern politics and modern bureaucracies, in contrast, are quiet, nebulous, and hard to grasp.<sup>6</sup> The sole remaining recognizable actors in such a world are the disciplinary officers of the state. The minor paper pushers, insignificant administrators, and petty policemen—these are, for better or worse, the true representatives of modern life.

Dürrenmatt is describing a world marked by a profound antifoundationalism, a destabilized moral core, and a faltering political community. The characters in his tales are similarly uncertain, ironic, and deeply skeptical of truth and subjectivity. They are adrift without a reliable political community to which they belong or a rationality that could anchor them. The political institutions of their world have failed them and remain foreign and inaccessible. Agency, if it is to be found at all, can only spring from vain resistance to the administrative behemoth. Meaningful political agency has all but disappeared.

Dürrenmatt's characters inhabit a world radically changed by the trends toward diminished agency, uncertain identities, and pervasive disciplinary institutions. All of these elements combine to force his characters to question their relationship to their political communities. Bureaucratic institutions have displaced direct political participation and control. Perhaps their invocation of rationality, efficiency, and progress was merely a cover for new and insidious forms of discipline and control. Such alienation alters whether and how citizens participate in politics, as well as the meaning they ascribe to their own actions and the actions of the state.

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<sup>6</sup> Previous theater (such as the Greek plays) presumed a "sichtbare Welt," "echte Staatsaktion." "Die heutige Macht ist nur zum kleinsten Teil sichtbar."

The elements and effects that Dürrenmatt describes are deeply embedded in the struggle over the contours of modern bureaucracies and the social order they administer—the struggle, more specifically, over the relationship of the well-regulated, well-structured, legitimate modern state to a political community and political agents. To understand this struggle properly, I return to an important moment in the development and configuration of the public sphere and the administrative sphere.

## **Theories of Social Order**

This dissertation provides an important and never before told genealogy of competing notions of social order and the state in late eighteenth and early nineteenth-century Prussia. It anatomizes the moment when the public bureaucracy and the public sphere became two distinct, almost unbridgeably distant domains, driven by different discourses and different theories of political agency, rationality, sovereignty, and legitimacy. The normative commitments that drove this separation remain embedded deep within contemporary political practice and thought. Bureaucracy and public sphere live uneasily side by side, in a mutually impoverishing standoff. Both sides struggle with the aftermath of their separation.

This dissertation aims to reestablish a much-needed dialogue between these two separate spheres. The thinking and the practice that drive bureaucratic institutions have had great difficulty generating resistance to dehumanizing practices and morally questionable ends. Deliberative theories built on the public sphere, in turn, have struggled to impose a

procedural framework on indeterminate deliberations. They also have struggled to translate general deliberation into concrete administrative practice. There exists, in short, a great gulf between the public sphere of deliberation and the administrative sphere of policy implementation. The two all too often stand in only the most tentative connection, or none at all. Not surprisingly, people sense a loss of efficacy, and they lose hope of influencing distant decisions using standards and procedures that are inscrutable to them. Administrators, in turn, can claim that they must make policy with little guidance that is properly configured for their position and function. This is a dangerous discrepancy.

This dissertation will not solve all the concerns arising from this state of affairs, but it will provide a helpful genealogical account of “how we got here.” Only with such an account in hand can we begin to disentangle competing and contradictory strands of thought in administrative and deliberative theories.

The next part of this introduction will lay out how this dissertation proceeds chronologically through three sections, each dealing with a different moment in the development of Prussia’s bureaucracy and its relation to society under varying theories of social order. Following that, I will provide a short account of the methodological foundations of this dissertation. Finally, I will spell out in greater detail my engagement with Foucault and Habermas.

## **Plan of the Work**

The genealogy on offer in this dissertation largely traces the evolution of Creon's secretaries. I use the term (borrowed from Dürrenmatt) anachronistically to capture multiple facets of bureaucratic power and rationalizations, and of resistance to them. The three sections of this dissertation trace the changing configuration of Creon's secretaries and the varying and competing notions of social order and the state tied up with them.

Section I analyzes the search for a new manner of conceptualizing social order, structuring the state, and administrating society. Frustrated with inefficiencies and embarrassing judicial scandals, the Prussian crown commissioned a set of practitioners and theorists to develop a new science of government. These thinkers and doers are collectively known as cameralists. They gradually developed a new theory of the state and society. For them, the state became a desubstantiated, procedural framework with three parts: 1) a society kept docile by an efficient police and welfare apparatus, 2) a sovereign, and 3) the sovereign's administration, which translates the will of the sovereign into policy. Cameralists gave much thought to the most efficient way of structuring these three components within a new framework of social order. In the process of reimagining the state, society, and the docile subject, they hit upon an unlikely, counterintuitive, but immensely powerful insight: to strengthen the state, it has to be contained.

The cameralists became increasingly wary of the willful, arbitrary, uncontrolled exercise of power. However, their motivation was not curtailing abuse *per se*. Instead, they attempted to isolate and contain administrative practices that would hurt the crown. Individual impulses, under this model, were simply inefficient and dangerous. Cameralists subsequently devised practices and institutions that limited individual agency within the state in favor of procedures and regulations. Such a framework would create an explicit and

unorthodox separation of normative concerns (normativity) from factual concerns (facticity). Cameralists sought to strengthen the state by containing it within a purely procedural framework. However, cameralists were neither revolutionaries, nor anglophile liberals, nor rabble-rousing proto-Jacobins. Rather, they were loyal subjects of the crown, in the crown's service, who dutifully devised new mechanisms to strengthen the state. This entailed a broadening of police and welfare functions, a new science of governance, and new modes of knowledge production. Throughout, legitimacy was an important, perhaps primary concern for the cameralists. Strikingly, their model of state/society relations entailed a desubstantiated, depoliticized state in which legitimacy was the product of following the right procedures, not of outcomes.

Resistance to the administrative state coalesced around this theme, as we will see in Section 2. Cameralists had developed a specific theory of the state and its relation to society and subjects. Their notion of social order was noticeably at odds with the vision of society and political community that a variety of thinkers began to broadcast in diverse and nontraditional channels. These writers fiercely resisted becoming the kind of subjects the cameralists had prototyped. In response to the mechanically administered, hyper-policed, procedural vision of the well-regulated state, these thinkers constructed novel metaphors for society, political community, and meaningful agency. Important for their resistance was an emphasis on vibrant passions, personalized rule, and "organic" communities. Under their model of social order, the legitimate state could only survive and thrive in the German context if it was attentive to precisely those elements that the cameralists sought to exclude from the administrative sphere: willfulness, impulse, individualism, and personified

representations of the state. Legitimacy, for them, was to be found far from where the cameralists had located it.

This community of critics of the administrative state is loosely bundled under the heading of German Romanticism. It was a movement structured around resistance and opposition to the cameralistic state. In response to the cameralists, the German Romantics articulated new visions of social relations and state/society interactions. In tracing their resistance, it is important to broaden our analytical categories beyond the typical genres of political theory. Analyzing the Romantics' resistance to the administrative state requires that we focus on a range of genres and modes of argumentation traditionally overlooked by political theory. Attentiveness to poems, folk tales, songs, and horror stories allows us to see the novel and innovative strategies Romantics used to resist the dominant discourse of cameralistic thought and practice. Though not typically understood as articulating a political ideology, this diverse cast of writers formulated a range of political narratives that mattered "on the ground." This alternative discourse is the primary locus of a historical investigation of how and why people resist administrative domination.

However, despite all their resistance to many elements of the cameralist project, most Romantics already accepted—and indeed, deepened—one of its fundamental premises: the separation between the administrative sphere and the public sphere. Facticity and normativity, for them, became segregated into different domains. These two domains were constructed in opposition to each other. They followed different and completely separate logics.

This separation gave rise to concerns about how to relate the two spheres. The question of "translation" between these two spheres, in Habermas's phrase, became an

increasing concern for modern politics. Section 3 focuses on one of the last episodes when the division between the two spheres was not taken completely for granted. Instead, translation between the spheres was imagined as an endogenous process intrinsic to *both* the administrative sphere and the deliberative sphere. In this section, we will encounter a group of bureaucratic reformers, clustered around Karl von Stein, who, in response to historical accidents and calamities, tried to develop a new understanding of participatory citizenship *within* the administrative institutions of the state. Their struggles to stabilize a failing state and to strengthen that state's capacities turned on broad political participation.

In contrast to most contemporary models of participation, however, Stein and his followers did not conceive of participation as limited to a representative model or to check marks on a ballot. Instead, they came to think of broad political participation as entailing carefully crafted agency within the administrative sphere. Stein sought to import parts of the public sphere of deliberation *into* the administrative sphere. This would not only radically reconfigure the state and society, but would also enable new considerations on the relationship between the two. Crucially and paradoxically, Stein conceived of citizenship as enfranchising and empowering the individual within the administration against the state in order to strengthen the ailing legitimacy of the state.

The experiment of Stein and his allies eventually failed. We live in the inherited world left in the wake of this failure. The struggles over social order and the shape of the modern state reveal a hard separation between the administrative sphere of the state and the deliberative sphere of the political community. Attempts to bring them together have largely failed, and we consequently struggle with how to relate the two: shall we hope and

attempt to “translate” the commands of one into the output of the other, or shall we resign ourselves to desperate resistance to the state’s endless encroachments on the lifeworld?

However, the narrative arc of this dissertation is not tragic in nature. While it is true that Stein failed, his failure was due to historical forces largely outside the project of fusing the administrative and deliberative spheres, not intrinsic to it. A pessimist might read this episode as suggesting that the two spheres are irreversibly separated, driven now by their own logics, and that even a balance between the two is at best accidental. But the forecast need not be so bleak. The genealogy on offer in this dissertation shows the process through which the administrative sphere and the deliberative sphere became separated. This process was not inevitable or predetermined. Rather, it was the outcome of a history fraught with accident and contingency. Thus, this genealogy shows that the two spheres are not separated by logical necessity, but by the outcome of a historical process. That is not to say with certainty that the separation is reversible, but hopefully unlocking the hidden connections between competing notions of social order, political community, and the state provides the raw material for reimagining, once again, what modern politics could look like beyond the grasp of Creon’s secretaries. This genealogy suggests a way forward in a manner not commonly considered: a careful reconnecting of the public sphere and the administrative sphere in which citizens are empowered *within the state, against the state*. This entails recreating the political public sphere within the state, not outside and in conceptual opposition to it. In a way, only if we dare to become Creon’s secretaries ourselves can we avoid the dangers of Dürrenmatt’s world.

## **Methodology**

In developing the arguments of this dissertation I build on a pragmatist methodology and a rich spectrum of source materials. I understand methodological pragmatism simply as a balance between imagination and limitation. Political theory that puts too much emphasis on limitation can border on being mere history or narrative. Too much attention to possibilities without due regard for limitations risks turning political theory into a laundry list of nice things (Democracy! Freedom! Autonomy!).

As a pragmatist, I believe that political theory can only thrive in the middle ground. Political theory, under this model, is a method to specify what is attainable within a set of temporarily accepted parameters. It is difficult to change the whole world at once, but it is worthwhile to accept some parts of the world as given (for the moment), and to consider what other elements can be changed for the better. We must first understand the limitations our commitments impose on us before, second, exploring what can be done within these limitations to make the world better, step by step.

The structure of this dissertation follows this methodology. The first two sections stress limitations. They provide rich genealogical accounts of two key moments in the development of bureaucracies. Just as with genealogical investigations of family relationships, I am not searching for ultimate origins. The account I offer is also non-causal. I am not interested in imposing on history a linear, teleological account of the inevitable rise of bureaucracies. In fact, I aim to do just the opposite by exploring that

which “we tend to feel is without history.”<sup>7</sup> In my analysis, bureaucracies have a complex, sometimes contradictory, and deeply historical past. It is this contentious, paradoxical genealogy that provides vital details of “how we got here.” Far from being inevitable or determined, bureaucracies developed in modern times as part of disputatious institutional and discursive struggles over the relation of the individual to the state and a political community. Bureaucracies are the result of countless individuals reacting to institutional and conceptual innovations, social developments, and raw historical accidents.

The third section of this dissertation builds on these foundations by emphasizing imagination within the aforementioned boundaries. In fact, it might be more accurate to regard the first two sections as enablers of imagination, rather than constraints. Understanding what is essential and what is superfluous provides the raw material for an informed proposal on improving bureaucracies. To unlock and understand these boundaries, I turn to a rich diversity of materials. I bring into dialogue administrative textbooks, official decrees and correspondence, literary texts, court cases, newspaper accounts, folk tales, private correspondence, sermons, plays, short stories, poetry, and paintings.

In some cases I am the first political theorist to write about these texts. For example, beyond a handful of German historians, I believe that nobody has published on the *Acta Borussica* (“A.B.B.”). This is unfortunate. The *Acta Borussica* is a massive,

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<sup>7</sup> I borrow the phrase from: Michel Foucault, "Nietzsche, Genealogy, History," in *Language, Counter-Memory, Practice : Selected Essays and Interviews* (Ithaca, N.Y.: Cornell University Press, 1977), 139.; For more consider also: Michel Foucault and Colin Gordon, *Power/Knowledge : Selected Interviews and Other Writings, 1972-1977*, 1st American ed. (New York: Pantheon Books, 1980), 83.; For helpful secondary sources concerning Foucault’s methodological commitments consider also: Giovanna Procacci, "Governing Poverty: Sources of the Social Question in Nineteenth-Century France," in *Foucault and the Writing of History*, ed. Jan Goldstein (Cambridge, Mass., USA: Blackwell, 1994), 216-7.; Michael Mahon, *Foucault's Nietzschean Genealogy : Truth, Power, and the Subject*, Suny Series in Contemporary Continental Philosophy (Albany: State University of New York Press, 1992).

priceless sixteen-volume collection of official and informal communication from the eighteenth century between the crown in Potsdam, the administration in Berlin, and offices in the provinces. At times these communiqués are short and factual. Entire volumes are filled with details about the endless administrative struggle to distribute salt efficiently. At other times the communiqués read like an eighteenth-century soap opera. They are loaded with chronicles of personal betrayals, the rise and fall of family fortunes, petty insults, personal attacks, and endless bickering. Often these episodes are very humorous, and we will spend quite some time trying to understand why Prussian administrators spent an enormous amount of energy quibbling over the order of signatures on documents, sometimes to the point of asking for duels. Other episodes are simply tragic, as when innocent administrators are hanged to appease the crown's misguided wrath. The *Acta Borussica*, in short, is one of the best windows into the quotidian and extraordinary practices of state administration in the eighteenth century.

Similarly, the cameralist textbooks of the period are a rich source of insights into the normative and conceptual foundations of the growing administrative state and changing practices within it. Some cameralists are widely known among historians, and others, like Johann Heinrich Gottlob von Justi, have even found their way to political theorists (via Foucault). However, dozens more have never been read or cited. For this dissertation I read through dozens and dozens of the cameralist tomes. On cheerful days I have often wondered if that would have enabled me to pass one of the old Prussian administrative exams. Many of these texts appear very dull at first. But I believe that understanding what is repetitive, common ground among these authors is often as valuable as knowing what is unique and idiosyncratic. The footnotes reflect this thought, and I have often compiled long

lists of references to indicate and illustrate where cameralists firmly agreed with each other. I have also done so to make it easier for future researchers to dive into this material and find some of the more obscure texts (though what is obscure now and what was in the eighteenth century is quite a different matter).

In section 2 we will encounter a number of authors, poets, folklorists, statesmen, pastors, and military officials in a range of literary genres. I believe that a full account of German state modernization requires that we consult “genres” and modes of political engagement beyond canonical texts and official decrees. The battle over the shape of state/society interactions and social order was carried out on many fronts. The choice of venue, in many cases, is almost as telling as the raw “content” of the message. Indeed, politics and struggles over “political ideology” occur in many places. Political theory is much enriched when it is attentive to the myriad ways in which theoretical struggles occur and manifest themselves “on the ground” in ways that matter to a society.

My pragmatist understanding of political theory extends from my own work to how I approach other writers.<sup>8</sup> Political theory is done, I believe, to achieve things out there in the world. It is a political act. Equally important, political theory is hammered out in a wide range of forums, some of which are direly neglected by the discipline of political theory. There is no shortage, for example, of valuable discussions of *Antigone* the Sophoclean play, but little has been said about what people *do* with this material: how they rewrite, reinterpret, recontextualize, and appropriate the source material for their own ends. German writers, for example, have been busily producing dozens (perhaps hundreds) of *Antigone* adaptations. They have been using them, as does Dürrenmatt, as a site for their political

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<sup>8</sup> I am heavily influenced by, most obviously: Don Herzog, *Poisoning the Minds of the Lower Orders* (Princeton, N.J.: Princeton University Press, 1998).

arguments.<sup>9</sup> This dissertation looks to these productions to develop the metaphor of Creon's secretaries. It is a useful and strangely recurring motif that will help to illustrate and puzzle through the many currents of thought that are woven throughout this dissertation.

Political theory thrives in many places, some familiar, some wickedly strange. In this dissertation we will encounter both. We will see how the construction of a carp pond spawned one of the most important legal codifications in Germany history. We will meet the rotting corpse of an innocent royal bureaucrat left hanging in the town square for days, and other, living bureaucrats who buy, trade, and inherit their offices (they also pay taxes on these transactions). We will encounter the young man who falls in love with a woman who turns out to be a machine, the author who thinks that all women at the royal court and all judges are machines, and the physician who thinks the soul is a machine. We will see academics trying to empower the king by taking power away from him, and we will see some of them praised and others chased away or hanged. We will meet a Queen who did very little while she was alive but motivated wars long after she was dead. We will see Goethe struggling to bring Antigone to Weimar, and we will see theater and opera productions in which Antigone survives. We will see the career path of a dull and perhaps conservative bureaucrat who ushered in some of the most progressive and dramatic reforms in Germany's history. We will see a proud army nearly eradicated in a single day and a nation nearly destroyed. And we will see how history was changed by the careless entrusting of a single letter into the hands of a clumsy courier.

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<sup>9</sup> Hellmut Flashar, *Inszenierung Der Antike : Das Griechische Drama Auf Der Bühne Der Neuzeit, 1585-1990* (München: Verlag C.H. Beck, 1991).; George Steiner, *Antigones* (New Haven: Yale University Press, 1996).

At first sight some of these episodes may seem small and insignificant, but political theory lived and flourished in each and every one of them. However, to unlock the meaning of these historical moments we must situate them within a larger analytical framework. Here, I rely on the work of Habermas and Foucault. Both contribute essential insights into the historically contingent configuration of modern politics, the modern state, and the modern subject struggling with the state. Rather than reading Habermas and Foucault separately, I aim instead to read both research agendas in parallel. Doing so will throw into sharper relief some of the strengths and limitations of both approaches. The genealogy in this dissertation illuminates their insights, but might also help to explain certain blind spots in their theories. Habermas and Foucault are the two primary interlocutors of this dissertation. Many of its themes and arguments are built on their work; I am very much indebted to their analytical frameworks.

However, the focus of this dissertation is social order and bureaucracies, not exegesis on Foucault and Habermas. I do not seek to explicitly improve upon them; rather, I use their insights as tools to understand and analyze bureaucracies.

In the case of Foucault, I employ his analytical frameworks of governmentality, power, and resistance to capture the evolution and silent expansion of disciplinary administrative institutions. Foucault's account of governmentality will help to reveal how administrative power concretely begets resistance and shapes this resistance. As I suggest below, the modern, political, resisting actor is created in and through the performance of resisting administrative power. Attentiveness to the contours of this actor will also help us answer a question Foucault, oddly enough, does not directly address: why should we resist domination? Foucault makes it clear that this is an important and maybe necessary task, but

he provides no explicitly normative grounds to justify his stance. Where does the resisting being come from? Instead of injecting our own normative commitments into this question, I suggest we consider first how and why people actually resisted the administrative state.

As for Habermas, I am deeply indebted to his analytical framework springing from the distinction between facticity and normativity, as well as his attentiveness to the deliberative components of modern politics. However, Habermas's notion of speech, though seemingly very inclusive, proves too narrow for the kind of discourse people constructed in response to administrative domination. Faced with the immense power of the administrative state, many of the newly constituted political agents of Foucault's account resorted to novel forms of nonrational argumentation that Habermas tends to disregard in his normative and historical accounts. Their "arguments" against a primacy of facticity over normativity rely on such nonrational modes of discourse as horror, ridicule, prejudice, and passion. Broadening Habermas's analysis makes recognizable again innovative forms of resistance to administrative power that are now all too easily misunderstood or overlooked.

### **A Quick Aside on Translations**

A good number of the printed materials I consulted for this dissertation have never been translated into English. Some have been translated decades or centuries ago, but poorly. Still others have translators that imposed idiosyncratic interpretations on the source material. In all of these cases, I chose to translate the original material myself and to provide pertinent sections of the original in the footnotes (particularly important or

recognizable terms are often included in the main text in brackets). I hope this makes it easy and convenient for readers to check my translations. I am not a translator by training or profession, and I lay no claim to artful translations. However, I am a native German speaker, and I have spent far more time reading eighteenth- and nineteenth-century German than I care to remember. Throughout, I have tried to keep the translations as precise and to the point as I possibly could. Unfortunately (for native English speakers), eighteenth-century German tends towards long-winded, complex sentences that overflow with flowery language. The authors of many documents, especially the crown and some of the Romantics, seem to have been oblivious to grammatical rules and conventions. When appropriate, I tried to retain some of the flavor of the original source language, even when it came at the cost of readability.

One point where this is particularly noticeable is in the use of the passive voice. In the usage of the time, nobody would have stigmatized the use of the passive voice as poor grammar. Just as it privileged long sentences, eighteenth- and nineteenth-century German endorsed the passive voice. Partly this is a matter of style and conventions. However, it is also, and importantly, an expression of a metaphysical stance. For many of the authors we will encounter, much of the world is beyond control and influence. For them, the passive voice is the honest and obvious way to focus the reader's attention on the evident fact that things are done to people far more than people do things.

The passive voice, then, is an important signal that tells us much about the author's understanding of the workings of the state, society, and the universe. I am aware that many readers will tire of reading lengthy quotations or paraphrases in the passive voice.

However, it seemed disingenuous to transpose the original source material into the active voice.

## Chapter II.

### Inventing the Logic of the Administrative Sphere

Throughout the eighteenth century the German term “Herrschaft” underwent a significant transformation.<sup>10</sup> Originally the term connoted the dominion of a “Herr,” a mister, or master. However, the term became gradually depersonified in the course of the eighteenth century. From implying personal domination or lordship, it morphed to become increasingly attributed to abstract entities. It now referred to the control the state exerted over society, rather than the direct rule of the king. The king, however, remained very much in power. The linguistic development of the term “Herrschaft” indicates more than a mere shift in who held power: it speaks to the configuration of power itself. Sovereignty in this time period was recast in novel ways.

The three chapters of this section trace this development. They parse the moment, metaphorically speaking, when Creon’s secretaries displaced Creon from administrative matters. This is not a shift of power, but a displacement of the decision-making locus from the will of individuals towards procedures. Bureaucracies and the rise of the bureau figure prominently in this story. The word “bureaucracy” itself is revealing: the Greek suffix “cracy” denotes “power of,” while its prefix specifies who actually holds the power.

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<sup>10</sup> Robert M. Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848* (Princeton, N.J.: Princeton University Press, 1988), 10-11, 90-1.

Commonly, an individual or a group of individuals holds power: the demos holds power in a demo-crazy, the few in an aristo-crazy, the mob in an ochlo-crazy, the talented in a merito-crazy, the wealthy in a pluto-crazy, etc. But who holds power in a bureaucracy? Taking the previous analysis literally, we have to say that the bureau holds power. Power, it seems, is vested not in individuals but in the institution they inhabit. This is not an etymological flaw, but rather the encapsulation of an important insight. Institutionalized procedures, in a bureaucracy, replace individual impulse. Concomitantly, outcomes become judged by procedural standards instead of by ends. The *direct question* whether an outcome is proper, decent, just, or fair is replaced with the *indirect question* whether procedures were properly followed to reach the outcome.<sup>11</sup>

This displacement did not happen suddenly, accidentally, or in metaphysical isolation. Bureaucracies and a procedural understanding of the state came into being, conceptually and institutionally, through a serpentine, glacial, and historically contingent process. Chapters 1 and 2 of this section explore the content and crisis of “Herrschaft” in its original configuration. Under this model of social and political order, power is exercised and experienced in a direct and personal manner. It is in constant and direct dialogue with a population. This description is not allegorical. The Prussian kings prided themselves on

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<sup>11</sup> For the most commonly cited account of procedural justice in modern political theory see: John Rawls, *A Theory of Justice*, Rev. ed. (Cambridge, Mass.: Belknap Press of Harvard University Press, 1999), 73-78.; For an n-person version of Rawls’ cake dividing game see: John Allen Paulos, *A Mathematician Reads the Newspaper* (New York: BasicBooks, 1995).; For insightful and useful accounts of procedural justice from a legal perspective consider: B. L. Hay, "Procedural Justice-Ex Ante Vs. Ex Post," *UCLA Law Review* 44, no. 6 (1997).; R. G. Bone, "Agreeing to Fair Process: The Problem with Contractarian Theories of Procedural Fairness," *Boston University Law Review* 83 (2003).; Cass R. Sunstein, *Legal Reasoning and Political Conflict* (New York: Oxford University Press, 1996).; Patrick Johnston, "Civil Justice Reform: Juggling between Politics and Perfection," *Fordham Law Review*, no. 62 (1994).; Jon O. Newman, *Rethinking Fairness: Perspectives on the Litigation Process* (New York, N.Y.: Association of the Bar of the City of New York, 1984).; Richard A. Posner, *Economic Analysis of Law*, 4th ed., Law School Casebook Series (Boston: Little, Brown, 1992), 549.; Louis Kaplow, *The Value of Accuracy in Adjudication* (Cambridge, MA: Harvard Law School, 1993).; For a distinct but related theme see: Harvey C. Mansfield, "Hobbes and the Science of Indirect Government," *The American Political Science Review* 65, no. 1 (Mar., 1971).

their face-to-face contact with the population. Periodically they took grand tours of the country to acquaint themselves with local conditions, meet the provincial administrators, be seen, and interact with their subjects. People brought grievances and concerns literally to the feet of the kings, who listened and often rectified many perceived wrongs. This dialogue, though lopsided, contributed considerably to the legitimacy of the crown's rule. It increased the perception that the crown was approachable and in touch, ruled close to the ground, and was not aloof or foreign.

However, the crown grew increasingly dissatisfied with this model of governance. It was cumbersome, inefficient, slow, and prone to error. The crown began to look for new ways of structuring the relationship between itself, its administration, and the population. This search was driven by the strains of fierce international military competition, newly acquired but poorly integrated territories, and endless strife and inefficiency within the administration. Notable judicial scandals did the rest to push the crown to revise how it governed.

Chapter 1 of this section describes one of the most important judicial scandals in Prussian history. A key episode in the reshaping of "Herrschaft," this incident lastingly reconfigured the relationship between the crown, its administration, and society. Chapter 2 explores in greater detail the crown's dissatisfaction with its administrative services. The precise configuration of this dissatisfaction gave rise to and shaped the search for a new theory of the state. Chapter 3 explores the nascence and development of this new theory. It describes the maturation and deployment of a logic of administration that we have grown familiar with. Its main advocates are collectively known under the rubric of Cameralism. Conceived as a new science, cameralism developed and deployed a novel theory of the

state that radically reimagined its structure, function, and form. The state, under this model, developed new forms and rationalizations of power, new means of control, and new tools of knowledge. Cameralists adapted their understanding of social order accordingly. With new ways to govern came a new understanding of the (administrated) subject. The population was now understood as silent and outside of the legitimation process. Cameralists arrived at these innovations by way of their focus on the efficiency of means and the power of the state. Concerns with facticity, in Habermas's terminology, far outweighed concerns with normativity. The two spheres became increasingly isolated from each other. However, this did not mean, *pace* Foucault, that questions of legitimacy dropped out of the picture. Instead, the cameralists' understanding of the state and the social order entailed a radical recasting of legitimacy. Cameralists attempted to generate legitimacy *endogenously* within the administrative sphere, as the result of properly followed procedures. They aimed to replace the direct question with the indirect question. Legitimacy, under this model, was not dependent on the public. Cameralists instead tried to monopolize questions of legitimacy. The cameralists' notion of social order and "Herrschaft" marginalized the agency of the community that it sought to administer efficiently and quietly. This created a serious and fundamental backlash (explored in Section II). To understand this reaction to administrative power, we have to understand the precise configuration and development of "Herrschaft" from an intensely personal exercise of power to a procedural application of rules. That story begins with the construction of two carp ponds in the sleepy Prussian countryside.

## 1. “A Game of Arbitrariness”<sup>12</sup> - The case of the Müller Arnold

Christian and Rosine Arnold were rather ordinary Prussians in the closing years of Frederick the Great’s reign.<sup>13</sup> The Arnolds were commoners in charge of a modest mill in Brandenburg–Prussia that was powered by a small river. The mill was located on an estate belonging to a locally influential but financially struggling aristocratic family headed by Count Gottfried Heinrich Leopold von Schmettau. The Arnolds fully controlled mill operations, but did not outright own the mill or the river that drove it. Instead, their family operated the mill under a standard heritable leasehold [*Erbpacht*] that Christian Arnold had acquired from his father Hans in 1762. Christian Arnold had paid his father 300 Taler for the leasehold and the promise of support during Hans’s retirement. The original lease had been contracted in 1710 and specified that the mill’s operators owed its aristocratic owner a yearly payment of three Malter of grain as well as 10 Taler in cash.<sup>14</sup>

The small river that powered the Arnolds’ mill flowed first through the property of Count Georg Samuel Wilhelm von Gersdorf before reaching the property of Schmettau.

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<sup>12</sup> “Ein Spiel der Willkühr” (Johann Friedrich Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshülfe Und Finanzpflege Mit Der Ständeversammlung in Den Germanischen Ländern* (Kiel: Gedruckt bei C.F. Mohr, 1816), 7.)

<sup>13</sup> Throughout this chapter I rely heavily on the excellent accounts below. They contain most of the key elements of the case and are largely in agreement as to the facts. Where appropriate I will supply in the following paragraphs additional references. However, their numeral dominance should not obscure that the references in this footnote are the best place to begin investigating the Müller Arnold case. The best places to start are: Malte Diesselhorst, *Die Prozesse Des Müllers Arnold Und Das Eingreifen Friedrichs Des Grossen*, Göttinger Rechtswissenschaftliche Studien ; (Göttingen: O. Schwartz, 1984).; David Luebke, “Frederick the Great and the Celebrated Case of the Millers Arnold ” *Central European History* 32, no. 4 (1999).; Thomas Carlyle, *History of Friedrich II of Prussia, Called Frederick the Great*, 10 vols., vol. 6 (London: Chapman and Hall, 1870), 606-32.; Eberhard Schmidt, *Beiträge Zur Geschichte Des Preussischen Rechtsstaates* (Berlin: Duncker & Humblot, 1980).; As well as the appendix to: C. B. A. Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia* (London: Thames and Hudson, 1985).

<sup>14</sup> One Malter corresponds to 12 Scheffel that translates to a volume of roughly 600-700 liters. Notice however that “Malters” were used throughout many regions and times with widely varying definitions. For an account of the value of one Taler see: Dieter Sinn and Renate Sinn, *Der Alltag in Preussen* ([Frankfurt am Main]: Societäts-Verlag, 1991), 129-36.

Around 1770, Gersdorf began constructing two new carp ponds, mainly for his amusement. Once construction was completed, Gersdorf began to divert water from the river to the ponds. The Arnolds claimed that this diversion significantly reduced the water level of the river and rendered the mill inoperable (particularly during the dry but important summer months). As a result, in their view, they were rendered unable to pay their annual obligation to Schmettau. They suspended their annual lease payments, for which Schmettau sued them in court a couple of years later, in 1773. The first hearing of this lawsuit fell, as was customary at the time, in the local patrimonial court that was controlled by Schmettau himself. In the fall of 1773, one of Schmettau's deputies ruled against the Arnolds and ordered them to pay all back dues or risk expulsion from the mill.

From there, matters quickly turned ugly. The Arnolds resisted the judgment and refused to pay. The local court, in turn, sought to compel full payment by forcibly confiscating the Arnolds' milk cows. Additionally, Christian Arnold was imprisoned twice for short spells. In September of 1778, Schmettau finally instructed the patrimonial court to confiscate the mill and evict the Arnolds. Shortly thereafter, the court auctioned off the mill for 600 Taler to a third party, who immediately sold it to the carp pond-loving Gersdorf just up the stream. Gersdorf sold the mill two years later for 800 Taler.

The story could easily have ended at this point, as many like it did, but the Arnolds did not give up easily. The Arnolds' case quickly found its way to higher provincial courts, and eventually to the high court in Berlin [*Kammergericht*]. Each court affirmed the unfavorable judgment of the lower provincial court. Undeterred by their legal setbacks, the Arnolds sought to bypass the court system by petitioning King Frederick II directly. After numerous petitions, Christian Arnold obtained an audience with the king (in August 1779),

and Frederick ordered an immediate royal investigation of the Arnolds' complaint. The investigation comprised two members, one a royal appointee, the other a member of the provincial tribunal. Unable to find much common ground, they wrote, inconclusively, two separate memoranda, with different views and different recommendations. This venue exhausted without success, the Arnolds renewed their legal efforts and aimed their lawsuits no longer against Schmettau (their landlord), but against Gersdorf (the pond builder). The courts, on royal orders, heard the case in the fall of 1779. All local and provincial courts once again denied the Arnolds redress. In reply to yet another petition, the king ordered the case to be heard in the Kammergericht in Berlin. However, the Arnolds lost in the highest appellate forum as well, despite the obvious implied blessing of the king.

The king was furious. Shortly after the court announced its final judgment, Frederick II ordered the four judges of the Kammergericht to his palace. The king recounted the facts of the Miller Arnold case as he saw them, and when the highest-ranking judge (Fürst) tried to correct the king on his misunderstanding of the appellate system, the king barked, "Go you, Sir, about your business, on the instant! Your successor is appointed; with you I have nothing more to do. Disappear!"<sup>15</sup> Ransleben, one of the remaining judges present, said about this meeting merely that "The king [...] made use of very strong expressions against us and, at last, dismissed us..."<sup>16</sup> On a printable level, the king kept repeating that:

[Their] sentence is altogether contrary to his Majesty's fatherly intentions: – my name cruelly abused. [...] *My* name to such a thing! When was I found to oppress a poor man for love of a rich? To follow wiggeries and form with solemn attention,

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<sup>15</sup> Carlyle, *History of Friedrich II of Prussia, Called Frederick the Great*, 622.; "An Eighteenth Century Recall of Judges," *California Law Review* 3, no. 5 (Jul., 1915): 406-7.; Norwood Young, *The Life of Frederick the Great* (New York.; H. Holt and company, 1919), 364-7.

<sup>16</sup> As cited in: Carlyle, *History of Friedrich II of Prussia, Called Frederick the Great*, 623.

careless what became of the internal fact? [...] What is the meaning of your sitting there as Judges? Dispensers of Right in God's Name and mine? I will make an example of you that shall be remembered! – Out of my sight!<sup>17</sup>

In a statement published the next day and ordered to be printed in various newspapers, the crown reaffirmed this stance and announced that the courts, if “they do not carry out justice in a straightforward manner [...] shall have to answer to his Majesty.”<sup>18</sup> The king left little doubt about the extralegal, extraprocedural, and highly personalized nature of his understanding of justice. Even though he had appointed new justices, “his Majesty will not the less look sharply *with his own eyes* after the Law-proceedings in all the Provinces.”<sup>19</sup> The crown also warned judges throughout the realm against delivering judgments “so wicked and openly opposed to justice.”<sup>20</sup> There was little need for such explicit verbal threats. The fate of the four judges of the Kammergericht was threat enough. They were immediately put under guard and sent to the Spandau fortress. Another four judges of the provincial court, the provincial president, Schmettau's deputy in the patrimonial court, and Gersdorf were also all imprisoned for various periods of time. Frederick returned the mill to the Arnolds and compelled the various judges involved with the case to compensate the Arnolds for the costs incurred during their legal proceedings.<sup>21</sup>

The minister von Zedlitz was charged with administering these tasks—but he refused to countenance Frederick's decisions. The king, once again outraged, wrote back to him:

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<sup>17</sup> Ibid., 622-3.

<sup>18</sup> “... sollen sie es mit Seiner Königlichen Majestät zu thun kriegen...” (Ibid., 624.)

<sup>19</sup> Ibid. (My emphasis); “An Eighteenth Century Recall of Judges,” 407.

<sup>20</sup> Carlyle, *History of Friedrich II of Prussia, Called Frederick the Great*, 624-5.; See also: “An Eighteenth Century Recall of Judges,” 407.

<sup>21</sup> Walther Hubatsch, *Friedrich Der Grosse Und Die Preussische Verwaltung*, Studien Zur Geschichte Preussens ; ([Köln]: Grote, 1973), 218.; “An Eighteenth Century Recall of Judges,” 408.

Your Report of the 20th in regard to Judgment on the arrested Rathes has been received. But do you think I don't understand your Advocate fellows and their quirks; or how they can polish-up a bad cause, and by their hyperboles exaggerate or extenuate as they find fit? The Goose-quill class [Federzeug] can't look at facts. When Soldiers set to investigate anything, on an order given, they go the straight way to the kernel of the matter; upon which, plenty of objections from the Goose-quill people!<sup>22</sup>

Public opinion in Berlin, Prussia, and throughout Europe seems to have been divided on the merits of Frederick's decision. The prisoners in Spandau received sufficient traffic from the sympathetic aristocracy to prompt an Austrian emissary to scoff that "in other countries, everyone rushes off to [visit] newly installed ministers; here, I see, [one visits those] who have been dismissed in disgrace!"<sup>23</sup> However, further away the judges' troubles were perceived very differently. Empress Catherine the Great (the other "enlightened despot," with strong family ties to Prussia) sent to her Senate a copy of Friedrich's printed public announcement on the case, as a "noteworthy instance of royal supreme judicature."<sup>24</sup> Others celebrated Frederick as an enlightened despot whose judgment avoided all red tape and bias and cut to the source of the Arnolds' plight. Numerous paintings and etchings from the time illustrate and glamorize Frederick's reception of humble petitioners and his uncomplicated adjudication of conflicts in his realm.<sup>25</sup>

In fact, it is all too easy and tempting to see this case in sharply Manichaeian terms. All the elements of the stereotypical oppression of the common people in pre-

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<sup>22</sup> "An Eighteenth Century Recall of Judges," 409.; Franz Mehring, *Gesammelte Schriften Und Aufsätze in Einzelausgaben*, ed. Eduard Fuchs, 15 vols., vol. 5 ([Berlin,: Soziologische Verlagsanstalt, 1929), 449.; Young, *The Life of Frederick the Great*, 366.

<sup>23</sup> As cited in: Luebke, "Frederick the Great and the Celebrated Case of the Millers Arnold".

<sup>24</sup> Ibid.

<sup>25</sup> For another example of Frederick's aproceduralism see: Johann Daniel Richter, *Beyträge Zur Finanz-Gelahrheit Überhaupt, Vorzüglich in Den Preussischen Staaten*, 3 pts. in 1 vols. (Frankfurt ; Leipzig: 1785), 144.

Revolutionary feudal Europe were present: powerful and exploitative aristocrats bent on their own amusement, blind to the costs they impose on meek, hard-working commoners who are without voice or power, trapped in a system that puts them at the mercy of a corrupt judiciary, an unsympathetic bureaucracy, and a conception of justice that stacks the cards heavily against them.

However, such a reading is hard to sustain. The Arnolds lost their case properly, in accordance with the legal framework of the time *and* with just about any reasonable standard of fairness. Whatever their initial motivation to refuse their yearly lease payments, it was unconnected to diminished water supplies or nearby pond construction. Their entire case, as presented, is without merit. Three elements support this view. First, a sawmill, operating between the Arnolds' mill and the carp ponds, remained fully functional during the period that the Arnolds alleged an unworkable water supply. The sawmill did not complain about or even notice a diminished water supply in the river. Second, with the carp ponds firmly in place and the Arnolds' legal battles widely known, the mill was nevertheless twice bought by willing buyers who paid significant sums. The second owner of the mill was "Widow Poelchen," in all likelihood Christian Arnold's own sister. Third, there is simply next to no evidence that speaks in favor of the Arnolds' case. Despite ten years of legal disputes and royal support, very little could lead a detached observer to find in the Arnolds' favor.<sup>26</sup>

Frederick's interventions in the legal proceedings, then, suddenly appear in a different light, as arbitrary, amateurish, and potentially dangerous to the stability of his own country. However, similar actions by previous kings never received much attention, and are

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<sup>26</sup> This states the broad consensus amongst historians of the period (see for example: Young, *The Life of Frederick the Great*, 367).

now largely lost in the records of mundane day-to-day administration of the country. Two high-profile cases in the decades leading up to the Miller Arnold episode demonstrate that few people, if any, thought the king's direct involvement in legal affairs was illegitimate or harmful. In both cases, the allegedly illegal acts themselves were the scandal, not the procedures leading up to the sentencing.<sup>27</sup> In contrast, the Miller Arnold case was a scandal not for its outcome per se, but for the crown's arbitrary intervention into an established legal process. After all, millers, peasants, and the downtrodden won legal victories all the time (even in a system that stacked the cards against them).

Had the Arnolds won in the course of regular legal proceedings, few would have cared about their case, and their names would be lost to history. However, the royal dictum of power [Machtspruch] that ended the legal proceedings came at a time when Creon's secretaries were gaining in power and legitimacy.<sup>28</sup> What might have been ordinary and quotidian a few short decades earlier was now viewed by many as dangerous and distasteful. The Miller Arnold case was certainly not the first time, but it was probably the last time that a Prussian king intervened so palpably in a legal case over the objections of proper judges. Shortly after the death of Frederick the Great, the Miller Arnold case was overturned and finally laid to rest. All the judges were exonerated and compensated.<sup>29</sup>

Ever since, scholars and commentators have disagreed sharply about the details and the meaning of the case, but the mere fact that the king's actions were questioned signals a fundamental departure from the long-standing conception of justice that put the will of an individual at the heart of the judicial system. Frederick's periodic declarations that judges

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<sup>27</sup> For more on these cases (concern Görne and von Trenck) see: Hubatsch, *Friedrich Der Grosse Und Die Preussische Verwaltung*, 218.

<sup>28</sup> See Hubatsch also for an account of the increased assertment of royal officials in judicial proceedings (Ibid., 218-9.)

<sup>29</sup> Ibid., 218.

often are “worse than the greatest knaves the world contains, and deserve double punishment” were now regarded as unhelpful and detrimental to the worthy cause of creating an independent and vibrant judiciary system.<sup>30</sup> As one historian put it: “for justice Frederick had perpetuated a heavy injustice.”<sup>31</sup> This paradox raised weighty questions. Many people wondered whether Frederick had acted unjustly. They pondered where precisely Frederick’s thinking might have gone awry. Was adherence to procedures advantageous or detrimental to the king’s rule? In which hands should the administration of justice ultimately rest, Creon’s or his secretaries’? What would a system of justice under the rule of Creon’s secretaries look like?

Perhaps these issues were on Frederick’s mind in the wake of the Miller Arnold case. Or perhaps the more pressing issue was what to do with the hundreds of petitioners that had been arriving at the palace ever since the Arnolds’ case had been widely publicized (December 12, 1779).<sup>32</sup> An attendee at court described the scene thus:

I often crossed in the forenoon the Esplanade in front of the Palace at that side where the king's apartments were [...]. I remember that here, on that part of the Esplanade which was directly under Friedrich's windows, there stood constantly numbers of Peasants, not ten or twelve, but as many as a hundred at a time; all with petitions in their hands, which they were holding up towards the window shouting, “Please his Majesty to look at these; we have been still worse treated than the Arnolds!” And indeed, I have understood the Law Courts for some time after, found great difficulty to assert their authority - the parties against whom judgment went, taking refuge in the Arnold precedent, and appealing direct to the king.<sup>33</sup>

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<sup>30</sup> "An Eighteenth Century Recall of Judges," 407.

<sup>31</sup> G. R. R. Treasure, *The Making of Modern Europe, 1648-1780* (New York: Methuen, 1985), 456-7.

<sup>32</sup> For a helpful account of these events see Mehring, *Gesammelte Schriften Und Aufsätze in Einzelausgaben*, 449.; For comments on the same see: Young, *The Life of Frederick the Great*, 366.; Hubatsch, *Friedrich Der Grosse Und Die Preussische Verwaltung*, 219.

<sup>33</sup> "An Eighteenth Century Recall of Judges," 408-9.

The king had brought this upon himself. In his publications, he insisted repeatedly that he would look after legal proceedings “in all the provinces” with “his own eyes.”<sup>34</sup> Taken literally, this implied an endless amount of work that no individual could possibly master. Shortly after the Miller Arnold episode, still besieged by endless petitioners seeking redress, Frederick ordered (14. April 1780) Johann Heinrich Casimir von Cramer to author a new set of procedures for criminal and civil cases [Prozessordnung] and a new set of codified laws [Gesetzeskodifikation].<sup>35</sup> This was the first step in a process that led to the writing and eventual adoption of the “Zivilprozessordnung,” the “Allgemeines Landrecht für die Preussischen Staaten“ (ALR) and eventually the “Kriminalordnung.”<sup>36</sup> All three attempted to systematize and rationalize the administration of justice under the idea of, in the words of one historian, “gapless and non-contradictory structures of scientific . . . norms of justice.”<sup>37</sup> Seen in this context, it is understandable, if improbable, how an ad hoc exercise of will in the Miller Arnold case became the founding act of the most important legal codification in Germany in two hundred years.<sup>38</sup>

In Germany, the case of the Miller Arnold was a cause célèbre of comparable notoriety to the case of Jean Calas in France; and, just as in France, the king’s unhindered interference in the regular administration of justice (through *lettres de cachet* or the plain German “Machtspruch”) was increasingly questioned. To see why, upon what grounds, and how the legacies of this development remain with us, we have to turn to the political and

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<sup>34</sup> Carlyle, *History of Friedrich II of Prussia, Called Frederick the Great*, 624. (My emphasis); "An Eighteenth Century Recall of Judges," 407.

<sup>35</sup> Hubatsch, *Friedrich Der Grosse Und Die Preussische Verwaltung*, 219.

<sup>36</sup> For a helpful introduction to these documents and attending circumstances see: Ernst Rudolf Huber, *Deutsche Verfassungsgeschichte*, 4 vols., vol. 1 (Stuttgart: Kohlhammer Verlag, 1957), 105-7.

<sup>37</sup> “...lückenloses und widerspruchloses Gefüge wissenschaftlich durchdachter und aufgebauter Rechtsnormen.“ (Ibid., 106.)

<sup>38</sup> Roger Berkowitz, *The Gift of Science : Leibniz and the Modern Legal Tradition* (Cambridge, Mass.: Harvard University Press, 2005), 75-7.

conceptual struggles that surrounded the Miller Arnold case and the administration of justice in Prussia.

## ***2. Forging Creon's Secretaries: The Structural Transformation of the Public Bureaucracy***

The case of the Miller Arnold was not the first time that the crown had clashed sharply with its own administrative system. Prussia's administrative history is one of constant struggle, in which conceptual disagreements over effective and normatively desirable bureaucratic arrangements frequently take on shockingly physical manifestations. Constant admonitions and complaints about the failures of their administrative institutions gushed from the pens of Prussian kings. Frederick William I, for example, exclaimed angrily in shaken grammar that the administrators of his state "shall dance to my music or the devil shall take me; like the Czar, I let them hang and roast and treat them like rebels."<sup>39</sup>

This was not an empty threat. Frederick William I, constantly upset over the poor administration of his country, rarely blamed structural flaws, but readily found fault instead with token, allegedly culpable individuals. The fate of von Schlubuth, an ordinary

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<sup>39</sup> The translation loses much of its original flavor: "Sie sollen nach meine pfeiffe dance oder der Deuffel hohle mir, [...] ich lasse hengen und Brahten wie der Zahr und tratire sie wie Rebeller." (*Acta Borussica. Die Behördenorganisation Und Die Allgemeine Staatsverwaltung Preussens.*, ed. Otto Hintze and Gustav Schmoller, 16 vols., vol. 2, Acta Borussica. Denkmäler Der Preussischen Staatsverwaltung Im 18. Jahrhundert. (Berlin: Königlichen Akademie der Wissenschaften, 1894-1982), 130-31.). For more on Frederick William I's character and disposition concerning administrative reforms see: Rodney Gothelf, "Frederick William I and the Beginnings of Prussian Absolutism, 1713-1740," in *The Rise of Prussia : Rethinking Prussian History, 1700-1830*, ed. Philip Dwyer (New York: Longman, 2000), 48-9.

administrator in Königsberg, exemplifies the king's misguided wrath. Responsible for overseeing a number of building projects, Schlubuth had used his own funds to complete a building when official funds were unavailable or slow to arrive. He subsequently reimbursed himself for these expenses from the royal treasury. The king, hastily mistaking this for theft, ordered Schlubuth's execution even though no evidence for his guilt was found. Following the king's decree to the letter, Schlubuth was hanged not far from a busy square in Königsberg, across from the entrance to the main administrative offices. His corpse was left on display there for a few weeks, presumably as a warning to Schlubuth's colleagues.<sup>40</sup>

Similarly, the king hanged the administrator Hesse for keeping untidy records that showed a modest deficit. A later investigation showed that this had been due to carelessness and not malice. The king, unmoved, commented that every simple thief should be hanged.<sup>41</sup> Such thinking enjoyed a distinguished genealogy amongst Prussia's rulers. Frederick William I's grandfather had advised him curtly in his political testament, "The more civil servants, the more thieves," while Frederick William's son, Frederick II, remarked unsmilingly that one could always hang a hundred officials with a clear conscience, since finding even one honest man amongst them would be fortunate.<sup>42</sup>

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<sup>40</sup> *Acta Borussica. Die Behördenorganisation Und Die Allgemeine Staatsverwaltung Preussens.*, ed. Otto Hintze and Gustav Schmoller, 16 vols., vol. 5 - part 1, Acta Borussica. Denkmäler Der Preussischen Staatsverwaltung Im 18. Jahrhundert. (Berlin: Königlichen Akademie der Wissenschaften, 1894-1982), 261-62. See also "2 Briefe des Kriegsraths von Schlubhut an seine Frau kurz vor seinem Ende geschrieben." in *Preussischen Monatsschrift*, 2. Bd. 1. Stück (1789). S.251-257. For more on the crown's direct interference in the administration of justice see: Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 99-115.; See also: Hans Martin Sieg, *Staatsdienst, Staatsdenken Und Dienstgesinnung in Brandenburg-Preussen Im 18. Jahrhundert (1713-1806) : Studien Zum Verständnis Des Absolutismus* (Berlin: De Gruyter, 2003), 39-47.

<sup>41</sup> *A.B.B.*, 452-54.

<sup>42</sup> Cited in: Walter L. Dorn, "The Prussian Bureaucracy in the Eighteenth Century," *Political Science Quarterly* 46, no. 3 (Sep., 1931): 421.; For a standard introduction to Friedrich I see: Johann Gustav Droysen and Eberhard Straub, *Friedrich I., König Von Preussen*, 3. Aufl. / ed. (Berlin ; New York: De Gruyter, 2001).

Unsurprisingly, such acts did little to change the systemic flaws and weaknesses in Prussia's system of governance.<sup>43</sup> Absent the ability to differentiate between the office and the person holding the office, arbitrariness and amateurism crippled the Prussian administrations.<sup>44</sup> Instead of following regulations and maintaining a semblance of meritocracy, mutual expectations assured, instead, inefficient practices of excessive patronage and proprietary tenures. Before turning to a discussion of procedures and cameralism, I will first situate these administrative flaws in the context of changing social practices in the period surrounding the French Revolution. In this time span, administrative officers gradually matured from mere servants of the royal household to "royal servants" [königliche Bediente], and eventually into "servants of the state" [Staatsdiener, Civildienner] and "professional officials of the state" [Beamte des Staates].<sup>45</sup> This entailed the depersonalization and regulation of bureaucratic offices, as concerns with efficiency and effectiveness gradually overruled administrative practices that had long been integral to Prussia's social and political makeup.

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<sup>43</sup> For more on this theme see: Edgar Kiser and Joachim Schneider, "Bureaucracy and Efficiency: An Analysis of Taxation in Early Modern Prussia," *American Sociological Review* 59, no. 2 (Apr., 1994): 188.

<sup>44</sup> Most historians agree with this assessment. For representative examples see: Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 22.; Gothelf, "Frederick William I and the Beginnings of Prussian Absolutism, 1713-1740," 48.

<sup>45</sup> Historians frequently comment on this important transition. Unfortunately, most do so only in passing and I am unaware of a complete and detailed treatment of this subject matter. For an abundance of hints, suggestions, and partial statements see: Henry Jacoby, *Die Bürokratisierung Der Welt; Ein Beitrag Zur Problemgeschichte*, Soziologische Texte ; ([Neuwied]: Luchterhand, 1969), 23.; Hans Rosenberg, *Bureaucracy, Aristocracy, and Autocracy : The Prussian Experience, 1660-1815*, Harvard Historical Monographs ; 34 (Cambridge, Mas.: Harvard University Press, 1958), 191.; See also Sieg, *Staatsdienst, Staatsdenken Und Dienstgesinnung in Brandenburg-Preussen Im 18. Jahrhundert (1713-1806) : Studien Zum Verständnis Des Absolutismus*, 75-6, 80, 92, 100-02.; Otto Hintze and Gerhard Oestreich, *Regierung Und Verwaltung. Gesammelte Abhandlungen Zur Staats-, Rechts- Und Sozialgeschichte Preussens*, 2., durchgesehene Aufl. ed., 3 vols., vol. 3 (Göttingen.; Vandenhoeck u. Ruprecht, 1967), 204-54.; Walther Hubatsch, *Stein-Studien : Die Preussischen Reformen Des Reichsfreiherrn Karl Vom Stein Zwischen Revolution Und Restauration* (Köln: Grote, 1975), 98-9.; Hubert C. Johnson, "The Concept of Bureaucracy in Cameralism," *Political Science Quarterly* 79, no. 3 (Sep., 1964): 381-2.; For a comparative perspective consider: Stephen Skowronek, *Building a New American State : The Expansion of National Administrative Capacities, 1877-1920* (Cambridge [Cambridgeshire] ; New York: Cambridge University Press, 1982).; Fritz Morstein Marx, *The Administrative State; an Introduction to Bureaucracy* ([Chicago]: University of Chicago Press, 1957), 76-80.

The kings fought, at times desperately and mostly in vain, to turn their administrative organs into effective tools, no small priority for a beleaguered Prussia in a time of frequent warfare. A series of royal decrees throughout the eighteenth century (some in the handwritings of the kings) minutely specified official codes of behavior aimed at improving Prussia's administration.<sup>46</sup> All these codes sought to regularize the administration of the country, to render it effective and efficient, and to remove decisions increasingly from the arbitrary will of individuals and submit them to prescribed processes. However, much stood in the way of these attempts. The aristocratic norms that permeated the administrative organs of the state long impeded the rise of effective administrative practices.<sup>47</sup>

### **(i) Buying Positions**

Perhaps the most notable institutionalized hindrance to the rise of a capable bureaucracy was the practice of treating administrative positions as transferable property. The archives of the Prussian administration in the eighteenth century are filled with accounts of military, legal, and administrative positions for sale to the highest bidder.<sup>48</sup>

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<sup>46</sup> A.B.B., vol.III, 532-651, 681-714; A.B.B., vol.VII, 572-839; ABB, vol.V, part I, 464-65; A.B.B., vol.VI, part I, 260-269; A.B.B., vol.VI, part 2, 64-65, 278-286; A.B.B., vol.IX, 437-445; A.B.B., vol.XIV, 105-107.

<sup>47</sup> For one assessment in line with this position see: Robert M. Berdahl, "The Stande and the Origins of Conservatism in Prussia," *Eighteenth-Century Studies* 6, no. 3 (Spring, 1973): 300.

<sup>48</sup> See for example: A.B.B. - V. part 2, 836; A.B.B., IV, part I, 491-93.; V, part 2, 293, 796; VI, part I, 204-5, 208, 278, 439; VII, 47.; For comparative views on conditions in France, Bavaria, and Austria consider: Bernard S. Silberman, *Cages of Reason : The Rise of the Rational State in France, Japan, the United States, and Great Britain* (Chicago: University of Chicago Press, 1993), 95.; Jacoby, *Die Bürokratisierung Der Welt; Ein Beitrag Zur Problemgeschichte*, 41-2.; Walter Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen Staatsabsolutismus*, Enzyklopädie Deutscher Geschichte ; (München: Oldenbourg, 1993).;

Positions, in fact, were not only sold, but also lent, rented, inherited, given as compensation for received goods or damages, and taken in lieu of monetary payments. These practices made sense within their historical context. Administrative positions were traditionally attached to tracts of land, and the same rules and norms that governed the sale of lands attached to many administrative posts. The position of “Landrath,” for example, was in many regards like a piece of real estate, or a chicken.<sup>49</sup> A man owned the position of the local Landrath the same way generations of his family might own an acre outside of town.

As the influential historian Hans Rosenberg put it, “it was quite common to use the office as an object of trade, a transferable commodity, and a tool of acquisitive speculation.”<sup>50</sup> Few people thought of this as a form of corruption. Instead, it was a time-honored and established practice, one that interfaced easily with feudal norms and expectations that, in fact, condemned doing anything else.<sup>51</sup> The nobles that occupied or staffed the higher administrative ranks did not suddenly become detached bureaucrats once they entered the office, but remained who they had always been, just as if they had stepped onto a tract of their own land. Far from adhering to a procedural understanding of the state’s administration, treating administrative positions as property allowed and contributed to an understanding of the individual that hindered regularized decision procedures.

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Bernd Wunder, *Geschichte Der Bürokratie in Deutschland*, 1. Aufl., Erstausg. ed. (Frankfurt am Main: Suhrkamp, 1986), 21.

<sup>49</sup> A.B.B., IV, part 2, 472; V, part 2, 836-38.; For more on the position of “Landrath” see: Sinn and Sinn, *Der Alltag in Preussen*, 407-11.

<sup>50</sup> Rosenberg, *Bureaucracy, Aristocracy, and Autocracy: The Prussian Experience, 1660-1815*, 191.; I rely in this section very heavily on Rosenberg’s work. His work on this period and on these themes are rarely matched. His views are widely, but not universally, shared among historians. For more perspectives on the treatment of offices as property see: Sieg, *Staatsdienst, Staatsdenken Und Dienstgesinnung in Brandenburg-Preussen Im 18. Jahrhundert (1713-1806) : Studien Zum Verständnis Des Absolutismus*, 39.; Adolf M. Birke, Ilja Mieck, and Klaus Malettke, *Ämterkäuflichkeit : Aspekte Sozialer Mobilität Im Europäischen Vergleich (17. Und 18. Jahrhundert)* (Berlin: Colloquium Verlag, 1980).; Edgar Kiser and Joachim Schneider, "Rational Choice Versus Cultural Explanations of the Efficiency of the Prussian Tax System," *American Sociological Review* 60, no. 5 (Oct., 1995): 789.

<sup>51</sup> A.B.B. - V. part 2, 293.

The practice of purchasing offices, apart from being completely intelligible to inhabitants of the eighteenth-century Prussian social order, was also highly profitable. Treating positions as private property gave license to officeholders to exploit their quasi-official status. Predictably, the ingrained and seemingly inescapable fusion of public business and private enterprise led to the expectation that public service was a source of private income. Purchasers expected the land they bought to bear fruit and return their investment. They similarly expected that an administrative position, once purchased, would repay its owner in income, rent, power, and favors to be handed out to relatives and supporters.<sup>52</sup> More concerned with the pragmatic and monetary aspects of being a royal administrator than with any civil-service agenda, many within the Prussian administration paid little heed to their duties, and thus contributed to a languid administration.

For some time, the kings, while aware of the inefficiencies and dangers thus incurred, did little to change this system. The crown, after all, benefitted from transactions involving administrative positions (which were long taxable), and routinely regarded the income from the sale of offices as regular state revenue.<sup>53</sup> Given the profits from selling administrative assignments and promotions, the crown repeatedly found itself polemicizing against the excesses of practices it simultaneously sanctioned. For example, in May of 1729 the Landrat Otto Albrecht von Rohr auf Ganzer requested that the king install his son Kaspar Otto Christoph von Rohr (who was still in school at the time) in an administrative capacity. The king (Frederick William I) simply added to the permission, in handwriting, the required monetary compensation:

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<sup>52</sup> Rosenberg, *Bureaucracy, Aristocracy, and Autocracy: The Prussian Experience, 1660-1815*, 54, 79.

<sup>53</sup> Gothelf, "Frederick William I and the Beginnings of Prussian Absolutism, 1713-1740," 64-5.; Rosenberg, *Bureaucracy, Aristocracy, and Autocracy: The Prussian Experience, 1660-1815*, 77-8.; Ludwig Benjamin Martin Schmid, *Ausführliche Tabellen Über Die Policey, Handlungs- Und Finanzwissenschaft* (Mannheim: In der Schwanischen buchhandlung, 1785), 90.

“600 th. [Thaler]

FW.”<sup>54</sup>

There was of course not the slightest guarantee that the highest bidders for administrative positions were also the most qualified—or qualified at all. Consequently, the lack of qualified administrators was a constant anxiety for the crown. Even when technically qualified, the owners of positions had little interest in fully executing their duties, and often left their posts and responsibilities to poorly paid substitutes.<sup>55</sup> As critics lamented, people who had bought their positions tended “not to ask much about the common good, as long as their business does not suffer.” Holders of appointed posts, in contrast, are more likely to display “an understanding of the common good” and to “advance justice.”<sup>56</sup>

## **(ii) Inheriting Positions**

A further element that contributed to the crown’s justified worries was that administrative positions could not only be bought and sold, but also inherited.<sup>57</sup> As

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<sup>54</sup> A.B.B. - IV. part 2, 472.

<sup>55</sup> Rosenberg, *Bureaucracy, Aristocracy, and Autocracy: The Prussian Experience, 1660-1815*, 54.

<sup>56</sup> “Leute, die sich entweder in ein Amt kaufen, oder durch einen anderen Weg als durch Verdienste zu einer Obrigkeitlichen Würde gelangen können, fragen nicht viel darnach, wie es um das gemeine Wesen stehe, wenn nur ihre eigne Händel nicht leiden. Hingegen wird durch eine ordentliche Austeilung der Ehrenstellen die Gerechtigkeit befördert und das gemeine Wesen mit Leuten versehen, die es besser in Acht nehmen.“ (Johann Adolf Hoffmann, *Politische Anmerkungen Von Der Wahren Und Falschen Staatskunst Worinnen Aus Den Geschichten Aller Zeiten Bemerket Wird Was Den Regenten, Bürgern Und Einwohnern Eines Landes Zuträglich Oder Schädlich Ist*, 2. verb. und verm. Aufl. ed. (Hamburg: Bey sel. Felginers Wittwe und J.C. Bohn, 1740), 316.)

<sup>57</sup> Kiser and Schneider, "Rational Choice Versus Cultural Explanations of the Efficiency of the Prussian Tax System," 788.; Rosenberg, *Bureaucracy, Aristocracy, and Autocracy: The Prussian Experience, 1660-1815*, 54, 79.; Gustav von Schmoller, *Die Behördenorganisation Und Die Allgemeine Staatsverwaltung Preussens Im 18. Jahrhundert*, Acta Borussica (Berlin.; P. Parey, 1894), 131.; John A. Armstrong, "Old-Regime Administrative Elites: Prelude to Modernization in France, Prussia, and Russia," *International*

Rosenberg pointedly remarked, “it did not prove too difficult to hold on to one or several positions over generations or even centuries.”<sup>58</sup> Again, the crown found itself torn between pushing for greater efficiency in the administration and preserving long-standing norms that permeated the Prussian social order.

The Prussian kings repeatedly pleaded, almost begged, that no importance be given to family relations when hiring, recommending, or promoting administrators.<sup>59</sup> A royal cabinet order from 1746 reiterates the need to replace incompetent servants of the state that owe their position merely to family relations with “loyal, capable, experienced, as well as disinterested people.” The order stated:

[They should be capable to] deal with all affairs with the proper dexterity and energy, set all family . . . relations to one side, and have nothing but [the king’s] service and the welfare of the country in front of their eyes.<sup>60</sup>

Other cabinet orders plead that officials at least be chided “when they suggest brothers or brothers-in-law” for administrative positions.<sup>61</sup> The temptation to do just that was considerable. As one observer of administrative practices at the time remarked, whoever managed to take possession of an important office was “well taken care of, together with all his uncles and brothers-in-law, and the petty co-Junkers must worship the mister

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*Review of Administrative Sciences* 38 (1972): 24-6. Notice also the considerable disagreement and confusion within the literature whether specific offices could be inherited or only claims to a certain type of office.

<sup>58</sup> Rosenberg, *Bureaucracy, Aristocracy, and Autocracy: The Prussian Experience, 1660-1815*, 80.

<sup>59</sup> A.B.B., III, 575-80, V. part 2, 432, 537, 564; VII, 649.

<sup>60</sup> “...treue, geschickte, erfahrene, auch desinteressierte Leute“ [] “die alles mit der gehörigen Dexterite und Activite bearbeiten können, die alle Familien- und übrigen Confiderationes auf die Seite legen und die nichts als Meinen Dienst und die Wohlfahrt des Landes beständig vor Augen haben, und werde also Euren Bericht dergestalt erwarten.“ (A.B.B. - VII., 51)

<sup>61</sup> “...wann es auch ihre Brüder und Schwäger wären...” (A.B.B. - V. part 2, 537)

*Hauptmann* and the mister *Landrat* like a god.”<sup>62</sup> It must have been hard for officeholders to understand why and how they should separate the pressures of family relations from the (frequently well-paid) capacities of their royal office. Family relations might affect the judgments of officials, but they had few conceptual resources or social practices available to partition their identities into private will and public duty. Consequently, the king’s half-hearted pleas to set aside “all affections and alternative goals and to not let friendships or family relations” influence them were bound to fall on deaf ears.<sup>63</sup>

Nepotism thrived freely under these conditions and constituted the lifeblood of many venerated families.<sup>64</sup> Though ostensibly annoyed by the practice, the crown tolerated and frequently supported appointments and promotions based on family relations.<sup>65</sup> For example, Frederick William I had promoted Adam Otto von Vierech “in consideration of his father-in-law.” The king nevertheless quickly rediscovered the negative aspects of such decisions and angrily instructed Vierech that he should finally “show some merit and work more diligently, not play too much cards [...] and be vigilant in his work and not as slow and lazy as the devil like hitherto.”<sup>66</sup>

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<sup>62</sup> *Urkunden und Aktenstücke zur Geschichte des Kurfürsten Friedrich Wilhelm von Brandenburg*, XV (1894), 402 – cited in: Rosenberg, *Bureaucracy, Aristocracy, and Autocracy: The Prussian Experience, 1660-1815*, 53.

<sup>63</sup> “...wobei aber all Passiones und Nebenabsichten hintengesetzt und nicht auf Freud- oder Verwandtschaft, noch auch um etwa jemanden zu helfen, gesehen, sondern...” (A.B.B. - V. part 2, p.614: Anno 1738). For more on this point see: Hubatsch, *Friedrich Der Grosse Und Die Preussische Verwaltung*, 159-62.

<sup>64</sup> For a helpful account see: Rolf Straubel, *Beamte Und Personalpolitik Im Altpreussischen Staat: Soziale Rekrutierung, Karriereverläufe, Entscheidungsprozesse (1763/86-1806)*, 1. Aufl. ed., Bibliothek Der Brandenburgischen Und Preussischen Geschichte; Bd. 2 (Potsdam: Verlag für Berlin-Brandenburg, 1998), 156-62, 260.

<sup>65</sup> See for example: A.B.B. – VIII, 46.

<sup>66</sup> “...in consideration seines Schwiegervatters." Vierech should finally "sich meritiret machen und fleissiger arbeiten und nit zu vill Lumbre spiehlen [...] und vigilandt in seine arbeit sein und nit so langsam und wie der deuffel faull wie bisshero.“ (A.B.B. - III, 540)

In some cases, families developed quasi-hereditary monopolies over specific administrative organs. Consider the case of the renowned Ilgen family.<sup>67</sup> The patriarch, Rüdiger von Ilgen, used his considerable influence within the foreign office to establish numerous members of his family in lucrative careers. Under the thin cover of picking knowledgeable and capable individuals for open posts, he lobbied tirelessly on behalf of various family members.<sup>68</sup> Employing the usual slander of competitors and flattery of the king,<sup>69</sup> von Ilgen prepared the ground to recommend individuals “who are, as I can say before God, the most capable, that I could find in the world for these positions.”<sup>70</sup> Coincidentally, most were from his own family. Ilgen recommended his son-in-law as a minister, his nephew as chief councilor, and another nephew as councilor junior grade – all in the course of a single period of reorganization within Ilgen’s administrative department.

As Ilgen himself acknowledges in a letter to the king, he might have been able to install more relatives in their careers. However:

Three from one family, I thought, was enough of a blessing and that, if I had pulled more relatives into the affairs of the state, my enemies would only have been given occasion to accuse me that I try to take over the department . . . completely by filling it up with individuals that are my relatives. The dear God however has kindly prevented me from such schemes and hopefully will keep me from them.<sup>71</sup>

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<sup>67</sup> A.B.B. - IV., part 2, p.377-87. See also: Hintze and Oestreich, *Regierung Und Verwaltung. Gesammelte Abhandlungen Zur Staats-, Rechts- Und Sozialgeschichte Preussens*, 99-101.

<sup>68</sup> A.B.B. - IV., part 2, 380-1.

<sup>69</sup> A.B.B. - IV., part 2, 381-2.

<sup>70</sup> “...die, wie ich vor Gott sagen kann, wohl die geschicktesten sein, die ich zu ihrer Arbeit in der Welt auszufinden wüsste.“ (A.B.B. - IV., part 2, 383.)

<sup>71</sup> “...drei aus einer Familie, [...] employiret, so habe ich gemeint, dass solches vor uns Gnade gnug wäre und dass, wenn ich noch mehr von meinen Verwandten in solche Staatsaffären zöge, meine Feinde, [...] nur dadurch Gelegenheit nehmen würden, mich bei E.K.M. zu beschuldigen, dass ich dieses Departement des affaires etrangeres ganz an mich ziehen und solches mit lauter Leuten von meiner Verwandtschaft zu besetzen trachen wollte; vor welchen und andern dergleichen interessirten Absichten der liebe Gott mich aber bisher gnädiglich bewahret und die wenige Zeit, die ich annoch zu leben habe, hoffentlich auch ferner bewahren wird.“ (A.B.B. - IV., part 2, 386-7).

Ilgen skillfully walked the thin line between outright usurpation of royal prerogatives and cautious respect for dynastic politics. The king consented shortly afterwards to all of the suggested postings.<sup>72</sup>

Ilgen's case, far from unusual, is noteworthy for illustrating the considerable tensions entrenched in the Prussian administration throughout the eighteenth century. The kings, though at times pressing ferociously for more capable, diligent, and disinterested administrators, nevertheless allowed people like Ilgen to favor relatives over capable applicants. Ilgen, in turn, seemed to treat his office almost as a private resource from which to provide sinecures liberally to friends and relatives, but he also recognized that he was acting in a system of norms that increasingly prioritized public office over private possession. The administration continued, in the words of Hans Rosenberg, to be "on a limited scale an object of private ownership and a source of personal gain within the 'nationalized' domain of the Prussian state."<sup>73</sup> Rüdiger von Ilgen illustrates this point, since he readily accepted lavish presents for his own person while serving in high administrative positions. However, even more dubious (from a modern perspective) were Friedrich Wilhelm von Grumbkow's loyalties to the state: it was widely known that he received a salary from the Austrian crown while serving as a Prussian minister. But then again, even the kings themselves accepted significant gifts from politically motivated parties.<sup>74</sup>

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<sup>72</sup> A.B.B. - IV., part 2, 387

<sup>73</sup> Rosenberg, *Bureaucracy, Aristocracy, and Autocracy: The Prussian Experience, 1660-1815*, 79.

<sup>74</sup> For more on this practice see: Sieg, *Staatsdienst, Staatsdenken Und Dienstgesinnung in Brandenburg-Preussen Im 18. Jahrhundert (1713-1806) : Studien Zum Verständnis Des Absolutismus*, 34-6.; For more on gifts and official positions in general consider: Friedrich von Cölln, *Praktisches Handbuch Für Staats-Und Regierungsbeamte Besonders in Den Preussischen Staaten Nach Anleitung Adam Smiths Untersuchung Über Die Natur Des Nationalreichthums*, 2. Aufl. des Buchs neue Staatsweisheit. ed. (Berlin: G. Hann, 1816), 381-2.

Just as the notion of corruption played out differently than in our time, so did the concept of “merit.”<sup>75</sup> In the usage of the time, “merit” only partially overlapped with pure technical skill; rather, it entailed the whole person. Consider, for example, the following enumeration by Julius von Massow, the later Prussian minister of religious affairs (which included education at the time), who argued that it is not enough to merely consider “applicable knowledge or skills,” but that one should instead consider the “morality and virtue” of the, hopefully, “good human being” in his private life as well as within the administrative offices. Massow goes on to enumerate the desirable qualities of applicants for administrative posts: a practical Christian attitude; a proper self-presentation, with masculine clothing and manners; modesty; an open heart under the leadership of moral wisdom; prudential housekeeping; and the proper choice of company and entertainment.<sup>76</sup> Here, as elsewhere, the crown finds itself torn between two paradigms. Though seeking and desiring an administrative staff marked by pure technical merit and devoted to regularized procedures, the crown was beholden, in its own practices and ideology, to an understanding of the individual that is incompatible with a conception of merit as merely finding effective and efficient means for given ends. Corruption, similarly, means one thing when we understand administrative practices to be guided by Creon’s will, and quite another when we understand Creon’s secretaries to be bound by the procedures of a machine.

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<sup>75</sup> For useful discussions of the changing meaning of this concept see for example: Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen Staatsabsolutismus*, 78-80.; Armstrong, "Old-Regime Administrative Elites: Prelude to Modernization in France, Prussia, and Russia," 25-31.; Johann Heinrich Gottlob von Justi, *Deutsche Memoires, Oder, Sammlung Verschiedener Anmerkungen Die Staatsklugheit, Das Kriegswesen, Die Justiz, Morale, Oeconomie, Commercium, Cammer- Und Polizen- Auch Andere Merkwürdige Sachen Betreffend, Welche Im Menschlichen Leben Vorkommen*, Anjetzo bey dieser 3. Aufl. allenthalben verbessert, mit Anmerkungen versehen, und von unzähligen Fehlern in der Schreibart gereinigt. ed., 3 vols., vol. 1 (Wienn: Verlegts Joh. Paul Krausz, 1761), 118-22.

<sup>76</sup> Eberhard Julius Wilhelm Ernst von Massow. “Ueber die Bildung der Referendarien bei den Königl. Preuss. Justiz-Collegiis, insbesondere der Pommerschen Regierung.“ In: *Annalen der Gesetzgebung und Rechtsgelehrsamkeit in den preussischen Staaten*, 3 (1789), p.339-359.

The crown, in its efforts to secure a more capable and regular administration of its domain, was therefore conflicted and hypocritical in its aims. The king himself viewed the state as his own property, and he would hardly have consented to let merit or procedure be the decisive factor in filling his own administrative position or evaluating his decisions.<sup>77</sup> As such, it might not be surprising that many Prussian kings vacillated between, on the one hand, staffing administrative offices according to merit, and, on the other hand, allowing genealogy to guide these decisions. Frederick II, for example, urged high administrative officials to recommend for open positions primarily the relatives of established families, because of their alleged inbred qualities and natural fitness:

[The higher and lower administrative offices] shall be filled with such subjects, that received a good education and sentiments from their honorable position, and who have been raised, as much as that is possible, from a young age to the position where they want to be employed. [...]. To that end his royal majesty declares that, when sons of [ministers] can be found that have by nature the appropriate talents and abilities, they shall be employed [in the same positions] as their fathers.<sup>78</sup>

When the crown finally introduced examinations towards the end of the eighteenth century that supposedly set standards of merit for administrative posts and removed the

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<sup>77</sup> Consider the position of Raack, one of the eminent historians of the era: “He [the king] wanted to create a state in which no one would have any special class or privilege – except himself, divinely anointed.” (R. C. Raack, *The Fall of Stein* (Cambridge, Mass.: Harvard University Press, 1965), 169.; For similar views see: Sieg, *Staatsdienst, Staatsdenken Und Dienstgesinnung in Brandenburg-Preussen Im 18. Jahrhundert (1713-1806) : Studien Zum Verständnis Des Absolutismus*, 100-6.; Bruno Preisendörfer, *Staatsbildung Als Königskunst : Ästhetik Und Herrschaft Im Preussischen Absolutismus* (Berlin: Akademie Verlag, 2000), 28-9.

<sup>78</sup> “Dero Collegia, wie auch Kanzleien mit solchen Subjectis besetzt wissen wollen, die eine gute Education und Sentiments von Ehre und Honnetete bekommen haben, und die, so viel es möglich ist, zu den Stellen, wozu sie employret werden sollen, gleichsam von Jugend auf zugezogen und angeführet worden sind. [...] Zu welchem Ende dann E.K.M. [Eure Königliche Majestät] declariren, dass, wenn Söhne von Kriegs- und Domänenrätthen oder aber von Regierungsrätthen und dergleichen mehr sich finden, die von Natur die gehörige Talents und Fähigkeit haben, dergleichen Bedienungen, als ihre Väter haben, einmal wiederum bekleiden zu können...” (A.B.B., VII, 168-170).

appointment process from raw will, the exams were only vaguely competitive and often not required.<sup>79</sup>

Given these tensions and conflicting practices, it is not surprising that the Prussian administration, contrary to its time-honored reputation, was terribly inefficient.<sup>80</sup> Various reports submitted to the kings complain that “meticulous work ceased to be fashionable” and that administrative offices were packed with people who lacked the skills and motivation to get the job done.<sup>81</sup> Many of the Prussian kings recognized these persistent problems but were either unable or unwilling to address their structural, deeply institutionalized roots.<sup>82</sup> The undifferentiated understanding of the individual undergirded the nepotistic and proprietary elements of the administration that led to negligent, unprofessional, and irregular management of the affairs of the state. A hallmark of such management was the lack of known and obeyed rules and regulations.

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<sup>79</sup> For a contemporary view of such examinations consider: Wilhelm von Humboldt, "Gutachten Über Die Organisation Der Ober-Examinations-Kommission," in *Stimmen Aus Der Zeit Der Erniedrigung*, ed. Rudolf Vaupel (München: Drei Masken, 1923), 109-10.

<sup>80</sup> For a range of approaches and conclusions to this highly contested theme see: Gustav von Schmoller, *Umriss Und Untersuchungen Zur Verfassungs-, Verwaltungs- Und Wirtschaftsgeschichte Besonders Des Preussischen Staates Im 17. Und 18. Jahrhundert* (Leipzig: Duncker & Humblot, 1898).; Dorn, "The Prussian Bureaucracy in the Eighteenth Century."; Edgar Kiser and Joachim Schneider, "Bureaucracy and Efficiency: An Analysis of Taxation in Early Modern Prussia," *American Sociological Review* 59, no. 2 (1994).; Philip S. Gorski, "The Protestant Ethic and the Spirit of Bureaucracy," *American Sociological Review* 60, no. 5 (Oct., 1995).; Kiser and Schneider, "Rational Choice Versus Cultural Explanations of the Efficiency of the Prussian Tax System."; Christopher Clark, "Piety, Politics and Society: Pietism in Eighteenth-Century Prussia," in *The Rise of Prussia : Rethinking Prussian History, 1700-1830*, ed. Philip Dwyer (New York: Longman, 2000).

<sup>81</sup> A.B.B. - XIV, 333; XV, 243, 260

<sup>82</sup> A range of historians arrive at the same conclusion though it is difficult to find one definitive source of authority on the subject. See for example: Otto Büsch, Wolfgang Neugebauer, and Historische Kommission zu Berlin., *Handbuch Der Preussischen Geschichte* (Berlin ; New York: W. de Gruyter, 1992), 19-20.; Philip G. Dwyer, *The Rise of Prussia : Rethinking Prussian History, 1700-1830* (New York: Longman, 2000), 22-4.; H.M. Scott, "1763-1786: The Second Reign of Frederick the Great?," in *The Rise of Prussia : Rethinking Prussian History, 1700-1830*, ed. Philip Dwyer (New York: Longman, 2000), 197-200.

### (iii) Payments

Struggles over this conflicted conceptualization of administrative order occurred at every level. As we have seen, the kings wavered; through decrees and bloodier means, they acted now on the side of pushing for more efficient administrative institutions, now on the side of preserving the status quo. Many privileged administrative officials, for their part, fought for their own understanding of proper administrative institutions with the weapons of the (relatively) weak.<sup>83</sup> As Rosenberg remarked, they frequently obscured and bent the crown's will through "cunning subterfuges, outright deception, and willful sabotage," as well by as withholding information, thus allowing for policy drift, outright paralysis, and obstruction.<sup>84</sup>

Another struggle, equally telling, occurred not between the crown and administrators, but on a daily basis *within* administrative chambers over seemingly mundane trivialities. Ambiguity about the proper order of signatures affixed to official documents, for instance, gave rise to endless skirmishes at seemingly every level of the administrative hierarchy. Reports from regional administrative offices frequently requested that the crown intervene in disputes over the order of signatures on official documents. Should the order be determined purely by aristocratic rank? Service rank? Productivity? Or seniority in the crown's service? Or perhaps seniority only within a particular branch of the

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<sup>83</sup> For more on this theme see: E. P. Thompson, "Patrician Society, Plebeian Culture," *Journal of Social History* 7, no. 4 (Summer, 1974). For the origins of this term in a foreign setting and applications in very different contexts see: James C. Scott, *Weapons of the Weak : Everyday Forms of Peasant Resistance* (New Haven: Yale University Press, 1985).; James C. Scott, *Domination and the Arts of Resistance : Hidden Transcripts* (New Haven: Yale University Press, 1990). I apply Scott's insights only reluctantly in this context but it is important to recognize that 1) administrators frequently opposed the crown, and 2) they employed methods that most readers will be familiar with from very different contexts.

<sup>84</sup> Various historians remark on the (perhaps strange) lack of a clear standard. See for example: Rosenberg, *Bureaucracy, Aristocracy, and Autocracy : The Prussian Experience, 1660-1815*, 193.; Jacoby, *Die Bürokratisierung Der Welt; Ein Beitrag Zur Problemgeschichte*, 56-7.

administration? Should other appointments in the administration or the military count additionally?<sup>85</sup> Again and again, individuals in the administrative branches battled fiercely over these issues. For example, von Danckelmann, having just bought his new administrative position, was not content to accept a lower rank than von Korff and Freiherr von Wartensleben, who had more seniority within the administration but held inferior aristocratic ranks. Befitting von Danckelmann's noble rank, he tended to ask rashly for duels to solve the dispute at hand.<sup>86</sup>

The crown and higher administrative elements frequently attempted to restore peace in these situations through ad hoc decisions. Though loudly complaining about the damaging effects of such "quarrels and disputes," they did little to settle definitively the underlying issues plaguing the administrative state.<sup>87</sup> Characteristically, the crown wavered on what principle to apply, to whom, and whether to follow rules in all cases and provinces or allow for case-by-case decisions. At times, the crown seemed to favor (loosely) the principle of seniority as the decisive factor in these questions, independent of a person's estate, in an effort to "avoid all unnecessary disputes over rank."<sup>88</sup> At other times, the crown preferred other principles, or ambiguous combinations of principles.<sup>89</sup>

The confrontation between von Oftau and von Ziegenhorn exemplifies many of these issues. Von Ziegenhorn demanded the "preference" for himself when signing official documents. Von Oftau objected since he had been longer in the crown's service, while von Ziegenhorn argued that he technically qualified for a higher rank and also held another

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<sup>85</sup> See for example A.B.B. – VII, 699, where an administrator's "capacite" seems to trump other considerations, such as seniority or age. See also: Straubel, *Beamte Und Personalpolitik Im Altpreussischen Staat : Soziale Rekrutierung, Karriereverläufe, Entscheidungsprozesse (1763/86-1806)*, 253-54.

<sup>86</sup> A.B.B. - V, part 1, 132-4

<sup>87</sup> A.B.B. - III, 625

<sup>88</sup> A.B.B. - II, 387

<sup>89</sup> A.B.B. - I, 702; A.B.B. - XIII, 606

office (in another administrative branch) of a higher rank. Both wrote numerous angry letters to the General-Directorium (the central administrative committee). Many of these letters lacked “dignified argumentation,” but all were filled with immense legal technicalities concerning murky jurisdictional claims that are nearly incomprehensible nowadays.<sup>90</sup> The crown eventually responded by ordering that in most instances, the person who should sign official documents first was the one who had received the papers for his administrative post first *and* the one that was older.<sup>91</sup> The crown did not clarify what to do when these two principles (seniority and age) were in conflict. Perhaps the central administrative organs (General-Directorium) were of little help in settling these questions because they themselves were riddled with the very same seemingly pointless struggles.<sup>92</sup>

Similar battles were fought on many fronts. People clashed not only over the order of signatures, but also over office-space allocation and the privilege of opening official meetings. In one extreme case, the principality of Hessen sought to regulate the order of admission to Holy Communion. Worried about quarrels over precedence, the ordinance in Hessen attempted to specify proximity to the altar with respect to status and rank.<sup>93</sup>

Such skirmishes could easily be described as mere symbolic confrontations. However, the effort and energy expended over them indicates that for the people involved, something important was at stake in such a simple question as whose signature should appear higher or lower on official correspondence. After all, administrative positions and regalia were, in the words of Rosenberg, important “conspicuous symbols of high social

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<sup>90</sup> A.B.B. - XIII, 709-11

<sup>91</sup> A.B.B. - XIII, 606.

<sup>92</sup> A.B.B. - III, 726-8; A.B.B. - IV., part 2, 374-6

<sup>93</sup> As cited in: Marc Raeff, "The Well-Ordered Police State and the Development of Modernity in Seventeenth- and Eighteenth-Century Europe: An Attempt at a Comparative Approach," *The American Historical Review* 80, no. 5 (Dec., 1975): 1231.

standing.”<sup>94</sup> The markers of social precedence involved in these struggles translated beyond the narrow realm of the office and are, here as elsewhere, deeply intertwined with the structural transformation of the bureaucracy in Prussia. A system once decisively marked by the arbitrary and unaccountable acts of individual wills was increasingly challenged by calls for procedures that would regularize administrative practices.

These struggles reveal a resistance to procedural decision making and a tendency to revert to ad hoc decisions. At stake was not the order of signatures per se, but the nature of decisions within the administrative services. Would the administrators be a collection of individuals guided by their own wills, or would they be regimented, standardized, regularized cogs in the emerging bureaucratic machine? Many administrators balked at this possibility, which would divest them of previously accrued benefits and status. One writer, in a letter about (what else?) the order of signatures, thought of this regularization as “nothing less than the prostitution of the government in society.”<sup>95</sup>

An equally important struggle that addressed the same concerns went on over the compensation for royal administrators. Not only was there a massive income gap between low- and midlevel administrators (mostly commoners) and high-level administrators (mostly nobles), but even within the same rank non-nobles were at a severe disadvantage.<sup>96</sup>

Nobles were not only paid more, but also promoted earlier and higher even when they were

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<sup>94</sup> Rosenberg, *Bureaucracy, Aristocracy, and Autocracy: The Prussian Experience, 1660-1815*, 74.; For more on the use and transfer of various forms of capital consider: Pierre Bourdieu, "Forms of Capital," in *Handbook of Theory and Research for the Sociology of Education*, ed. John G. Richardson (New York: Greenwood Press, 1986), 245.; Pierre Bourdieu, "Ökonomisches Kapital, Kulturelles Kapital, Soziales Kapital," in *Soziale Ungleichheiten*, ed. Reinhard Kreckel (Otto Schartz & Co, 1983), 183-98.; For a modern variation on this theme consider the attempted sale of the American tobacco and food giant RJR Nabisco in 1988. A multi-billion bid for RJR collapsed when two investment banking firms were unable to agree on which firm's name would appear on the left-hand side of the *Wall Street Journal* ad announcing the financing of the transaction (and signaling which of the two banks was the "lead bank" in the deal).

<sup>95</sup> A.B.B. - IV., part 1, 557-9

<sup>96</sup> A.B.B. - VIII. 190-223. For more on this theme see: Wunder, Bernd. *Geschichte der Bürokratie in Deutschland*. Frankfurt am Main: Suhrkamp, 1986. 50-2

less capable than their non-noble peers. Consider the case of August von Boden and Ernst Gottlieb Cautius. Both served in the same administrative chamber, where Cautius held seniority. Von Boden's superior described him thus:

He is precisely as Your Majesty has characterized him to me and as the former president, too, has described him, namely, completely unfit and unable to do any good, but excelling in malevolence, arrogance, and sinister plotting. His absence, therefore, is always of greater usefulness to the department than his presence.<sup>97</sup>

Cautius's superiors, in contrast, praised him frequently for his diligence and hard work.<sup>98</sup> Nonetheless, Cautius earned considerably less than von Boden. The explanation is easy to find: Cautius outdid von Boden in seniority, age, administrative rank, and competence – but not in aristocratic rank.

It is tempting to read this case as exemplifying the increasingly heated opposition between nobles and non-nobles in the years surrounding the French Revolution.<sup>99</sup> Clearly, such an analysis has merit, but it fails to consider the underlying conceptual tools employed in various struggles within the administration, for example over signatures. In thought and deed, the Prussian kings supported practices that favored the ad hoc decisions of individuals over rationalized procedures.<sup>100</sup> In doing so, they built assumptions into their administrative structure that were sharply at odds with simultaneously attempted reform proposals. The crown aimed at increasing the efficiency of the administration *while* supporting practices that undermined its efficiency to the core. The proper analytical categories are, consequently, bureaucratic reformers versus administrative conservatives,

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<sup>97</sup> A.B.B. - IX, 718-19; X, 154-6.

<sup>98</sup> A.B.B. - IX, 718-725

<sup>99</sup> See for example the semi-anonymous article by "K" on this topic: K, "Ueber Den Werth Und Die Grenzen Des Adels," *Deutsche Monatsschrift* 3 (1791).

<sup>100</sup> For a range of examples see: Wunder, *Geschichte Der Bürokratie in Deutschland*, 18.; Consider also: Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 16-7.).

not simply nobles versus commoners or the crown versus complacent aristocrats.<sup>101</sup> While many nobles saw their immediate benefit in preserving the status quo, many others did not. Numerous nobles joined the ranks of non-noble reformers and advocated for regularizing administrative practices under the newly constituted role of the bureaucrat.<sup>102</sup> Importantly, such a program did *not* entail the eradication of the nobility.<sup>103</sup> Many nobles felt nevertheless that such a redefinition of proper administrative procedures was threatening and insulting. They were reluctant to become Creon's secretaries within a newly constituted administrative machine.

#### **(iv) Establishing the Science of Cameralism**

In 1727 King Frederick William I created the first professorships in cameral science [Kammeralwissenschaften] at the universities of Hall and Frankfurt to address the various shortcomings in the administrative branches of his state.<sup>104</sup> Before the end of the eighteenth century, at least thirty-six universities had chairs for cameral science professors, extensive

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<sup>101</sup> This categorization is shared by a range of commentators. See for example: Paul Nolte, *Staatsbildung Als Gesellschaftsreform : Politische Reformen in Preussen Und Den Süddeutschen Staaten, 1800-1820* (Frankfurt ; New York: Campus, 1990), 26.; Rosenberg, *Bureaucracy, Aristocracy, and Autocracy : The Prussian Experience, 1660-1815*, 175-202.; Walter M. Simon, "Variations in Nationalism During the Great Reform Period in Prussia," *The American Historical Review* 59, no. 2 (Jan., 1954): 306.

<sup>102</sup> For examples see: David Spring, *European Landed Elites in the Nineteenth Century* (Baltimore: Johns Hopkins University Press, 1977), 49.

<sup>103</sup> As historians make clear, there is simply very little evidence that would support an opposing view: Wunder, *Geschichte Der Bürokratie in Deutschland*, 23. Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 19.

<sup>104</sup> See the introduction to: Johann Christian Förster, *Versuch Einer Einleitung in Die Cameral- Policy- Und Finanzwissenschaften* (Halle im Magdeburgischen: Bey Carl Christian Kümmel, 1771).; Keith Tribe, "Cameralism and the Science of Government," *The Journal of Modern History* 56, no. 2 (Jun., 1984): 263.; Mack Walker, "Rights and Functions: The Social Categories of Eighteenth-Century German Jurists and Cameralists," *The Journal of Modern History* 50, no. 2 (Jun., 1978): 236.

courses of study, and an endless supply of textbooks for aspiring administrators.<sup>105</sup> According to one count from 1805, roughly as many students were enrolled at Prussian universities in cameralism as in medicine.<sup>106</sup> Cameralism flourished as the primary introduction to administrative sciences for multiple generations of German administrators at all levels. Though diverse in some respects (such as pedagogical approach), the field of cameralism shows an astonishingly stable core. Its disciplinary conventions, enforced by the need to curry the crown's favor and produce a steady stream of reliable administrators, exhibit significant homogeneity across time and space.<sup>107</sup> As such, the writings of cameralists are an important, useful, and consistent window into the principles and practices that guided German administrators throughout the eighteenth and early nineteenth centuries.<sup>108</sup>

Mention of the German bureaucracy usually invokes visions of aristocratic privilege, exclusion, and ultimately, slavish submission to the Nazi regime. This legacy appears utterly damning. However, the cameralists of the 1700s and early 1800s surprise: they are one of the leading forces for dismantling guild privileges, abolishing torture, broadening the participation of the lower classes, increasing freedom of speech, and

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<sup>105</sup> For a quick introduction to this understudied topic see: Geraint Parry, "Enlightened Government and Its Critics in Eighteenth-Century Germany," *The Historical Journal* 6, no. 2 (1963): 180-1.

<sup>106</sup> Friedrich von Cölln, "Welche Veränderungen Sind in Der Preussischen Staatsverfassung Und Verwaltung Nothwendig?," in *Neue Feuerbrände* (Amsterdam ; Cölln: P. Hammer, 1807), 33.

<sup>107</sup> For similar conclusions see: Richard Olson, *The Emergence of the Social Sciences, 1642-1792*, Twayne's Studies in Intellectual and Cultural History ; (New York: Twayne Publishers, 1993), 134-7.; David F. Lindenfeld, *The Practical Imagination : The German Sciences of State in the Nineteenth Century* (Chicago: University of Chicago Press, 1997), 6.

<sup>108</sup> C. J. Friedrich, "The Continental Tradition of Training Administrators in Law and Jurisprudence," *The Journal of Modern History* 11, no. 2 (Jun., 1939).

relaxing deeply embedded social boundaries that blocked the emancipation of peasants, religious minorities, and women.<sup>109</sup>

This should not blind us, however, to the simple fact that cameralists were not revolutionaries. They remained, in their writings and in their practice, deeply indebted to the absolutist state. The story on these pages is not a drama of opposing sides in a struggle between titans. It is not about brave reformers who rang in modernity with appeals to human dignity and political equality. It is about an array of simple bureaucrats and their teachers who responded to the problems highlighted by the Miller Arnold case and to the crown's dissatisfaction with its administrative services by developing a new theory of the state: its function, structure, purpose, and relation to society. In doing so, they prototyped a new understanding of the (docile) subject and of an efficiently administrated social order. Their account of the state hinged on a procedural theory of analyzing and administrating justice.

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<sup>109</sup> Examples can be found in almost every cameralist text. For notable examples from a range of influential authors throughout the cameralist period see: Joseph von Sonnenfels, *Grundsätze Der Polizey, Handlung, Und Finanz*, 5., verm. und verb. Aufl. ed., 3 vols. (Wien: Bei Joseph Edlen von Kurzbek, 1786), 242-3.; Sonnenfels, *Grundsätze Der Polizey, Handlung, Und Finanz*, 234-9.; Joseph von Sonnenfels, *Gesammelte Schriften (Vol. 7)*, 10 vols. (Wien: Mit von Baumeisterischen Schriften, 1783).; Johann Heinrich Gottlob von Justi, *Deutsche Memoires, Oder, Sammlung Verschiedener Anmerkungen Die Staatsklugheit, Das Kriegswesen, Die Justiz, Morale, Oeconomie, Commercium, Cammer- Und Polizen- Auch Andere Merkwürdige Sachen Betreffend, Welche Im Menschlichen Leben Vorkommen*, Anjetzo bey dieser 3. Aufl. allenthalben verbessert, mit Anmerkungen versehen, und von unzähligen Fehlern in der Schreibart gereiniget. ed., 3 vols., vol. 2 (Wienn: Verlegts Joh. Paul Krausz, 1761), 154-55.; Friedrich von Cölln, "Über Die Bürgerliche Verbesserung Der Juden, Besonders in Den Preussischen Staaten," in *Neue Feuerbrände* (Amsterdam ; Cölln: P. Hammer, 1807).; Johann Heinrich Gottlob von Justi, *Abhandlung Von Der Macht Glückseligkeit Und Credit Eines Staats* (Ulm Frankfurt und Leipzig: Bey Johann Friederich Baum, 1760), 33-40.

### 3. Cameralism

Cameralism was a movement driven and supported by the crown, which saw it as a means to increase the overall efficiency of the state and to uproot or ameliorate some of the deeply ingrained flaws that we encountered in the last chapter. However, this attempt had an unexpected result. The cameralists, staying true to their mission, reconceptualized the administration of justice by removing it from Creon's clumsy and limited grasp, and handing it instead to Creon's secretaries. Cameralism, in the words of one historian, "was intended to further and improve the intensively personal and direct rule of German princes, and led, instead, to impersonal, bureaucratic practices."<sup>110</sup> This constitutes the puzzle and enduring legacy of cameralism

Cynics might think of the cameralists' agenda as a thinly veiled power grab. After all, many of the individuals who furnished the conceptual machinery of the cameralist movement were also active in numerous administrative organs. However, such a view obscures the significant lessons of this episode. Cameralists, while depersonifying justice and adhering to a procedural understanding of the state's administration, remained unwaveringly indebted to the sovereign's supremacy. I can find no hint in the cameralist literature that suggests a desire to dethrone the crown or to deprive it of substantial power. Instead, cameralists are driven, from beginning to end, by a sincere desire to *strengthen* the sovereign's rule. The conceptual struggle described in these pages is, then, an effort to reimagine the administration of the state in such a way as to avoid the pitfalls exemplified

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<sup>110</sup> Olson, *The Emergence of the Social Sciences, 1642-1792*, 3, 27-35.; For more on the conceptual legacies of this shift consider: L. J. Hume, *Bentham and Bureaucracy*, Cambridge Studies in the History and Theory of Politics (Cambridge ; New York: Cambridge University Press, 1981), 11, 42-54.

by the Miller Arnold case without undermining the crown's authority. The cameralist's attempted solution to this challenge is the development of *procedural justice*. Under this model, the administration creates legitimacy and fair outcomes entirely endogenously. The people are the recipients of outcomes; they have no part in shaping outcomes or even debating their merits. This radical departure from early models of sovereignty and legitimacy has a conflicted legacy that is deeply embedded in our conceptions of bureaucracies. Its roots lie in the relentless search for efficiency.

Cameralism originated, not accidentally, in the century following the Peace of Westphalia in 1648, as a campaign to deal with the destruction and mayhem brought about by a century of religious fanaticism and endless cycles of warfare.<sup>111</sup> The Thirty Years' War, in particular, had wreaked immense havoc on Germany, leaving the population of many areas reduced by one-third and vast amounts of property destroyed by roaming and looting armies. A century after its conclusion, Frederick the Great insisted that his domain had not completely recovered.<sup>112</sup> An overwhelming concern of the German princes was, consequently, the procurement of ready cash to maintain (fragile) internal security, to finance court activities, and to raise and field mercenary armies in a time of constant dangers. Cameralism developed in this historic moment primarily as the study of *sound management*.<sup>113</sup> It is concerned, first and foremost, with finding and refining techniques of

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<sup>111</sup> Johnson, "The Concept of Bureaucracy in Cameralism," 379-8.; Erhard Dittrich, *Die Deutschen Und Österreichischen Kameralisten* (Darmstadt: Wissenschaftliche Buchgesellschaft, 1974).; Raeff, "The Well-Ordered Police State and the Development of Modernity in Seventeenth- and Eighteenth-Century Europe: An Attempt at a Comparative Approach," 1223-4.; For a much older account of the origin and development of cameralism see: Karl Gottlob Rössig, *Versuch Einer Pragmatischen Geschichte Der Oekonomie-Polizey-Und Cameralwissenschaften Seit Dem Sechzehnten Jahrhunderte Bis Zu Unsern Zeiten Deutschland*, 2 vols. (Leipzig: Weidmans Erben und Reich, 1781).

<sup>112</sup> As recounted in: Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 11.

<sup>113</sup> For an elaboration on this notion see for example: Ludwig Wilhelm von Griesheim, *Versuch Gemeinnütziger Beyträge Zur Praktischen Staats- Finanz-Und Land-Wirthschaftsverwaltung Nebst*

governance. Its adherents, all in the pay of the local sovereign, were initially preoccupied with maximizing the wealth of the state and the income of the prince. As one of the very early cameralists put it in 1686:

Those who rightly examine the chain by which the members of a state are bound together must acknowledge, in accordance with sound reason and experience, *that the prosperity and welfare of the subjects is the foundation upon which all happiness of a prince as ruler of subjects is based.*<sup>114</sup>

Because the early cameralists emphasized finances and trade, cameralism is often described and discarded as the German version of mercantilism. Given the overwhelmingly negative connotations associated with a discredited economic theory, it is not surprising that cameralism is rarely systematically studied and is often belittled. This is unfortunate, since the cameralists quickly surpassed such a narrow economic focus. Their mission, stated a bit more broadly, was to put the sovereign's rule on a secure footing. Economic matters were clearly important to that endeavor, but cameralists were necessarily drawn into a range of other topics and domains that spoke to their broad aims.<sup>115</sup> Their writings are filled with instructions ranging from the administration of justice and the proper regulation of salt mines and international trade to excessive swearing in public, local welfare programs,

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*Beantwortung Der Fragen Ob Dermalen Zu Den Staats-Kassen Neue Erhöhungen Der Abgaben Erforderlich Sind Und Wie Solche Nach Möglichst Gleicher Vertheilung, Auf Die Sicherste Und Billigste Weise Auszumitteln Seyn Möchten* (Jena: In der Akademischen Buchhandlung, 1808).; Consider also: Cölln, *Praktisches Handbuch Für Staats- Und Regierungsbeamte Besonders in Den Preussischen Staaten Nach Anleitung Adam Smiths Untersuchung Über Die Natur Des Nationalreichthums.*; Michel Foucault et al., *The Foucault Effect : Studies in Governmentality : With Two Lectures by and an Interview with Michel Foucault* (Chicago: University of Chicago Press, 1991), 102.

<sup>114</sup> The quote originates from Wilhelm Freyherr von Schröder: *Fürstliche Schatz- und Rent-Kammer* (1686): cited in Olson, *The Emergence of the Social Sciences, 1642-1792*, 30.; See also: Colin Gordon, "The Soul of the Citizen: Max Weber and Michel Foucault on Rationality and Government," in *Max Weber, Rationality and Modernity*, ed. Scott Lash and Sam Whimster (London ; Boston: Allen & Unwin, 1987), 298.

<sup>115</sup> Consider on this point: Fritz Blaich, *Die Epoche Des Merkantilismus* (Wiesbaden: Steiner, 1973), 16-7.

botany, and the dangers of chocolate.<sup>116</sup> Whether or not it was their original intention, cameralists were also compelled to grapple with questions of legitimacy, without which the success of economic policies would be hollow.<sup>117</sup> As cameralists realized, a population convinced of the legitimacy of the rules that govern their lives is simply cheaper to administer than a rambunctious mob.<sup>118</sup>

The cameralists' concern with legitimacy followed their search for the optimum fit between means and ends. In contrast to the more utopian thinkers of the nineteenth century, cameralism remained focused on techniques of implementation instead of articulating abstract goals, ends, or ideals.<sup>119</sup> However, we will see throughout this chapter how slippery the ground is between means and ends, and how a concern for efficient and effective means quickly implicates substantive ends. Cameralists seemed fairly oblivious to this hazard; they kept referring vaguely to the "general welfare," insofar as they spoke directly of moral considerations at all.<sup>120</sup>

Instead, their writings are an exercise in sober, practical, hands-on guidance and advice, in contrast to the massively refined and metaphysical language of Kant, Fichte, or

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<sup>116</sup> The range of themes cameralists customarily address is astonishing. For instructive examples consider: Justi, *Deutsche Memoires, Oder, Sammlung Verschiedener Anmerkungen Die Staatsklugheit, Das Kriegswesen, Die Justiz, Morale, Oeconomie, Commercium, Cammer- Und Polizen- Auch Andere Merkwürdige Sachen Betreffend, Welche Im Menschlichen Leben Vorkommen*, 10.; Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshülfe Und Finanzpflege Mit Der Ständeversammlung in Den Germanischen Ländern*, 99-106.; Johann Jakob Moser, *Von Der Landes-Hoheit in Policey-Sachen Nach Denen Reichs-Gesezen Und Dem Reichs-Herkommen, Wie Auch Aus Denen Teutschen Staats-Rechts-Lehrern Und Eigener Erfahrung* (Frankfurt und Leipzig: [s.n.], 1773), 102-3.; Justus Möser, *Politische Und Juristische Schriften*, ed. Karl H. L. Welker, Bibliothek Des Deutschen Staatsdenkens ; (München: C.H. Beck, 2001), 189-90.

<sup>117</sup> Cameralist practitioners and modern commentators tend to agree on this point, for examples of each consider: Johann Jakob Moser, *Schwäbische Nachrichten Von Oeconomie-Cameral-Policey-Handlungs-Manufactur-Mechanischen-Und Bergwercks-Sachen* (Stuttgart: [s.n.], 1756), 215, 771, 874.; Olson, *The Emergence of the Social Sciences, 1642-1792*, 29-30.

<sup>118</sup> Hoffmann, *Politische Anmerkungen Von Der Wahren Und Falschen Staatskunst Worinnen Aus Den Geschichten Aller Zeiten Bemerket Wird Was Den Regenten, Bürgern Und Einwohnern Eines Landes Zuträglich Oder Schädlich Ist*, 90-134, 315.

<sup>119</sup> Usually this stance is simply implied in cameralistic thought and practice. For a rare exception to this rule see: Sonnenfels, *Grundsätze Der Polizey, Handlung, Und Finanz*, 17-18.

<sup>120</sup> This articulation is very widespread. See for example the introductory chapters in: *Ibid.*

Hegel. However, it is important to note that cameralism is not properly read in the “mirror of princes” tradition (despite superficial similarities).<sup>121</sup> Cameralists do not treat politics as an art to be learned by an aspiring prince. Successful rule is not, in their view, based upon personal virtues or intuitive knowledge particular to one or a few individuals. Instead, cameralism was conceived as an aid to the prince that would be eminently practical, yet deeply impersonal and subject to systematic study:

Habit, that is to say unguided practice, produces political charlatans; theory, without knowledge of the circumstances, without experience, produces dreamers and utopians.<sup>122</sup>

Cameralism was a science [Kameralwissenschaft] in the making, properly studied in academic settings. Cameralists consequently spoke of their work as “the science, namely, to handle the welfare of the state, the science of governing.”<sup>123</sup> Worldly and pragmatic, cameralism aimed to be an applied science, but it was nonetheless fundamentally a science by the standards of its time.<sup>124</sup> Epistemologically, cameralists are empiricists in the sense that its theorists and practitioners must “be capable of proving the agreement of the chosen

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<sup>121</sup> For the most famous discussion of this theme consider: Foucault et al., *The Foucault Effect : Studies in Governmentality : With Two Lectures by and an Interview with Michel Foucault*, 87-88.

<sup>122</sup> “Die Routine, das ist, die ungeleitete Uebung, macht politische Charletane; die Theorie, ohne Kenntniss der Umstände, ohne Erfahrung, macht Träumer, Utopisten.“ (Sonnenfels, *Grundsätze Der Polizey, Handlung, Und Finanz*, 17-18.)

<sup>123</sup> “...die Wissenschaft nämlich, die Wohlfahrt eines Staates handzuhaben, die Wissenschaft zu regieren.” (Ibid., 16.); For a rare instance from the cameralist literature that is more ambiguous on this point consider: Hoffmann, *Politische Anmerkungen Von Der Wahren Und Falschen Staatskunst Worinnen Aus Den Geschichten Aller Zeiten Bemerkt Wird Was Den Regenten, Bürgern Und Einwohnern Eines Landes Zuträglich Oder Schädlich Ist.*; Consider also: Karl Heinrich Ludwig Pölitz, *Die Staatslehre Für Denkende Geschäftsmänner, Kammeralisten Und Gebildete Leser* (Leipzig: J.C. Hinrichs, 1808), 26-7.

<sup>124</sup> Justus Christoph Dithmar, *Dissertatio Historico-Politico-Jurispublici De Collegiis Opificum Apud Germanos Emendandis* (Francofurti ad Viadrum: Typis Tobiae Schwartzii, 1731), 6-12.; Lindenfeld, *The Practical Imagination : The German Sciences of State in the Nineteenth Century*, 1-2.

means with the given ends.”<sup>125</sup> As such, cameralists tend to argue inductively and to remain skeptical of first principles. Their writings are filled with illustrations and examples.

Cameralism as a science and practice had three principal and interlocking components. Its original aim was the effective management of the princely budget.<sup>126</sup> As Dithmar, the first professor of cameralism at the University of Frankfurt, succinctly put it in an early tract on cameralism in 1731:

The science of Cameralism teaches how to raise the sovereign’s income, how to improve it from time to time, and how to shape it for the maintenance of the polity in such a way that a yearly surplus is retained.<sup>127</sup>

In Prussia, as elsewhere, the budget of the prince (king from 1701) consisted of taxes and revenues from the prince’s own lands.<sup>128</sup> The *Kammer* (chamber, vault, court)<sup>129</sup> was tasked with collecting taxes, and *Kammeralists* aided these efforts by developing principles for dealing systematically, procedurally, and fairly with a population. Crucial to

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<sup>125</sup> “...die Uebereinstimmung des gewählten Mittels mit dem vorgesetzten Endzwecke zu beweisen fähig sein.” (Sonnenfels, *Grundsätze Der Polizey, Handlung, Und Finanz*, 23.)

<sup>126</sup> Walker, "Rights and Functions: The Social Categories of Eighteenth-Century German Jurists and Cameralists," 235-36.

<sup>127</sup> “Die Cameral-Wissenschaft lehret, wie die Landes-Fürstlichen Einkünfte mögen erhoben, von Zeit zu Zeit verbessert und zu Erhaltung des gemeinen Wesens dergestalt angewendet werden, dass jährlich ein Ueberschuss verbleibe.“ (Dithmar, *Dissertatio Historico-Politico-Jurispublici De Collegiis Opificum Apud Germanos Emendandis*, 225.; Justus Christoph Dithmar, *Einleitung in Die Oeconomische Policy Und Cameralwissenschaften* (Frankfurt a.O.: New Edition, 1745), 225.); For more on this theme see also: Förster, *Versuch Einer Einleitung in Die Cameral- Policy- Und Finanzwissenschaften*, 4-7.

<sup>128</sup> Cameralists remain usually faithful to this distinction: Johann Heinrich Gottlob von Justi, *Auf Höchsten Befehl an Sr. Röm. Kaiserl. Und Zu Ungarn Und Böhmen Königl. Majestät Erstattetes Allerunterthänigstes Gutachten Von Dem Vernünftigen Zusammenhange Und Practischen Vortrage Aller Oeconomischen Und Cameralwissenschaften Wobey Zugleich Zur Probe Die Grundsätze Der Policywissenschaft Mit Denen Darzu Gehörigen Practischen Arbeiten Vorgetragen Werdenachen* (Leipzig: 1754), 7-9.; Schmid, *Ausführliche Tabellen Über Die Policy, Handlung- Und Finanzwissenschaft*, 77-78.; Johann Heinrich Gottlob von Justi, *Ausführliche Abhandlung Von Denen Steuern Und Abgaben Nach Ächten, Aus Dem Endzweck Der Bürgerlichen Gesellschaften Abfliessenden Grundsätzen, Und Zur Wohlfarth Der Völker Dienlichen Maassregeln* (Königsberg und Leipzig: In verlag bey G. Ludwig Woltersdorffs wittwe, 1762).; Dithmar, *Dissertatio Historico-Politico-Jurispublici De Collegiis Opificum Apud Germanos Emendandis*, 228-61.; Consider also: Barbara Stollberg-Rilinger, *Der Staat Als Maschine : Zur Politischen Metaphorik Des Absoluten Fürstenstaats*, Historische Forschungen (Berlin: Duncker & Humblot, 1986), 77.

<sup>129</sup> An aside for those interested in classical music: *Kammernmusik*, chamber music, derives from the same root and designates, consequently, music presented at court in contrast to church or sacred music.

their endeavor was the attempt to render tax collection consistent across time and space and to provide the intellectual foundations for clear and reliable record-keeping. This branch of their literary production is referred to as *economia satrapica*, and Melchior von Osse provides an early but characteristic example of much thought given to proper bookkeeping procedures to handle revenues from different sources.<sup>130</sup> Similarly, with respect to revenue originating from the prince's own lands, the cameralists published and taught principles for effectively and accurately managing the prince's own resources, including the administration of government monopolies and privileges (*Kammer-regalien*).<sup>131</sup>

The salt, tobacco, and coffee monopolies were among the most important princely monopolies, but it is telling that early cameralist tracts include the administration of justice

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<sup>130</sup> Johnson, "The Concept of Bureaucracy in Cameralism," 381.; Schmid, *Ausführliche Tabellen Über Die Policy, Handlungs- Und Finanzwissenschaft*, 57-9.: Consider also: Georg Hassel, *Statistischer Umriss Der Sämmtlichen Europäischen Und Der Vornehmsten Ausser-Europäischen Staaten, in Hinsicht Ihrer Entwicklung, Grösse, Volksmenge, Finanz- Und Militärverfassung, Tabellarisch Dargestellt* (Weimar,: Geographisches Institut, 1805).

<sup>131</sup> Cameralists consider the Kammerregalian as of the utmost importance. They are also an excellent venue to illustrate how similar the thoughts and writings of cameralists are that lived far apart in time and space. For a long (but far from complete) list of examples on this point see: Sonnenfels, *Grundsätze Der Polizey, Handlung, Und Finanz*, 21.; Schmid, *Ausführliche Tabellen Über Die Policy, Handlungs- Und Finanzwissenschaft*, 63, 78-85.; See also: Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshülfe Und Finanzpflege Mit Der Ständeversammlung in Den Germanischen Ländern*, 129-31.; Dithmar, *Dissertatio Historico-Politico-Jurispublici De Collegiis Opificum Apud Germanos Emendandis*, 6-7, 226-36.; Johann Jakob Moser, *Von Der Landeshoheit in Cameral-Sachen, Nach Denen Reichs-Gesetzen Und Dem Reichs-Herkommen, Wie Auch Aus Denen Teutschen Staats-Rechts-Lehrern, Und Eigener Erfahrung* (Frankfurt und Leipzig: [s.n.], 1773), 6-7.; Simon Peter Gasser, *Einleitung Zu Den Oeconomischen Politischen Und Kameral-Wissenschaften ... Nebst Einem Vorbericht Von Der Foundation Der Neuen Eoconomischen Profession* (Halle,: In verlegung des Wäysenhauses, 1729), 248-305.; Moser, *Von Der Landes-Hoheit in Policy-Sachen Nach Denen Reichs-Gesetzen Und Dem Reichs-Herkommen, Wie Auch Aus Denen Teutschen Staats-Rechts-Lehrern Und Eigener Erfahrung*, 262-324.; For a historical perspective see: Karl Dietrich Hüllmann, *Deutsche Finanz-Geschichte Des Mittelalters* (Berlin,: H. Frölich, 1805), 53-77.; Karl Dietrich Hüllmann, *Geschichte Des Ursprungs Der Regalien in Deutschland* (Frankfurt an der Oder: In der Akademischen Buchhandlung, 1806).; Justus Möser, *Sämtliche Werke*, ed. Werner Kohlschmidt and Paul Göttsching, Historisch-kritische Ausgabe in 14 Bde. ed., vol. 10 (Oldenburg (Oldb.): G. Stalling, 1943), 336-38.; Veit Ludwig von Seckendorf, *Teutscher Fürsten-Stat : Oder, Gründliche Und Kurtze Beschreibung Welcher Gestalt Fürstenthümer, Graff- Und Herrschafften Im H. Römischen Reich Teutscher Nation, Welche Landes, Fürstliche Unnd Hohe Obrigkeitliche Regalia Haben Von Rechts- Und Löblicher Gewonheit Wegen Beschaffen Zu Seyn, Regieret, Mit Ordnungen Und Satzungen, Geheimen Und Iustitz Cantzeleyen, Consistoriis Und Andern Hohen Und Niedern Gerichts-Instantien, Aemptern Und Diensten, Verfasset Und Versehen, Auch Wie Deroselben Cammer- Und Hoffsachen Bestellt Zu Werden Pflegen* (Frankfurt: Thomae Matthiae Götzens, zu Franckfurth am Mäyn, 1656).; Johann Heinrich Gottlob von Justi, *Staatswirtschaft : Oder Systematische Abhandlung Aller Ökonomischen Und Kameralwissenschaften, Die Zur Regierung Eines Landes Erfordert Werden*, 2 vols. (Aalen: Scientia, 1963), 144-305.

as simply one of many other *Regalien*.<sup>132</sup> While most cameralists regard *Regalien* in general as indispensable supplements to regular taxes, some cameralists were quick to highlight the dangers and downsides of applying the principles of administering *Regalien* to the administration of justice. In an uncharacteristically frank passage, Dithmar, for example, stresses the potential for abuse when questions of justice are subsumed under principles of economic gain. Abuse, in such instances, is in his eyes inevitable,<sup>133</sup> and might significantly hinder a concern with the proper and just distribution of resources amongst the population.<sup>134</sup>

The second aim, often referred to under the heading of *Oekonomie*, aimed at structuring and improving basic economic interactions such as assessing, leasing or selling property. Cameralists at first directed their efforts toward royal officials, but quickly realized that success in the official sphere required reforms in the private sphere. Many young nobles ruined their estates due to a lack of understanding of basic economic principles, and the cameralists extended their studies and teaching to encompass property owners' private concerns. As Frederick William I claimed in 1713, the rapidly developing field of cameralism would be just as advantageous to the administration of private estates as to his own.<sup>135</sup> Soon the study of *Oekonomie*, like much of cameralism, extended beyond its original royal domain to cover estates, farms, villages, towns, and eventually the

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<sup>132</sup> The most famous example of this practice hails from Dithmar, an influential and much cited cameralist : Dithmar, *Dissertatio Historico-Politico-Jurispublici De Collegiis Opificum Apud Germanos Emendandis*, 261-3.

<sup>133</sup> “Missbrauch“ (Ibid., 262-3.)

<sup>134</sup> Schmid, *Ausführliche Tabellen Über Die Policey, Handlungs- Und Finanzwissenschaft*, 57-76, 92-105.; Dithmar, *Dissertatio Historico-Politico-Jurispublici De Collegiis Opificum Apud Germanos Emendandis*.

<sup>135</sup> Gasser, *Einleitung Zu Den Oeconomischen Politischen Und Kameral-Wissenschaften ... Nebst Einem Vorbericht Von Der Foundation Der Neuen Eoconomischen Profession*, 8-10.

workings of the entire state, including questions of the proper and just distribution of resources.<sup>136</sup>

The third component of cameralism was the study of proper police administration (*Polizeiwissenschaft*). The term has an illustrious history that points towards its broader meaning beyond current usage.<sup>137</sup> The German word *Polizei* appeared first in the sixteenth century in the context of the religious confusion throughout Germany. In the Protestant domains, *Polizei* compensated for the shaky social discipline left after the demise of a strong, centralized church structure.<sup>138</sup> Its prescriptions regulated proper attire, sought to curb luxury consumption, enforced religious observance, and by and large sought to

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<sup>136</sup> For a useful introduction to this theme see: Johann Friedrich von Pfeiffer, *Grundsätze Der Universal-Cameral-Wissenschaft Oder Deren Vier Wichtigsten Säulen Nämlich Der Staats-Regierungskunst, Der Policy-Wissenschaft, Der Allgemeinen Staats-Oekonomie, Und Der Finanz-Wissenschaft, Zu Akademischen Vorlesungen Und Zum Unterricht Angehender Staatsbedienten*, 2 vols. (Frankfurt am Mayn: In der Esslingerschen Buchhandlung, 1783).

<sup>137</sup> I will refrain from translating it to emphasize its peculiarities.

<sup>138</sup> Hans Maier, *Die Ältere Deutsche Staats- Und Verwaltungslehre*, 2., neubearbeitete und erg. Aufl. ed. (München: C.H. Beck, 1980), 82-3.; Marc Raeff, *The Well-Ordered Police State : Social and Institutional Change through Law in the Germanies and Russia, 1600-1800* (New Haven: Yale University Press, 1983), 43, 54-9.; F-L. Knemeyer, "Polizei," *Economy and Society* 9, no. 2 (1980).; For a comparative perspectives consider: Raeff, "The Well-Ordered Police State and the Development of Modernity in Seventeenth- and Eighteenth-Century Europe: An Attempt at a Comparative Approach," 1222-4.; Mitchell Dean, *The Constitution of Poverty : Toward a Genealogy of Liberal Governance* (London ; New York: Routledge, 1991), 34, 53-67.; For a detailed account of the internal workings of the "Polizei" in a city see: Magnus Friedrich von Bassewitz, *Die Kurmark Brandenburg, Ihr Zustand Und Ihre Verwaltung Unmittelbar Vor Dem Ausbruche Des Französischen Krieges Im Oktober 1806* (Leipzig: F.A. Brockhaus, 1847), 260-85.

eliminate immoral behavior.<sup>139</sup> Förster, for example, deals with police affairs under the heading of “the police’s care for education, virtue, and religion.”<sup>140</sup>

The police sees each act as disadvantageous that goes against the final goal of society and that plants obstacles to its achievement (in part or full).<sup>141</sup>

In the most expansive interpretations, this entailed the regulation of “eating, drinking, and the clothes of people.”<sup>142</sup> However, commonly and practically it was read far more narrowly. A widely shared definition is presented by Moser, who defines *Polizei* as existing to provide two things:

1. Good order in the common life and interactions, 2. The advancement of the outer happiness of the subjects, to which end the authorities use their power and conduct everything so that said end may result.<sup>143</sup>

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<sup>139</sup> Consider notable examples from: Sonnenfels, *Grundsätze Der Polizey, Handlung, Und Finanz*, 19, 74.; Justus Christoph Dithmar, *Project Der Oeconomischen-Policey- Und Cameral-Wissenschaft Worinnen Eine Generale Erkänntniss Der Land- Und Stadt-Oeconomie So Wohl Als Des Commerciens- Policey- Und Cameral-Wesens : Samt Vorschlägen Zu Derselben Aufnahme Und Oeconomischen Bücher-Vorrath Zu Nutz Der Studirenden Jugend Und Mehrerer Erklärung in Seinen Academischen Lectionen* (Frankfurt an der Oder: Gedruckt bey J.C. Schwartz, 1730).; Justi, *Auf Höchsten Befehl an Sr. Röm. Kaiserl. Und Zu Ungarn Und Böhmen Königl. Majestät Erstattetes Allerunterthänigstes Gutachten Von Dem Vernünftigen Zusammenhange Und Practischen Vortrage Aller Oeconomischen Und Cameralwissenschaften Wobey Zugleich Zur Probe Die Grundsätze Der Policeywissenschaft Mit Denen Darzu Gehörigen Practischen Arbeiten Vorgetragen Werden*, 17.; Schmid, *Ausführliche Tabellen Über Die Policey, Handlungs- Und Finanzwissenschaft*, 16-19.; Dithmar, *Dissertatio Historico-Politico-Jurispublici De Collegiis Opificum Apud Germanos Emendandis*, 133-6.

<sup>140</sup> “Sorge der Polizei für die Erziehung, Tugend und Religion.” (Förster, *Versuch Einer Einleitung in Die Cameral- Policey- Und Finanzwissenschaften*, 229-39.)

<sup>141</sup> “Jede Handlung, die dem gesellschaftlichen Endzwecke widerstrebt, und dessen Erreichung im Ganzen, oder zum Teil Hindernisse legt, wird von der Polizei für nachtheilig angesehen...” (Sonnenfels, *Grundsätze Der Polizey, Handlung, Und Finanz*, 53.)

<sup>142</sup> “Essen / Trinken / und Kleidung der Menschen” (Dithmar, *Dissertatio Historico-Politico-Jurispublici De Collegiis Opificum Apud Germanos Emendandis*, 5.)

<sup>143</sup> “1. gute Ordnung im gemeinen Leben und Wandel, 2. die Beförderung der äusserlichen Glückseligkeit der Unterthanen; zu welchem Ende die Obrigkeit ihre Macht so gebraucht und alles so dirigirt, dass besagter Zweck herauskomme.“ (Moser, *Von Der Landes-Hoheit in Policey-Sachen Nach Denen Reichs-Gesetzen Und Dem Reichs-Herkommen, Wie Auch Aus Denen Teutschen Staats-Rechts-Lehrern Und Eigener Erfahrung*, 4.); For more on this point see: Joseph von Sonnenfels, *Sätze Aus Der Polizey, Handlungs- Und Finanz-Wissenschaft* (Wien: Gedruckt bey Johann Thomas Edlen von Trattnern, 1765), 61-64.; Moser, *Schwäbische Nachrichten Von Oeconomie-Cameral-Policey-Handlungs-Manufactur-Mechanischen-Und Bergwercks-Sachen*, 34, 195, 518, 602, 807, 924.

As with the other domains of cameralism, the focus here remained on the means of implementation rather than on goals and norms.

*Polizei* became the effective application of a largely secularized understanding of proper conduct (still exclusively interpreted and decreed by the sovereign) to the means by which a territory could be administrated.<sup>144</sup> The arsenal of tools the *Polizei* had at its disposal was extensive, and its field of action encompassed everything from general welfare and relief for the poor to the dispensation of justice. However, the focus of the *Polizeiwissenschaften* remained, as throughout cameralism, on the welfare and prosperity of the state.<sup>145</sup> The state was the active and principal subject, while the people remained the passive objects and recipients of the attention of the *Polizei*. The police, then, was very much about “the principles for establishing and preserving the internal security” of a state.<sup>146</sup>

However, the cameralists viewed this mission as more effectively addressed in the larger context of social welfare and the prevention of conditions conducive to criminal activities [*Polizeivorsorge*]. Security, societal well-being, and moral guidance were consequently all encompassed in the cameralists’ understanding of the proper role of the *Polizei*. Cameralists’ treatments of police affairs thus often deal with matters of education,

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<sup>144</sup> Often this view is implicit in the cameralist’s writings. Rarely, as in Wolff’s writings, it is more explicit: Christian Wolff, *Vernünfftige Gedancken Von Dem Gesellschaftlichen Leben Der Menschen Und Insonderheit Dem Gemeinen Wesen*, ed. Hans Werner Arndt, vol. 5, *Gesammelte Werke* (Hildesheim ; New York: Olms, 1980), 172-3.

<sup>145</sup> Schmid, *Ausführliche Tabellen Über Die Policy, Handlungs- Und Finanzwissenschaft*, 3-9.; Sonnenfels, *Grundsätze Der Polizey, Handlung, Und Finanz*, 50-71.; For dissenting opinions on many of these points consider: Förster, *Versuch Einer Einleitung in Die Cameral- Polizey- Und Finanzwissenschaften.*; Consider also: Alf Lüdtke, *Police and State in Prussia, 1815-1850* (Cambridge [England] ; New York: Cambridge University Press, 1989), 23.

<sup>146</sup> “Die Grundsätze, die innere Sicherheit zu gründen und zu erhalten, lehret die Polizeiwissenschaft“ (Joseph von Sonnenfels and Ambrosius von Strahlendorf, *Von Der Anzulänglichlichkeit Der Alleinigen Erfahrung in Den Geschäften Der Staatswirtschaft Eine Rede Beym Antritte Seines Lehramtes ; Nebst Angehängten Lehrsätzen Aus Der Einleitung in Die Polizey Und Kameralwissenschaften* (Wien: G.L. Schulz, 1765), 10.)

poverty relief, and medical services.<sup>147</sup> In more recent times, many societies have differentiated these functions into sharply separated domains, each with its own organizational structures, recruitment patterns, and operational principles. It is useful to highlight the cameralists' consistent practice of treating as unitary a range of state tasks that seem radically distinct to most modern readers. For them, social justice and criminal justice were, at most, two sides of the same coin. The cameralists worried endlessly about securing the sovereign's rule through legitimacy-enhancing decisions, processes, and procedures. It followed that the proper administration of the *Polizei* was at heart a question about anchoring the legitimacy of the state. In the words of two influential cameralists:

The core principle of the *Polizei* [is that] the greater the mass of the people whose support one can count upon, the less one has to *fear* from them.<sup>148</sup>

Tellingly, fear is the driving force behind the cameralists' concern with legitimacy. With the dangers of the Seven Years' War barely survived, leaving the kingdom with diminished savings, new territories to incorporate, and its reputation tarnished, Prussia was stretched thin for most of the 18<sup>th</sup> century. Legitimacy, not surprisingly, was a valued commodity at this moment in the eyes of the academics of the state. The Miller Arnold case was harmful to the cameralists' mission. An exercise of arbitrary, and ultimately wrong, interference could only harm the crown's standing. While many peasants might have rejoiced temporarily at the Arnolds' fleeting victory, their hopes were soon and inevitably disappointed. The crown and its academics realized that there were many good reasons to

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<sup>147</sup> For an illustrative example see: Sonnenfels, *Sätze Aus Der Polizey, Handlungs- Und Finanz-Wissenschaft*, 72, 149-63.

<sup>148</sup> "Der Hauptgrundsatz der Polizei [...]. Je grösser die Menge des Volkes ist, auf dessen bereiten Beistand man zählen darf, destoweniger hat man von innen zu fürchten" (Sonnenfels and Strahlendorf, *Von Der Anzulänglichlichkeit Der Alleinigen Erfahrung in Den Geschäften Der Staatswirtschaft Eine Rede Beym Antritte Seines Lehramtes ; Nebst Angehängten Lehrsätzen Aus Der Einleitunng in Die Polizey Und Kameralwissenschaften*, 13. My emphasis.)

be concerned about the administration of justice in Prussia and the state's legitimacy. As the influential cameralist Sonnenfels argued at the time, it is imperative that the "sacredness" of the state's laws "cannot be doubted in any way."<sup>149</sup>

To fulfill this mission, the cameralists reimagined the disciplinary apparatus of the state and began to regard its previous incarnation as inefficient and defective. The previous ideal of (by and large) blind obedience to the ad hoc will of the sovereign in matters of justice was seen as too costly—and perhaps impossible to achieve. Instead, cameralists began to look for ways to instill a sense of self-discipline in the subjects of the absolutist state, whereby they would render their obedience willingly. In this model, the fundamental structure of the state was not open to debate; instead, the cameralists attempted to find, within their inherited framework, new solutions to render the administration of justice easier, cheaper, and more legitimate in the eyes of potentially quarrelsome subjects.

### **(i) Justi**

Johann Heinrich Gottlob von Justi exemplifies this search for new and better means of administering justice.<sup>150</sup> Justi is a towering figure in the cameralism movement. He

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<sup>149</sup> "...dass ihre [die Gesetze] Heiligkeit auf keine Weise bezweifelt werden könnte." (Sonnenfels, *Grundsätze Der Polizey, Handlung, Und Finanz*, 170.)

<sup>150</sup> For useful introductions to Justi's work see: Justi, *Staatswirtschaft : Oder Systematische Abhandlung Aller Ökonomischen Und Kameralwissenschaften, Die Zur Regierung Eines Landes Erfordert Werden.*; Johann Heinrich Gottlob von Justi, *Die Grundfeste Zu Der Macht Und Glückseligkeit Der Staaten*; Oder, *Ausführliche Vorstellung Der Gesamten Polizeiwissenschaft* (Aalen: Scientia Verlag, 1965).; Johann Heinrich Gottlob von Justi, *Gesammelte Politische Und Finanz-Schriften : Über Wichtige Gegenstände Der Staatskunst, Der Kriegswissenschaften Und Des Kameral- Und Finanzwesens* (Aalen: Scientia Verlag, 1970).; For useful accounts in the secondary literature see: Olson, *The Emergence of the Social Sciences, 1642-1792*, 134-7.; Lars Atorf, *Der König Und Das Korn : Die Getreidehandelspolitik Als Fundament Des Brandenburg-Preussischen Aufstiegs Zur Europäischen Grossmacht* (Berlin: Duncker & Humblot, Köln, 1999), 42-47.; Hans Erich Bödeker, Ulrich Herrmann, and Deutsche Gesellschaft für die Erforschung des

taught at various universities (most notably Göttingen) before eventually joining the Prussian central administration. A tireless and prolifically published writer, Justi is the most widely read and widely cited cameralist of his time.<sup>151</sup> Active both as academic and practitioner, Justi held for a while the post of Superior Police Commissioner [*Oberpolizeikomissar*] while simultaneously publishing and teaching cameralism.

Typical for Justi, he places little trust in individuals but instead focuses on the organs of the state. His teachings are marked by the typical cameralist belief that

A lasting [political] power must be founded upon science. The greatest empires crumble under their own weight, if they are not sustained by the wisdom, reason, and the fruits of science. Furthermore, the most important conquests have no permanence unless they are supported by wise institutions.<sup>152</sup>

In a section titled “On the necessary provisions in court cases,”<sup>153</sup> Justi argues that individuals are often overpowered by emotion and prone to err.<sup>154</sup> Instead of focusing on

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18. Jahrhunderts. Jahrestagung, *Aufklärung Als Politisierung, Politisierung Der Aufklärung*, Studien Zum Achtzehnten Jahrhundert ; (Hamburg: F. Meiner, 1987), 158-78.; Lindenfeld, *The Practical Imagination : The German Sciences of State in the Nineteenth Century*, 25-27.; Peter Becker and William Clark, *Little Tools of Knowledge : Historical Essays on Academic and Bureaucratic Practices*, Social History, Popular Culture, and Politics in Germany (Ann Arbor: University of Michigan Press, 2001), 173-4.

<sup>151</sup> For a very small selection see: Sonnenfels and Strahlendorf, *Von Der Anzulänglichkeit Der Alleinigen Erfahrung in Den Geschäften Der Staatswirtschaft Eine Rede Beym Antritte Seines Lehramtes ; Nebst Angehängten Lehrsätzen Aus Der Einleitung in Die Polizey Und Kameralwissenschaften*, 12.; Sonnenfels, *Sätze Aus Der Polizey, Handlungs- Und Finanz-Wissenschaft*, 117.; See also the introduction to: Johann Christian Christoph Rüdiger, *Grundriss Des Wahren Physiokratismus Und Preussischen Cameralwesens Zum Gebrauch Beym Mündlichen Unterricht in Einer Tabelle* (Halle: J.J. Curt, 1781).

<sup>152</sup> “Denn eine dauerhafte Macht muss selbst auf den Grund der Wissenschaften erbaut werden. Die grössten Reiche zerfallen unter ihrer eigenen Last, wenn sie nicht von der Weisheit und dem Verstande, diesen Früchten der Wissenschaften, erhalten werden: und die wichtigsten Eroberungen sind nichts weniger als dauerhaftig, wenn sie nicht von weisen Einrichtungen unterstützt werden.“ (Justi, *Auf Höchsten Befehl an Sr. Röm. Kaiserl. Und Zu Ungarn Und Böhmen Königl. Majestät Erstattetes Allerunterthänigstes Gutachten Von Dem Vernünftigen Zusammenhange Und Practischen Vortrage Aller Oeconomischen Und Cameralwissenschaften Wobey Zugleich Zur Probe Die Grundsätze Der Policeywissenschaft Mit Denen Darzu Gehörigen Practischen Arbeiten Vorgetragen Werden*, 78.)

<sup>153</sup> “Von den nöthigen Verordnungen in Processsachen.“ (———, *Deutsche Memoires, Oder, Sammlung Verschiedener Anmerkungen Die Staatsklugheit, Das Kriegswesen, Die Justiz, Morale, Oeconomie, Commercium, Cammer- Und Polizen- Auch Andere Merkwürdige Sachen Betreffend, Welche Im Menschlichen Leben Vorkommen*, 352-54.)

<sup>154</sup> *Ibid.*, 149-50.

the merits of cases, people “make decisions based merely on impulse [*Gutdünken*].”<sup>155</sup> As a consequence, legal proceedings turn into a gambling affair. Cases that are “from identical incidents and indistinguishable circumstances” are decided “in completely different and contradictory ways.”<sup>156</sup> Apart from violating most intuitions about justice, such a capricious approach to the administration of justice is adverse to the flourishing of an economy, the legitimacy of a ruler, the efficiency of a court system, and the rationality of the state – all central concerns for cameralists such as Justi.

As Justi argues, arbitrary rulings “could never happen if a directive, regulation or guideline” standardized the proceedings in place of the volatile will of flawed individuals.<sup>157</sup> Justi admits that perhaps “it would be impossible to write such a complete and detailed ordinance that took account of all the varying circumstances,” but keeps insisting that even a fairly complete set of procedural guidelines [*Vorschriften*] would have “great utility.”<sup>158</sup>

Going one step further, Justi makes an unusual move by the standards of his time and locale: he distinguishes between the realm of politics and the realm of justice. In German, the root word *Recht* applies to both. Calling something *Recht* [noun], a right, or *gerecht* [adjective], just, could thus speak equally well to matters of law, right, justice, simple authorization, or even a mere description of facts (*richtig*, correct or accurate).

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<sup>155</sup> “...nur nach Gutdünken entschieden, und nicht aus dem Grunde hervorgesuchet.“ (Ibid., 352-54.)

<sup>156</sup> Ibid.

<sup>157</sup> “...Sachen von gleichem Vorfall und einerlei Umständen, auf verschiedene ganz widersprechende Arten entschieden worde, welches nicht hätte geschehen können, wenn eine Ordre oder Vorschrift zu einer Richtschnur wäre vorhanden gewesen.“ (Ibid.)

<sup>158</sup> “Es ist zwar nicht möglich, eine solche vollkommene und ausführliche Verordnung zu verfertigen, so alle verschiedene Umstände der Sachen in sich halten könnte. Dennoch aber behalten die Vorschriften ihren grossen Nutzen .... [fairly complete] ... zu grossem Nutzen gereichen.“ (Ibid.); See also: Johann Heinrich Gottlob von Justi, *Deutsche Memoires, Oder, Sammlung Verschiedener Anmerkungen Die Staatsklugheit, Das Kriegswesen, Die Justiz, Morale, Oeconomie, Commercium, Cammer- Und Polizen- Auch Andere Merkwürdige Sachen Betreffend, Welche Im Menschlichen Leben Vorkommen*, Anjetzo bey dieser 3. Aufl. allenthalben verbessert, mit Anmerkungen versehen, und von unzähligen Fehlern in der Schreibart gereiniget. ed., 3 vols., vol. 3 (Wienn: Verlegts Joh. Paul Krausz, 1761), 57-65.

Justi's argumentative move is thus all the more surprising. Not only does he distinguish political affairs from questions of justice, but he also advocates the revision of institutions so that they will not "prefer politics to justice."<sup>159</sup>

Given how easily people decide poorly (or rightly, but for the wrong reasons), there is much need in Justi's mind to develop new regulations and procedures in order to improve the machinery of justice.<sup>160</sup> The first prong of Justi's charge focuses on streamlining and standardizing the cogs of the machine. Justi developed and advocated for a complex system of recruitment procedures, regulated apprenticeships, and promotions. He, like many of his colleagues, attempted thereby to rationalize decisions in the state's administrative organs within the framework of a clear and rational hierarchy.<sup>161</sup> All these steps would, in the words of one historian, "reduce the authority of the ruler to that of a rubber-stamp verification of bureaucratic decision making."<sup>162</sup>

However, while this might reduce the capricious elements of the administrative decision-making process, it would still leave flawed individuals with too much discretion. Justi consequently turns to the second prong of his argument. He suggests that it is endlessly difficult (but nevertheless very desirable) to know how legal cases will turn out if decisions depend purely on the will of an individual. However, the more elements of a process (e.g. the process of admitting evidence) are fixed, the more predictable cases

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<sup>159</sup> "...die Politique der Gerechtigkeit vorzuziehen." (Justi, *Deutsche Memoires, Oder, Sammlung Verschiedener Anmerkungen Die Staatsklugheit, Das Kriegswesen, Die Justiz, Morale, Oeconomie, Commercium, Cammer- Und Polizen- Auch Andere Merkwürdige Sachen Betreffend, Welche Im Menschlichen Leben Vorkommen*, 292.)

<sup>160</sup> ———, *Deutsche Memoires, Oder, Sammlung Verschiedener Anmerkungen Die Staatsklugheit, Das Kriegswesen, Die Justiz, Morale, Oeconomie, Commercium, Cammer- Und Polizen- Auch Andere Merkwürdige Sachen Betreffend, Welche Im Menschlichen Leben Vorkommen*, 18.

<sup>161</sup> For more on this theme see the writings of Ludwig von Seckendorff who pushed for the proceduralization of decisions at all levels of public administration, the rational ordering of offices and information, and the increased division of labor and decisions (Johnson, "The Concept of Bureaucracy in Cameralism," 384-5.; Lindenfeld, *The Practical Imagination : The German Sciences of State in the Nineteenth Century*, 12.)

<sup>162</sup> Johnson, "The Concept of Bureaucracy in Cameralism," 394-95.

become.<sup>163</sup> Furthermore, Justi argues that making cases more predictable not only is desirable in and of itself, but would also lower the overall number of cases that bog down the Prussian court system. Justi advocates, in short, for the rationalization and standardization of the administration of justice.<sup>164</sup>

Notice that Justi, throughout his several-thousand-page *oeuvre*, never complains about specific laws, but instead, wisely, focuses on the process of applying them.<sup>165</sup> Doing so not only shields him from the sovereign's fiery temper, but also makes him palatable to his cameralist cohorts. They, like Justi, show no overt signs of even mild revolutionary tendencies. Instead of focusing on the overall structure of the government or society, Justi, like all cameralists, focuses on the means to implement ends.<sup>166</sup>

In Justi's mind, it seems obvious that this task of building new foundations for the administration should fall, of course, to a cameralist.<sup>167</sup> That cameralist, however, was not going to be Justi. Having held a range of academic and lower administrative posts for most of his life, Justi finally attained a prestigious post in the Prussian administration in 1765.<sup>168</sup> A mere three years later, however, he was sacked and imprisoned by the king for alleged undue financial deficits and improper behavior. Little evidence attested to this charge, and

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<sup>163</sup> Justi, *Deutsche Memoires, Oder, Sammlung Verschiedener Anmerkungen Die Staatsklugheit, Das Kriegswesen, Die Justiz, Morale, Oeconomie, Commercium, Cammer- Und Polizen- Auch Andere Merkwürdige Sachen Betreffend, Welche Im Menschlichen Leben Vorkommen*, 57-65.

<sup>164</sup> Parry, "Enlightened Government and Its Critics in Eighteenth-Century Germany," 185.

<sup>165</sup> Justi, *Deutsche Memoires, Oder, Sammlung Verschiedener Anmerkungen Die Staatsklugheit, Das Kriegswesen, Die Justiz, Morale, Oeconomie, Commercium, Cammer- Und Polizen- Auch Andere Merkwürdige Sachen Betreffend, Welche Im Menschlichen Leben Vorkommen*, 57-65.

<sup>166</sup> ———, *Auf Höchsten Befehl an Sr. Röm. Kaiserl. Und Zu Ungarn Und Böhmen Königl. Majestät Erstattetes Allerunterthänigstes Gutachten Von Dem Vernünftigen Zusammenhange Und Practischen Vortrage Aller Oeconomischen Und Cameralwissenschaften Wobey Zugleich Zur Probe Die Grundsätze Der Policywissenschaft Mit Denen Darzu Gehörigen Practischen Arbeiten Vorgetragen Werdenachen*, 13.

<sup>167</sup> ———, *Deutsche Memoires, Oder, Sammlung Verschiedener Anmerkungen Die Staatsklugheit, Das Kriegswesen, Die Justiz, Morale, Oeconomie, Commercium, Cammer- Und Polizen- Auch Andere Merkwürdige Sachen Betreffend, Welche Im Menschlichen Leben Vorkommen*, 65-9.

<sup>168</sup> His official title was "königlichen Berghauptman und Oberaufseher der Glass- und Stahlfabriken."

it seems that Justi, ironically, was simply another victim of the king's unmediated wrath.<sup>169</sup> Justi died as one more testament to history's messy irony: the most famous cameralist of his time falling victim to the very flaw that he sought to curb in order to strengthen the sovereign who ultimately condemned him. Nonetheless, Justi's arguments and their progeny endured and flourished.

## **(ii) Procedures**

Cameralists' guiding principle, as always, was to strengthen the crown. However, the crown's periodic, rash, and misguided interference in matters of justice seemed to hurt the absolutist state more than it helped. The cameralists' answer, following Justi, was simple: if people are flawed, remove them from the process as much as possible and let established rules and regulations take their place. Take Creon out of the equation and replace him with an army of secretaries that would each constitute a small and noncapricious element of a larger, well-oiled machine. Doing so, however, would shift the focus from outcomes to the process of reaching outcomes, from the direct to the indirect question of justice. For cameralists, the criterion for whether a case had been properly decided was no longer primarily whether the correct outcome had been reached, but whether good and routine processes had been followed. Unintentionally, the cameralists invented procedural justice in an effort to strengthen the crown by curtailing its power.

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<sup>169</sup> Hubatsch, *Friedrich Der Grosse Und Die Preussische Verwaltung*, 82, 218.; Walker, "Rights and Functions: The Social Categories of Eighteenth-Century German Jurists and Cameralists," 239-40.

A first step in this effort was to streamline the system of existing courts into a coherent, increasingly predictable, and hierarchical system.<sup>170</sup> To accomplish this, state control of retribution, peacekeeping, and adjudication was necessary. Enforcing the primacy and hierarchical dominion of the law over private acts is easily overlooked as a key element in forging our modern understanding of the proper administration of justice. The cameralists sought to limit the people's reliance on "private acts of judging" and their "willful and idiosyncratic exemptions from laws"<sup>171</sup> for three reasons.

First, according to the cameralists' new understanding of justice, private acts of vengeance are compelled by the wrong motives. The terms cameralists use for these acts are often associated with blind vengeance or retribution [*Rache*], as in "private vengeance," [*Privatrache*]<sup>172</sup> or "self-vengeance" [*Selbstrache*].<sup>173</sup> Their extraprocedural character renders them dangerous and undesirable. Private approaches to justice are not driven by defined procedures and are not calm or strictly rational, but instead motivated by the heat of passion.<sup>174</sup> Notice, in contrast, Hoffmann's appeal that justice shall be executed "without wrath, without regard of the person, without brutality nor love or hate."<sup>175</sup>

Second, unregulated acts of justice are now conceptualized as fracturing the fabric of society. If the people take justice into their own hands, the person receiving punishment

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<sup>170</sup> Huber, *Deutsche Verfassungsgeschichte*, 105-6.; Hubatsch, *Friedrich Der Grosse Und Die Preussische Verwaltung*, 219.; For more on this point consider: Christian Wilhelm von Dohm, *Materialen Für Die Statistick Und Neuere Staatengeschichte*, 5 vols., vol. 2 (Lemgo: Meierschen Buchhandlung, 1777), 148-78.

<sup>171</sup> "...Selbsthülfe, Privatgerichtsbarkeit, eigenwillige Ausnahme von Gesetzen." (Sonnenfels, *Grundsätze Der Polizey, Handlung, Und Finanz*, 196-98.)

<sup>172</sup> *Ibid.*, 263.

<sup>173</sup> Moser, *Von Der Landes-Hoheit in Policy-Sachen Nach Denen Reichs-Gesetzen Und Dem Reichs-Herkommen, Wie Auch Aus Denen Teutschen Staats-Rechts-Lehrern Und Eigener Erfahrung*, 356-8.

<sup>174</sup> "Hitze" (Sonnenfels, *Grundsätze Der Polizey, Handlung, Und Finanz*, 261.)

<sup>175</sup> "... Gerechtigkeit ohne Zorn, ohne Ansehung der Person, ohne Grausamkeit sowohl als Liebe und Hass." (Hoffmann, *Politische Anmerkungen Von Der Wahren Und Falschen Staatskunst Worinnen Aus Den Geschichten Aller Zeiten Bemerket Wird Was Den Regenten, Bürgern Und Einwohnern Eines Landes Zutürlich Oder Schädlich Ist*, 311.)

ceases “to be a citizen” [*Bürger*].<sup>176</sup> Consequently, it is imperative that “not the rabble, but the court must punish.”<sup>177</sup>

Third, people’s private acts in matters of justice undermine the crown’s claim to supremacy and sovereignty.<sup>178</sup> Some cameralists consequently count such “self-help” [*Selbsthülfe*] in the same category as raising a private army, building private fortifications, and proclaiming one’s own laws and regulations.<sup>179</sup> All these acts amount to “somebody not recognizing and respecting the supreme judicial power of the sovereign.”<sup>180</sup>

The cameralists objected to private acts of crude justice even if all the participants are there “willingly,” as in the case of a duel. They lament that duelists are not properly integrated into the “regular administration of criminal affairs.”<sup>181</sup> Such a position renders their self-help “improper” and “incompatible with the concept of a civic society.”<sup>182</sup> Since duels constitute acts of singular will, they violate the state-regulated procedural requirements of the cameralists. They represent “a violation of the rights of judicial power” that ultimately renders all laws without force [*kraftlos*].<sup>183</sup>

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<sup>176</sup> Sonnenfels, *Grundsätze Der Polizey, Handlung, Und Finanz*, 407-8.

<sup>177</sup> “Nicht der Pöbel, sondern das Gericht muss strafen, muss das Mass der Strafe bestimmen und [so that] der Bestrafte höret noch nicht auf, ein Bürger zu sein.” (Ibid.)

<sup>178</sup> ———, *Sätze Aus Der Polizey, Handlungs- Und Finanz-Wissenschaft*, 128-9.

<sup>179</sup> See for example: “...das Recht Soldaten zu halten forderte...” (Ibid., 44-46.)

<sup>180</sup> “...wenn jemand die obrichterliche Gewalt des Fürsten nicht erkannte.” (Ibid.)

<sup>181</sup> ———, *Grundsätze Der Polizey, Handlung, Und Finanz*, 261.

<sup>182</sup> “...mit dem Begriffe einer bürgerlichen Gesellschaft unverträglich...” (Ibid., 257-63.); Möser, *Politische Und Juristische Schriften*, 335-7.; Schmid, *Ausführliche Tabellen Über Die Polizey, Handlungs- Und Finanzwissenschaft*, 29, 31.; Möser, *Sämtliche Werke*, 317-8.

<sup>183</sup> “...ein Eingriff in die Rechte der richterlichen Gewalt [...] kraftlos.” (Sonnenfels, *Grundsätze Der Polizey, Handlung, Und Finanz*, 257-63.); See also: Möser, *Politische Und Juristische Schriften*, 335-7.; Schmid, *Ausführliche Tabellen Über Die Polizey, Handlungs- Und Finanzwissenschaft*, 29, 31.; Möser, *Sämtliche Werke*, 317-8.; Sonnenfels, *Sätze Aus Der Polizey, Handlungs- Und Finanz-Wissenschaft*, 128-31.; For more on the serpentine development and complex status of dueling see: Mika LaVaque-Manty, “Dueling for Equality: Masculine Honor and the Modern Politics of Dignity,” *Political Theory* 34, no. 6 (December 2006); Alex Livingston and Leah Soroko, “From Honor to Dignity and Back Again: Remarks on Lavaque-Manty’s “Dueling for Equality,”” *Political Theory* 35, no. 4 (2007).

Another argumentative move that was guided by the same underlying principles was the depersonification of judicial power and its integration into a rationalized hierarchy. As we saw during the Miller Arnold case, the first set of courts plaintiffs usually encountered was staffed and controlled by local aristocrats [*Patrimonialgerichtsbarkeit*].<sup>184</sup> Usually noble lords were free to entrust those courts to anybody they saw fit, whether it was a local lawyer, foreman, or even themselves. Much to the cameralists' approval, they were eventually required to hire only government-approved, university-trained jurists who were asked to "tame passions and emotional shifts."<sup>185</sup> Again, the cameralists' efforts to advance a procedural understanding of the state's administration did not end with the personnel. Many cameralists saw inherent structural problems in relying merely on the whims of individuals. Johann Friedrich Reitemeier, a professor and low-level administrator in Frankfurt an der Oder, puts this point in no uncertain terms:

It is entirely clear what renders the administration of justice in its current configuration dangerous and receptive to the greatest decay: leaving an unmeasured power for defining and fixing judgments to judges [*Urteilsverfassern*]. That is the true source of the occurring injustices and the dangers of an even greater decay.<sup>186</sup>

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<sup>184</sup> Hubatsch, *Friedrich Der Grosse Und Die Preussische Verwaltung*, 214.

<sup>185</sup> William W. Hagen, *Ordinary Prussians : Brandenburg Junkers and Villagers, 1500-1840*, New Studies in European History (New York: Cambridge University Press, 2002), 423.; Wunder, *Geschichte Der Bürokratie in Deutschland*, 24.; Hoffmann, *Politische Anmerkungen Von Der Wahren Und Falschen Staatskunst Worinnen Aus Den Geschichten Aller Zeiten Bemerket Wird Was Den Regenten, Bürgern Und Einwohnern Eines Landes Zutraglich Oder Schädlich Ist*, 330.; Wolff, *Vernünfftige Gedancken Von Dem Gesellschaftlichen Leben Der Menschen Und Insonderheit Dem Gemeinen Wesen*, 523-4.; Bernd von Münchow-Pohl, *Zwischen Reform Und Krieg : Untersuchungen Zur Bewusstseinslage in Preussen 1809-1812*, Veröffentlichungen Des Max-Planck-Instituts Für Geschichte (Göttingen: Vandenhoeck & Ruprecht, 1987), 289.

<sup>186</sup> "Was also die Justiz, bei ihrer gegenwärtigen Einrichtung, höchst gefährlich, und für den grössten Verfall empfänglich macht, ist hieraus ganz klar: dass man den Urteilsverfassern eine zu ungemessene Gewalt in der Bildung und Festzetzung der Urteilsbegriffe gelassen hat, dass ist die wahre Quelle der vorkommenden Ungerechtigkeiten, und der einen noch grösseren Verfall bedrohenden Gefahren." (Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshülfe Und Finanzpflege Mit Der Ständeversammlung In Den Germanischen Ländern*, 14-15.)

James Steuart's writings mirror these sentiments clearly. Born in Scotland, Steuart spent almost half of his life outside of Scotland, much of it in Germany. Perhaps best known as derided by Adam Smith and praised by Karl Marx, Steuart encapsulated an important point of cameralistic thought: for him, "a people are free . . . when they are governed by general, well-known laws that are not dependent on the changeable will of a single individual, or multiple individuals." Freedom that is dependent on the will of individuals, in Stuart's thought, stands on terribly unstable foundations.<sup>187</sup> Similarly, Karl Heinrich Ludwig Pölitz argued that it is improper to consider the power of the state as "an arbitrary power or blind physical force."<sup>188</sup>

Many cameralists felt likewise, and consequently searched for new ways of conceiving the administration of justice.<sup>189</sup> Their writings trace the steps of a trial, at each point seeking to remove choice from the hands of individual whim and divide decisions instead into mechanized steps. Only when clearly defined processes guide legal proceedings can the judge's private whims and passions [*Willkühr und Leidenschaft*] be constrained effectively.<sup>190</sup> As the cameralist Christian Jacob Kraus argued, even concerning "the most lowly offices, the defined formalities and procedures [*Verfahrensarten*] that guide all affairs serve as a very useful bridle against the natural evil in humans."<sup>191</sup> Here as elsewhere, cameralists do not concern themselves with the outcomes of legal cases, but

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<sup>187</sup> James Steuart, *Untersuchung Der Grundsätze Der Staatswirthschaft, Oder, Versuch Über Die Wissenschaft Der Innerlichen Politik in Freyen Staaten Worin Vornehmlich Die Bevölkerung, Der Ackerbau, Die Handlung, Die Industrie, Rechnungsmünze, Geld, Interessen, Circulation, Banken, Wechsel, Öffentlicher Credit, Und Taxen, Erwogen Werden* (Hamburg: 1769), 257-8.

<sup>188</sup> Pölitz, *Die Staatslehre Für Denkende Geschäftsmänner, Kammeralisten Und Gebildete Leser*, 90.

<sup>189</sup> Schmid, *Ausführliche Tabellen Über Die Policey, Handlungs- Und Finanzwissenschaft*, 15.

<sup>190</sup> For more on the dangers of "Willkühr" and "Justizwillkühr" see: Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshülfe Und Finanzpflege Mit Der Ständeversammlung in Den Germanischen Ländern*, 14, 17, 50-2, 66-8.

<sup>191</sup> Christian Jacob Kraus, "Das Politik Sich Zu Einer Wissenschaft Erhaben Lasse," in *Vermischte Schriften Über Staatswirthschaftliche, Philosophische Und Andere Wissenschaftliche Gegenstände* (Königsberg: F. Nicolovius, 1808), 210.

merely with establishing adequate procedures for reaching those outcomes. Beginning with the proper announcement of laws and regulations, the cameralists define the elements that such procedures entail.<sup>192</sup> Rather than addressing the justness, fairness, or decency of stipulated laws, the cameralists focus instead on the process of providing adequate notice of those laws to all people concerned – the first step in a legal procedure. Similarly, the cameralists’ discussion of due cause for imprisonments or investigations are purely about the proper handling of evidence – not about whether people should be investigated or imprisoned for a given act in the first place.<sup>193</sup> An analogous concern with efficient means leads some cameralists to advocate for the differentiation of institutions that handle the various steps of an investigation.<sup>194</sup> Reitemeier goes even further and argues for the importance of differentiating between the judge that deals with questions of evidence [*Verhörsrichter*] and the judge that renders the final verdict [*Spruchrichter*].<sup>195</sup> As long as processes are not in place that restrain individual arbitrariness, judges might render “white black, and black white.”<sup>196</sup> More digestibly for the crown, the mere hypothetical possibility of such an occurrence periodically raises the appearance of impropriety that is as harmful to the crown’s standing as actual wrongdoing by the sovereign’s anointed deputies. Again, institutional redesign is the solution to inherent individual flaws, not for intrinsic reasons of morality or justice, but as a byproduct of efficiency and expediency.

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<sup>192</sup> Dithmar, *Dissertatio Historico-Politico-Jurispubli De Collegiis Opificum Apud Germanos Emendandis*, 223-4.; Förster, *Versuch Einer Einleitung in Die Cameral- Policey- Und Finanzwissenschaften*, 219.

<sup>193</sup> Sonnenfels, *Grundsätze Der Polizey, Handlung, Und Finanz*, 508.

<sup>194</sup> “...Unterschiedliche Commissarien...” (Schmid, *Ausfuehrliche Tabellen Über Die Policey, Handlungs- Und Finanzwissenschaft*, 48, 50-1.)

<sup>195</sup> Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshülfe Und Finanzpflege Mit Der Ständeversammlung in Den Germanischen Ländern*, 33-34, 46-8.

<sup>196</sup> *Ibid.*, 15.

Similarly, the cameralists' strong disapproval of torture during investigations rarely touches on moral considerations of human dignity and worth.<sup>197</sup> Instead, cameralists simply view torture as ineffectual and detrimental to the overall judicial process. For them, there is nothing inherently wrong with these means, except that they systematically frustrate the given end of rendering the administration of justice efficient and legitimacy-enhancing. The cameralists' discussion of appropriate penalties and punishments for the convicted is marked by the same set of narrow concerns with means.<sup>198</sup> Appropriate punishments for crimes are determined, simply, by a calculus of cheap and effective deterrence, rather than by concerns about avoiding cruel or indecent retribution.<sup>199</sup>

The cameralists' considerable attention to the proper production of documents [*Aktenverschickung*] is exclusively concerned with the (perceived) procedural fairness of having accusing documents available prior to a court appearance.<sup>200</sup> Throughout their writings cameralists insist fanatically on the importance of speedy and precisely executed legal proceedings. Clearly defined and regulated deadlines eliminate yet another element of human whim.<sup>201</sup> Lastly, many cameralists stress the importance of speedy and lucid procedures for the appeal of decisions.<sup>202</sup> Cameralists support the complex system of

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<sup>197</sup> Sonnenfels, *Grundsätze Der Polizey, Handlung, Und Finanz*, 234-9.; Sonnenfels, *Gesammelte Schriften (Vol.7)*.

<sup>198</sup> Schmid, *Ausführliche Tabellen Über Die Policey, Handlungs- Und Finanzwissenschaft*, 49, 53-4.; Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshülfe Und Finanzpflege Mit Der Ständeversammlung in Den Germanischen Ländern*, 161-3.; Möser, *Sämtliche Werke*, 24, 27.; Förster, *Versuch Einer Einleitung in Die Cameral- Policey- Und Finanzwissenschaften*, 222.; Moser, *Von Der Landes-Hoheit in Policey-Sachen Nach Denen Reichs-Gesezen Und Dem Reichs-Herkommen, Wie Auch Aus Denen Teutschen Staats-Rechts-Lehrern Und Eigener Erfahrung*, 112-5.; Möser, *Politische Und Juristische Schriften*, 350-63.

<sup>199</sup> Schmid, *Ausführliche Tabellen Über Die Policey, Handlungs- Und Finanzwissenschaft*, 53-4.; Sonnenfels, *Grundsätze Der Polizey, Handlung, Und Finanz*, 508.

<sup>200</sup> Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshülfe Und Finanzpflege Mit Der Ständeversammlung in Den Germanischen Ländern*, 82-4, 90.

<sup>201</sup> *Ibid.*, 71-2.; Dithmar, *Dissertatio Historico-Politico-Jurispublici De Collegiis Opificum Apud Germanos Emendandis*, 218.

<sup>202</sup> Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshülfe Und Finanzpflege Mit Der Ständeversammlung in Den Germanischen Ländern*, 36-41.; Justi, *Deutsche Memoires, Oder, Sammlung Verschiedener*

appellate courts<sup>203</sup> precisely because it is an effective tool for removing decisions from the brute will of individuals, so that judges “may be standing further away from the [involved] parties.”<sup>204</sup>

The cameralists, in short, give much thought to the effective, legitimate, and efficient administration of justice.<sup>205</sup> Their goal is, on the broadest level, to secure the crown’s rule, and on a more narrow reading, render its administration of justice less arbitrary, more predictable, and ultimately more legitimate in the eyes of its subjects. Their chosen means are speedy processes, clearly defined steps, and compartmentalized decisions which follow depersonalized rules to render clear verdicts that are easily understandable and at least appear just.<sup>206</sup> Many of the cameralists rejected the general trend that would have everything “reduced to broad and, as much as possible, simple principles.”<sup>207</sup> Experts at categorization and system building, the cameralists see simplicity as anything but a

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*Anmerkungen Die Staatsklugheit, Das Kriegswesen, Die Justiz, Morale, Oeconomie, Commercium, Cammer- Und Polizen- Auch Andere Merkwürdige Sachen Betreffend, Welche Im Menschlichen Leben Vorkommen*, 57-58, 68.; Frederick and Jean-Henri-Samuel Formey, *Code Frédéric, Ou, Corps De Droit, Pour Les États De Sa Majesté Le Roi De Prusse Fondé Sur La Raison, & Sur Les Constitutions Du Pays : Dans Lequel Le Roi a Disposé Le Droit Romain Dans Un Ordre Naturel ... Établissant De Cette Manière Un Droit Certain Et Universel* (1751), 6-7.; Wolff, *Vernünfftige Gedancken Von Dem Gesellschaftlichen Leben Der Menschen Und Insonderheit Dem Gemeinen Wesen*, 516-20.; Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshülfe Und Finanzpflege Mit Der Ständeversammlung in Den Germanischen Ländern*, 4-5.

<sup>203</sup> For example: “Justizcollegien“ “Oberappellationsgerichten“, judicial “Regierungscollegien“, “Provinzialgerichten“, “Spruchgerichte“, etc.; For more on this theme consider: Bassewitz, *Die Kurmark Brandenburg, Ihr Zustand Und Ihre Verwaltung Unmittelbar Vor Dem Ausbruche Des Französischen Krieges Im Oktober 1806*, 58-84, 400-07.

<sup>204</sup> “...dass sie von den Parteien noch entfernter stehen.“ (Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshülfe Und Finanzpflege Mit Der Ständeversammlung in Den Germanischen Ländern*, 41-2.)

<sup>205</sup> Justi, *Auf Höchsten Befehl an Sr. Röm. Kaiserl. Und Zu Ungarn Und Böhmen Königl. Majestät Erstattetes Allerunterthänigstes Gutachten Von Dem Vernünfftigen Zusammenhange Und Practischen Vortrage Aller Oeconomischen Und Cameralwissenschaften Wobey Zugleich Zur Probe Die Grundsätze Der Policywissenschaft Mit Denen Darzu Gehörigen Practischen Arbeiten Vorgetragen Werdenachen*, 14.

<sup>206</sup> Möser, *Politische Und Juristische Schriften*, 317-8.; Möser, *Sämtliche Werke*, 32-4.; Justi, *Auf Höchsten Befehl an Sr. Röm. Kaiserl. Und Zu Ungarn Und Böhmen Königl. Majestät Erstattetes Allerunterthänigstes Gutachten Von Dem Vernünfftigen Zusammenhange Und Practischen Vortrage Aller Oeconomischen Und Cameralwissenschaften Wobey Zugleich Zur Probe Die Grundsätze Der Policywissenschaft Mit Denen Darzu Gehörigen Practischen Arbeiten Vorgetragen Werdenachen*.; See also: Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 104-5.

<sup>207</sup> “...auf allgemeine und so viel möglich einfache Grundsätze zurückgeföhret sehen.“ (Möser, *Politische Und Juristische Schriften*, 245-48, 338-40.)

virtue. For many of them the “truth remains plain: the more simple the laws, and the more general the rules become, the more despotic, dry, and wretched the country becomes.”<sup>208</sup>

These cameralists advocate instead for a well-regulated process to take the place of a simple understanding of right and wrong (as was on display in the misguided case of the Miller Arnold), a process that goes beyond the mere will of individuals. They push for the “wise construction of the *process* during criminal trials [*Kriminalverfahren*].”<sup>209</sup> Here is the intellectual birthplace of the mechanization of justice, of the marginalization of Creon and the rise of his secretaries. It is also the beginning of an appreciation of the benefits of procedural justice. As “Kreon” is forced to say anachronistically in an *Antigone* adaptation from 1787:

It is impossible to know each man’s heart, intention, and judgment, before he has been tested by the complex business of the administration of justice [*Rechtsverwaltung*].<sup>210</sup>

Procedures hold considerable epistemological power to evaluate truth claims and to skirt the dangers of individual will and whim. As, ironically, Creon suggests here, procedures can inform our understanding of the justness of outcomes more than Creon could himself.

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<sup>208</sup> “Man mag hier annehmen was man will, die Wahrheit bleibt allemal, je einfacher die Gesetze, und je allgemeiner die Regeln werden, desto despotischer, trockner und armseliger wird ein Staat.“ (Justus Möser, *Gesellschaft Und Staat : Eine Auswahl Aus Seinen Schriften* (München: Drei Masken Verlag, 1921), 159-63.; Möser, *Politische Und Juristische Schriften*, 245-48, 338-40.)

<sup>209</sup> “...weisse Einrichtung des Kriminalverfahrens.“ (Schmid, *Ausführliche Tabellen Über Die Policy, Handlungs- Und Finanzwissenschaft*, 15.) My emphasis.

<sup>210</sup> “Unmöglich ist es, jedes Mannes Herz  
Und Sinn und Urtheil zu erforschen, eh'  
Er durch das mannichfaltige Geschäft  
Der Rechtsverwaltung sich geprüft uns zeigt.”

(Christian Stolberg and Friedrich Leopold Stolberg, *Gesammelte Werke Der Brüder Christian Und Friedrich Leopold Grafen Zu Stolberg*, 20 vols., vol. 14 (Hamburg: Friedrich Perthes, 1827), 16-7.)

### (iii) “Arbitrariness under the Banner of Justice”<sup>211</sup>

So far, most of the themes I have addressed concerned the crown’s deputies – a relatively safe area for the cameralists to discuss. However, the principles developed with respect to low-level judges applied equally to higher appellate judges.

Most cameralists extended their skepticism about the arbitrary will of judges upwards throughout the judicial hierarchy. The sovereign as the supreme judge, like any other judge, is often not reasonable and acts harshly.<sup>212</sup> There is room for considerable irony here. Frederick II, as we saw, complained frequently about wayward administrators. He thought that *they* were unduly subject to “mean passions” that obscured their judgment, led them to commit “injustices,” and rendered them on the whole “more dangerous and worse than a band of thieves.” Still more to the point, even Frederick realized that “no human” can be safe from such passions, and that they deserved a “double punishment.”<sup>213</sup> However, as the Prussian kings never failed to illustrate, and as the cameralists periodically experienced on their own bodies: the choices of the kings themselves were often driven by temporary and much-feared eruptions of “wrath” [*Zorn*] rather than by well-balanced reasoning.<sup>214</sup>

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<sup>211</sup> Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshülfe Und Finanzpflege Mit Der Ständeversammlung in Den Germanischen Ländern*, 88-9.

<sup>212</sup> Justi, *Deutsche Memoires, Oder, Sammlung Verschiedener Anmerkungen Die Staatsklugheit, Das Kriegswesen, Die Justiz, Morale, Oeconomie, Commercium, Cammer- Und Polizen- Auch Andere Merkwürdige Sachen Betreffend, Welche Im Menschlichen Leben Vorkommen*, 288-94.; Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshülfe Und Finanzpflege Mit Der Ständeversammlung in Den Germanischen Ländern*, 15.; Möser, *Gesellschaft Und Staat : Eine Auswahl Aus Seinen Schriften*, 216.

<sup>213</sup> All quotation from a Cabinet's order from the 11th December, 1779, as quoted in: Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshülfe Und Finanzpflege Mit Der Ständeversammlung in Den Germanischen Ländern*, 16-17.

<sup>214</sup> Justi, *Deutsche Memoires, Oder, Sammlung Verschiedener Anmerkungen Die Staatsklugheit, Das Kriegswesen, Die Justiz, Morale, Oeconomie, Commercium, Cammer- Und Polizen- Auch Andere Merkwürdige Sachen Betreffend, Welche Im Menschlichen Leben Vorkommen*, 351-2, 430-31.

The letters of direct appeal to the king [*Bittschriften*], for example, were a sore point for the cameralists for precisely this reason: they were uncomfortably irregular and unpredictable. In a manual for aspiring bureaucrats, the Austrian cameralist Sonnenfels vents his distaste for royal petitions: they are filled with endless empty formulas, do not argue persuasively, are repetitive and undisciplined, and the true facts of the case are difficult if not outright impossible to ascertain.<sup>215</sup> Royal petitions consequently push “the cold sweat of fear onto the forehead of many.”<sup>216</sup> Sonnenfels then takes the unusual step of trying to tame and regulate royal petitions: how they are written, whom they are addressed to, how the paper is to be formatted, how signatures should be affixed to them, etc. He attempts, in short, to integrate royal petitions into the regular process of administering justice. As far as I can tell, no other cameralist did the same or even cited Sonnenfels on this point. His plan received little support from the cameralists due to its inconsistency. Royal petitions are inherently extraprocedural; integrating them with the usual judicial procedures would undermine their entire *raison d'être*. People employed direct petitions precisely at the point when they were frustrated by the regular administration of justice, and sought instead to bypass regular procedures by reaching directly for a singular act of will. It was exactly this extraprocedural character of royal petitions that encouraged the detrimental tendencies of the crown's arbitrary will. Carefully crafted procedures for the proper handling of evidence, for example, were simply not followed during direct appeals to the crown. Often this led to the omission or outright loss of evidence.

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<sup>215</sup> Joseph von Sonnenfels, *Über Den Geschäftstyl; Die Ersten Grundlinien Für Angehende Österreichische Kanzleybeamten, Zum Gebrauche Der Öffentlichen Vorlesung*, Zweyte etwas verm. Aufl. ed. (Wien: Joseph Edler von Kurzbek, 1785), 91-119.; For more on Sonnenfels see: Atorf, *Der König Und Das Korn : Die Getreidehandelspolitik Als Fundament Des Brandenburg-Preussischen Aufstiegs Zur Europäischen Grossmacht*, 39-42.; Tribe, "Cameralism and the Science of Government," 275-77.

<sup>216</sup> “...manchem den kalten Angstschweis vor die Stirne.”

The cameralists vented similar concerns with the extraprocedural, arbitrary character of private audiences with the king [*Privataudienz*]. As the Miller Arnold episode illustrates, only one side of a legal dispute might be present during such a meeting (and no lawyers), and the petitioner might switch accusations, blur facts, and appeal to emotions and stereotypes. All of this leads to the formation of doubts about the foundations for a decision that ultimately complicates or undermines the regular judicial process. The resulting decisions are inherently unstable and remain dependent on the arbitrariness of an individual rather than on designable, uniform features of institutions and processes.<sup>217</sup> As Hoffmann complains:

What kind of justice would this be if one rewarded or punished this [person], but paid no heed to people who did the same deeds? An uneven dispensation of justice brings the people's hate upon the authorities."<sup>218</sup>

Even when the king's decisions are not driven by violent outbursts or pure acts of arbitrary will, the decision maker is still susceptible to "favor and animosity," or, again, the equally harmful perception thereof.<sup>219</sup> The problem with the extraprocedural powers of the sovereign is not necessarily that its decisions are wrong: after all, the Miller Arnold might have been the blameless victim of malevolent, plotting aristocrats. Rather, the mere and easily raised appearance of impropriety leads to a legitimacy deficit for the state. As long as the crown can trump the procedural steps of a trial, there will

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<sup>217</sup> Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshülfe Und Finanzpflege Mit Der Ständeversammlung in Den Germanischen Ländern*, 6.

<sup>218</sup> "Denn was wäre dies für eine Gerechtigkeit, wenn man diesen oder jenen nur belohnen oder strafen, adnere aber um gleicher Taten will gar nicht ansehen wollte? Eine ungleiche Ausspendung der Gerechtigkeit bringt der Obrigkeit der Untertanen Hass auf den Hals." (Hoffmann, *Politische Anmerkungen Von Der Wahren Und Falschen Staatskunst Worinnen Aus Den Geschichten Aller Zeiten Bemerket Wird Was Den Regenten, Bürgern Und Einwohnern Eines Landes Zutraglich Oder Schädlich Ist*, 313.)

<sup>219</sup> "...Gunst und Abneigung..." (Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshülfe Und Finanzpflege Mit Der Ständeversammlung in Den Germanischen Ländern*, 9.)

always be room for suspicion that can grow under certain circumstances to the point that can infuse warranted doubts into the administration of justice in the land. Everything under the current system of administering justice depends on the personality of the judge [...], consequently the doubt that there are perhaps a great many unjust decisions cannot be seen as presumptuous or unjustified.<sup>220</sup>

Notice that under this formulation no individual, strictly speaking, is blamed for the flaws of the current system. Nobody could act like a machine, free of biases, temptations, and irrationality. What Reitemeier is worried about here is not justice itself, not the fairness of outcomes. Instead, his writings concern the easily misperceived flaws of the “indicators of justice” [*Kennzeichen des Rechts*]<sup>221</sup>

We might hope that “those who make the decisions about the most important affairs of the state have the required traits of mind and character for the business at hand,” but such hope would be foolhardy.<sup>222</sup> Individuals will always be afflicted by human weaknesses, and reason is all too easily overwhelmed by passions. Given this deep distrust of individual will and choice, cameralists like Reitemeier insist that “as long as it is not possible to free decision makers from human weaknesses and passions and render them akin to angels,” it would be a most daring proposition to think them infallible. All that can be expected from them is “what one can observe in praxis with all public bureaucrats”

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<sup>220</sup> “...bleibt immer Raum für den Verdacht, der unter gewissen Umständen so gross werden kann, dass er gegen die Justizpflege im Lande ein gegründetes Misstrauen einzuflößen geschickt ist. Alles hängt in der gegenwärtigen Verfassung der Rechtspflege von der Persönlichkeit der Urteilsverfasser ab [...] und so kann der Verdacht, dass sich unter die gerechten Richtersprüche auch ungerechte, und vielleicht sehr viele, mit einschleichen, nicht gerade als gewagt und vermessen angesehen werden.” (Ibid., 5-6.)

<sup>221</sup> Ibid., 8.

<sup>222</sup> “Es ist nun zwar eben sowohl zu hoffen als zu wünschen, dass diejenigen, die über die wichtigen Angelgenheiten der Einwohner entscheiden sollen, allemal die Eigenschaften des Kopfes und Characters besitzen, die für ein solches Geschäft nöthig sind.” (Ibid., 8-9.)

[*Beamten*].<sup>223</sup> The influential publicist, jurist, and bureaucrat Justus Möser argued concisely and seditiously in this vein that “all people can err, the king just as the philosopher.”<sup>224</sup>

Justice in the hands of a few individuals, rather than in the keeping of carefully crafted procedures, is deeply worrying for cameralists like Reitemeier, Möser, and Hoffmann. However, Reitemeier is far more blunt in his critique than others. For him, a system of arbitrary wills driving the administration of justice is so deeply flawed that it amounts, at best, to a pseudo-legal state [*Scheingesetz-mässigkeit*].<sup>225</sup> Even if it were seen as legitimate (though it should not be), it nevertheless is merely “a structure of arbitrariness under the banner of justice” that might fool some, but could never hide “that in fact there could be an undeniable injustice.”<sup>226</sup>

Notice that even Reitemeier hedges his bets (“could”). Cameralists normally cushion their critique of the crown very carefully, in friendly terms, and in the hypothetical tense. Cameralists, whose livelihood depends on the crown’s continued patronage as academics and/or administrators, are caught in a bind here. On the one hand, they are the intellectual force behind rendering the crown’s rule efficient and stable, even if that entails significant reforms. On the other hand they are, functionally speaking, producers of the absolutist superstructure and thus deeply beholden to the status quo. Reitemeier sticks out of the cameralist crowd because his work illustrates this tension clearly.

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<sup>223</sup> “So longe es aber nicht möglich ist, sie von den menschlichen Schächen und Leidenschaften frei und den Engeln gleich zu machen, [...] als was man in der Praxis bei allen öffentlichen Beamten wahrnimmt.“ (Ibid.)

<sup>224</sup> “Alle Menschen können irren, der König wie der Philosoph, und letztere vielleicht am ersten, da sie beide zu hoch stehen, und vor der Menge der Sachen, die vor ihren Augen schweben, keine einzige vollkommen ruhig und genau betrachten können.“ (Möser, *Gesellschaft Und Staat : Eine Auswahl Aus Seinen Schriften*, 214-18.)

<sup>225</sup> Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshilfe Und Finanzpflege Mit Der Ständeversammlung in Den Germanischen Ländern*, 155.

<sup>226</sup> “...ein Gebilde der Willkühr unter dem Stempel der Gerechtigkeit, dass seinem wahren Werthe nach nichts weiter als seine Brille ist, die den Parteien und dem Publikum aufgesetzt wird, um ihnen in der Form die Gerechtigkeit zu zeigen, während in der Sache eine unleugbare Ungerechtigkeit liegen kann.“ (Ibid., 88-9.)

In parts of his work, he sharply—and very boldly—criticizes the crown’s direct involvement in legal proceedings as a practice suitable to “the regents of the orient.”<sup>227</sup> In other parts, his language is more guarded and accommodating of the crown’s temptations. Yes, it would be great if the regent could be bothered to get involved in legal matters as the highest judge of the land, *but* the “partisan presentation” of facts in front of the sovereign cannot be prevented. Even if this problem could be overcome, the mere “suspicion of partiality and arbitrariness” would hurt the crown more than help it.<sup>228</sup> Reitemeier even invents the new term “judicial-caprice” [*Justizwillkühr*] to differentiate his concerns from matters of mere private whim or vagary.<sup>229</sup>

#### **(iv) Codifying the Law – The Case of the Other Miller**

Whether through outright critique or subtle reassessment, Reitemeier, like many of his colleagues, came to view Creon’s direct involvement in trials as detrimental to Creon’s own rule. They searched at length for the best tools to “maintain upright the state and its purpose against the private will” of the regent *in order to* enhance the regent’s rule.<sup>230</sup> Frederick the Great, for his part, initially saw little allure in this line of reasoning. In his *Anti-Machiavel* (1739), the crown prince argued for the importance of having rulers that “see everything with their own eyes and rule their state by themselves,” rulers that are “in

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<sup>227</sup> “...den Regenten des Orients.“ (Ibid., 157.)

<sup>228</sup> “...Verdacht der Parteilichkeit und Willkühr...” (Ibid., 50-2.)

<sup>229</sup> Ibid., 66-8.

<sup>230</sup> “... gebietet uns auch be der Konstituirung eines Regent, es juridisch möglich zu machen, den Staat und dessen Zweck gegen seinen möglichen Privatwillen aufrecht zu erhalten...” (Pölitz, *Die Staatslehre Für Denkende Geschäftsmänner, Kammeralisten Und Gebildete Leser*, 169.)

many ways the soul of the state, on whose shoulders lies the weight of ruling just as the world lies on the shoulders of Atlas.” In Frederick’s words:

[Such rulers] lead in internal affairs as well as in external [affairs]; all orders, laws, ordinances originate with them, they inhabit simultaneously the post of justice minister, head of the army, finance minister; in short everything that is connected to politics in any way depends on their decision.<sup>231</sup>

A French diplomat residing in Berlin remarked upon Frederick’s ascension to the throne that “the regnant king is even more impervious than his father; he does everything himself, and his ministers are mere henchmen of mediocre importance.”<sup>232</sup>

Two contemporary *Antigone* adaptations illustrate this temporary preeminence of individual will over procedures.<sup>233</sup> The first of these adaptations was an opera by Gaetano Roccaforte that premiered in 1752 to wide popular acclaim in Mannheim. It became the inspiration for the production of twelve more *Antigone* operas in the years to follow. As in Sophocles’ version, Roccaforte’s Creon prohibits the burial of Polyneices, and Antigone disregards his directive. However, from there the opera deviates sharply from the Greek source material. Creon orders his son Eurysteon (not Haimon) to kill Antigone. Eurysteon disregards his father’s command and installs Antigone under a false name as a priestess in a nearby temple to Apollo. Fifteen years later Antigone returns to the royal palace in Thebes,

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<sup>231</sup> “Es gibt zwei Arten von Fürsten in der Welt, solche, die alles mit eigenen Augen sehen und ihren Staat selbst regieren, und solche, die sich auf die Zuverlässigkeit ihrer Minister verlassen und sich von denen leiten lassen, die Einfluss auf sie gewonnen haben. Die Fürsten der ersten Art sind gewissermassen die Seele ihres Staates, auf ihnen allein ruht die Last der Regierung wie die Welt auf den Schultern des Atlas; sie führen die inneren Angelegenheiten sowohl wie die äusseren; alle Befehle, Gesetze, Vorschriften gehen von ihnen aus; sie füllen zu gleicher Zeit die Posten des Justizministers, des Oberbefehlshabers des Heeres und des Finanzministers aus; kurz alles, was nur irgendwie mit Politik zusammenhängt, unterliegt ihrer Entscheidung.“ (Quoted in: Hubatsch, *Friedrich Der Grosse Und Die Preussische Verwaltung*, 40.)

<sup>232</sup> *Ibid.*, 41.

<sup>233</sup> See: Flashar, *Inszenierung Der Antike : Das Griechische Drama Auf Der Bühne Der Neuzeit, 1585-1990*, 42-4.

secures the support of the guards, and overthrows Creon. In shackles, Creon is brought before Antigone, who magnanimously pardons him. The final chorus shouts triumphantly:

So live with bliss, noble queen,  
you miracle of our times, rule always with joy,  
may heaven graciously grant this wish.<sup>234</sup>

There is nothing tragic about this adaptation of *Antigone*. There are no irreconcilable differences and no unavoidable pain. Creon's acts of singular will are merely replaced by the singular, and equally arbitrary, will of Antigone. Both are firmly in charge of the administration of justice, and all is well. In another *Antigone* adaptation from the same time period, the happy end is produced with even less effort: Antigone dies, and Creon celebrates in his palace, untouched by doubt or tragic loss, while the crowd cheers and dances. Antigone's act of rebellion is duly met by Creon's reassertion of singular will.

However, much had happened over the course of the century, since these *Antigone* adaptations and Frederick's declarations: the Miller Arnold case had proven to be an unlikely crystallization of changed perception and an even less likely impetus for institutional reforms. Still angry with the judges of the Miller Arnold case, Frederick ordered Johann Heinrich Casimir von Cramer and later Carl Gottlieb Svarez to write new procedures for civil and criminal cases (the General Court Ordinances), as well as codifying a new set of laws (the eventual *Allgemeines Landrecht*, or ALR).<sup>235</sup> Cramer and Svarez, good cameralists that they were, interpreted this as a commission to find the legal means that would most strengthen the crown's rule, and this entailed, as we have seen,

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<sup>234</sup> "So leb' vergnügt dann, edle Königin, du Wunder unserer Zeiten, regiere stets in Freuden, der Himmel nehm' zur Gnad' den treuen Wunsch dahin." (Ibid., 43.)

<sup>235</sup> The ALR was finished on the 20<sup>th</sup> March, 1791 and acquired the force of law on June 1<sup>st</sup>, 1794 (Huber, *Deutsche Verfassungsgeschichte*, 105-7.)

procedures to regularize trials and remove them from the arbitrary will of individuals. As some historians have pointed out, throughout the eighteenth century in Prussia, administrators had struggled *against and with* the crown to attain independence from interference in the legal system's internal workings.<sup>236</sup> At the close of his reign, Frederick finally seemed committed to this project and was willing to grant, in the words of one historian, "the independence of the judiciary . . . and exclusive judicial jurisdiction over matters of private civil law and criminal law."<sup>237</sup> The ALR, launched shortly after the Miller Arnold episode, made significant strides towards ridding Prussia of royal dicta in judicial affairs.<sup>238</sup> A flurry of codification efforts attests to similar lines of thought throughout Germany. Most of the important German domains adopted important lessons from the cameralists and codified them in new civil and criminal codes.<sup>239</sup> In them, Creon's secretaries, and the machinery of justice they increasingly inhabited, displaced Creon's direct commands. In another nod to Antigone, one of the new legal codes decreed that the bodies of those who had died dishonorably should no longer be turned over to scavengers, but were to be buried, in private.<sup>240</sup> At the same time, various cameralists began publishing criminal law and criminal procedure journals that argued for understanding justice as procedures.<sup>241</sup>

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<sup>236</sup> Kenneth F. Ledford, "Formalizing the Rule of Law in Prussia," *Central European History* 37, no. 2 (2004): 209-10.; Hubatsch, *Friedrich Der Grosse Und Die Preussische Verwaltung*, 219.

<sup>237</sup> Ledford, "Formalizing the Rule of Law in Prussia," 209-10.

<sup>238</sup> For more on this see: Hans Hattenhauer, "Das Alr Im Widerstreit Der Politik," in *Kodifikation Gestern Und Heute : Zum 200. Geburtstag Des Allgemeinen Landrechts Für Die Preussischen Staaten*, ed. Detlef Merten and Waldemar Schreckenberger (Berlin: Duncker & Humblot, 1995).; Berkowitz, *The Gift of Science : Leibniz and the Modern Legal Tradition*, 75-7, 79.

<sup>239</sup> L. v Bar, *A History of Continental Criminal Law* (Union, N.J.: Lawbook Exchange, 1999).

<sup>240</sup> *Ibid.*, 251.

<sup>241</sup> See for example: Giessen: "Grundsätze der Criminalrechtswissenschaft nebst einer systematischen Darstellung des Geistes der deutschen Criminalgesetze."; Grolmann & Feuerbach: "Bibliothek für peinliche Rechtswissenschaft und Gesetzkunde."; Giessen: "Über die Begründung des Strafrechts und der Strafgesetzgebung."; and the, for many years, premier publication of German criminal law: Kelin & Kleinschrod: "Archiv des Criminalrechts." (*Ibid.*, 327.)

Eventually, cameralists, with increasing brazenness, differentiated between the kind of justice that results from properly followed procedures and what they called “real” or “actual” justice. They began to distinguish, *explicitly*, between two genera of justice: one determined by an a priori notion or intuition of justice, the other the outcome of a series of steps within a procedural framework. For these cameralists, “actual justice” exists, ontologically, independently of “formal justice,” and vice versa. The key conceptual development here is the decoupling of “justice” as usually understood and “justice” as the outcome of a court process.

One might think that it would be the critics of cameralism who would engage in the project of drawing this distinction. Such critics could then use the distinction to highlight the flaws and defects of the kinds of procedures the cameralists sought to impose on the administration of justice. Notice, however, that it was the cameralists themselves who drew the distinction between “actual” and “formal” justice. In their view, this was a great achievement, a development to cherish. As the cameralist Justus Möser put it: “Each human has to recognize with a thankful heart that formal justice is preferred to real justice.”<sup>242</sup>

Möser recognized that there might be “sad cases” in which a judge recognized the demands of “actual justice” but was prevented from obeying them because of procedural limitations. Nonetheless, according to Möser, it is better that one judge “mourns” for real justice than that the whole system be threatened by a reassertion of individual will over proper procedures.<sup>243</sup> Procedural justice is separate from “actual justice” and trumps it if

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<sup>242</sup> “Jeder Mensch hat es mit dankbarem Herzen zu erkennen, dass man das förmliche [Recht] dem wirklichen vorziehe.“ (Möser, *Gesellschaft Und Staat : Eine Auswahl Aus Seinen Schriften*, 214-18.)

<sup>243</sup> “Der traurige Fall, worin ein Richter sich oft befindet, ist dieser, wenn er das wirkliche Recht augenscheinlich erkennt, und es doch nicht zum förmlichen machen kann. Aber demungeachtet ist es

they are not in agreement. Möser, like many cameralists hereby elevates procedural decision making over the raw will of individuals. Intuitions and competing notions of justice, decency, and right are subsumed under a broad and powerful procedural framework. The cameralists, it seems, had successfully reconfigured the sovereign power of the state. Their understanding of a well-regulated state marginalized the will of individuals and all competing notions of desert in favor of an administrative, procedural machinery that derived its legitimacy from successful and effective management.

An immensely popular anecdote, then and now, about Frederick the Great (without much proof for or against it) illustrates and summarizes the significant developments that had taken place: The aging Frederick, it is said, was bothered by the rattling of the windmill of Sanssouci not far from his palace. Having difficulty resting with this noise around him, the king order the mill destroyed. However, the miller of Sanssouci reminded the king: “Your Majesty, there are still judges in Prussia!” The king, half-disgruntled, half-smiling, bowed to the laws he himself had decreed, and the mill of Sanssouci remains standing to this day. It is a popular tourist attraction a short drive outside of Berlin.<sup>244</sup>

### **(v) Suing the King**

The crown, if we accept the arguments of many cameralists, gained mightily by institutionalizing such self-restraint. However, taking such arguments to their conclusion

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besser, dass ein einzelner Mann traure, als das man alles in Gefahr setze; und dies würde geschehen, wenn jeder Richter dasjenige, was er für wirklich Recht erkennt, sogleich als rechtskräftig annehmen könnte.“  
(Ibid.)

<sup>244</sup> See for example: Hubatsch, *Friedrich Der Grosse Und Die Preussische Verwaltung*, 212-3.

reveals a multifaceted Faustian bargain. Johann Jakob Moser's illustrates one side of this bargain. Moser took the implications of the cameralists further than any of his colleagues dared. Active academically and administratively in Prussia and Württemberg, Moser carved out in his voluminous writings narrow grounds upon which the sovereign itself can be sued.<sup>245</sup> Rather than ruling purely by fiat and dictum, the sovereign in Moser's cameralistic assessment was limited by general principles:

[If the sovereign] abuses jurisdictional constraints in the administration in order to influence administrative decisions; then we have new examples that would ground the taking away of his exercise of the sovereign jurisdiction.<sup>246</sup>

It is of little importance here that Moser's account is vague and riddled with the practical difficulties of implementing his suggestions. For the purposes of this argument, what counts is that Moser, a cameralist with solid academic credentials and service in numerous German polities, envisions the sovereign as bound by his own laws – for his own sake! Rather than granting the sovereign the power to intervene in any judicial case, Moser takes the extensive cameralist argument about procedural justice to its conclusion. For Moser, the sovereign is incorporated into the workings of the law; he is merely another part of the machinery of justice.<sup>247</sup>

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<sup>245</sup> Though hard to find, the best introduction to Moser's work is his fifty-volume opus: Johann Jakob Moser, *Teutsches Staats-Recht*, 50 vols. (Nürnberg,: Stein, 1737-53).; For more biographical accounts see: Erwin Schömbbs, *Das Staatsrecht Johann Jakob Mosers (1701-1785); Zur Entstehung Des Historischen Positivismus in Der Deutschen Reichspublizistik Des 18. Jahrhunderts*, Schriften Zur Verfassungsgeschichte. (Berlin,: Duncker & Humblot, 1968).; Reinhard Rürup, *Johann Jacob Moser. Pietismus Und Reform* (Wiesbaden,: Steiner, 1965).

<sup>246</sup> "...misbraucht er sich der ihme annoch übrig beliebenden Verwaltung derer Jurisdictionen, um in obbefagte Administration Eingriff zu thun; so haben wir noch ganz neue Exemple, dass ihme so dann auch die Ausübung der Landesherrlichen Gerichtbarkeit genommen worden ist." (Moser, *Von Der Landeshoheit in Cameral-Sachen, Nach Denen Reichs-Gesezen Und Dem Reichs-Herkommen, Wie Auch Aus Denen Teutschen Staats-Rechts-Lehrern, Und Eigener Erfahrung*, 53, 59.)

<sup>247</sup> *Ibid.*, 52-3.; Consider also: Ernst Moritz Arndt, *Staat Und Vaterland : Eine Auswahl Aus Seinen Politischen Schriften*, Deutsche Staatsgedanke. 1. Reihe. Fører Und Denker ; (München: Drei Masken Verlag, 1921), 40.

The multifaceted argumentative moves of the cameralists have an interesting and potentially unintended consequence: under their model of the proper administration of justice, verdicts increasingly become justified by and during the process, not by their outcomes. Instead of asking whether Miller Arnold, von Gerdorf, or von Schmettau received the proper verdict, we are directed to investigate the proper adherence to all the procedural elements of the trial. Many people were upset about the Miller Arnold case *not* because the wrong verdict had been reached (for little was known to people at the time about the merits of the Arnolds' case), but because they could agree that it was thoroughly improper for the crown to intervene directly in a case and thereby unsettle the procedural justifications that legitimize decisions. As we have seen, such outrage was a new phenomenon, driven by and reflected in the cameralists' developing understanding of the proper administration of justice. The scandal surrounding the Miller Arnold case would have been unthinkable in earlier times, when the crown's actions would have been viewed as perfectly unremarkable.

Interestingly enough, the critics of the king's interference were not trouble-rousing Jacobins in the making, but completely loyal subjects of the crown. Whether they were cameralists (in the pay of the crown) or aristocrats who flourished under the crown's patronage, they could all now agree that the crown should not undermine the sanctity of procedural justifications of verdicts. They reached this conclusion not in the name of some enlightened ideal, but for raw political advantage and ultimately *for the crown's own sake*. This should make us suspicious, and it points us toward a nontrivial question: why should the crown limit itself? Why accept de facto restrictions on its ability to intervene directly in legal cases? Why curtail the time-honored tradition of the *Machtspruch*?

In many ways it was a brilliant, if unintended, move on the part of an absolutist state. Instead of focusing on the justice and fairness of a given outcome, the apologists for despotic rule could now focus on the procedures leading up to a given outcome. The question no longer is whether a given outcome is just, but whether the process was properly followed in reaching the outcome. Verdicts are justified internally through an evaluation of numerous procedural steps, rather than externally by comparison to an outside yardstick. As such, the hegemony of procedures in the administration of justice allows for easy deflection of criticism away from the crown itself, and focuses complaints instead on the opaque machinery of the state. As many experiences with bureaucracies attest, it can be notoriously tricky to blame any-body, any person, for flaws in the outcomes of administrative processes. Bureaucracies redirect such complaints to an intricate process instead. This is one facet of Hannah Arendt's famous statement that "bureaucracy is the rule of nobody."<sup>248</sup> "Pure administration," for Arendt, replaces "personal rulership" at the cost of our ability to assign blame clearly and decisively.<sup>249</sup> The notorious difficulty of attaching blame on anybody within the bureaucratic machinery, seen from this perspective, is a considerable advantage to the sovereign.<sup>250</sup>

The hegemony of procedures, then, is necessarily marked by a paradoxical duality. While it constrains the sovereign, it also enables him. While it limits the sovereign's power to intervene in any given case, it enhances the sovereign's reach in all cases. The crown might be hindered from single, visible, and potentially offensive exercises of will, but its

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<sup>248</sup> Hannah Arendt, *The Human Condition*, 2nd ed ed. (Chicago, Ill.: University of Chicago Press, 1998), 45.

<sup>249</sup> Ibid.

<sup>250</sup> For more on this point consider also that "the self-conscious transformation of the administrative role from the easily accountable but private, informal patron-client base to the protected but public, contractual administrative role that was, paradoxically, much lesss accountable in a direct fashion." (Silberman, *Cages of Reason : The Rise of the Rational State in France, Japan, the United States, and Great Britain*, 5.

influence is now yielded indirectly, more latently, and more persistently through the power to articulate procedures. While the crown is limited to “execut[ing] the decisions of judges *without changing them*,” it is immensely empowered by the authority to articulate the procedural rules [*Processordnung*] that these judges must follow.<sup>251</sup> As some cameralists recognized, it was no accident that the crown implemented procedural reforms well before revisions of substantive laws. Both were initiated on the same day (14. April 1780), but the Prussian minister responsible for the reforms, von Cocceji, implemented the procedural rules years before the substantive laws.<sup>252</sup> As one cameralist put it:

Actual law could be done away with entirely if necessary [...] but one cannot do without formal justice/procedures and formal truth. All nations have recognized this that thought first of procedural rules and [only secondly] of substantive laws, as the minister Cocceji who implemented the procedural regulations before the substantive laws.<sup>253</sup>

In this, the cameralists themselves entered, knowingly or not, into a dangerous Faustian bargain with the crown. As some cameralists recognized, and as Reitemeier put most clearly, the brilliance [*Glanz*] of properly designed procedures is inseparable from what makes them dangerous. Procedures are desirable, but they are built, inherently, “on shaky foundations” that are “of no secure duration,” because procedural understandings of justice desubstantiate law.<sup>254</sup> Adolf Albrecht Heinrich Leopold von Danckelmann (the

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<sup>251</sup> Pölitz, *Die Staatslehre Für Denkende Geschäftsmänner, Kammeralisten Und Gebildete Leser*, 154. (My emphasis)

<sup>252</sup> Hubatsch, *Friedrich Der Grosse Und Die Preussische Verwaltung*, 219.; Huber, *Deutsche Verfassungsgeschichte*, 105-7.

<sup>253</sup> “Das wirkliche Recht könnte zur Not in der Welt ganz entbehrt werden [...] aber förmliches Recht und förmliche Wahrheit lassen sich durchaus nicht entbehren. [...] Alle Nationen haben dieses erkannt, die eher an Prozessordnungen als an Gesetzbücher gedacht haben [] wie denn auch der Grosskanzler von Cocceji [welcher] die Prozessordnung dem Gesetzbuche vergehen liess.“ (Möser, *Gesellschaft Und Staat : Eine Auswahl Aus Seinen Schriften*, 214-18.)

<sup>254</sup> “ihr Dasein am gefährlichsten ist [...] ihr auf eine wandelbare Grundlage gebauter Vorzug [ist] von keiner sichern Dauer“ (Reitemeier, *Der Bürgervertrag Für Die Justiz, Staatshülfe Und Finanzpflege Mit*

minister of justice from Silesia) argued this point approvingly in a letter to one of the drafters of the ALR shortly before its official adoption (Oct. 28, 1793). In his view, it was deeply unnecessary and perhaps even dangerous to promulgate justifications and elucidations for laws:

For the inhabitant of a state it is generally sufficient, that he knows that, for example, for doing this or that act, the death penalty is legislated.<sup>255</sup>

He thereby approves of shifting questions of justice away from concerns with morality or decency. The laws themselves, a set of interdictions and sanctions, are all that should properly concern people. What the law requires is simply the “short expressions of command, prohibition or determination of the consequences.”<sup>256</sup> Karl Heinrich Ludwig Pölitz, a professor at Leipzig and Wittenberg, explained similarly in a manual for “businessmen, cameralists, and learned readers” that “morality is not to be considered for the evaluation of individual actions of citizens, but firstly the legality of such an action.”<sup>257</sup> Two other cameralists, Grolmann and Feuerbach, argued extensively in newly founded journals devoted to criminal procedures that law and morality have nothing to do with each other.<sup>258</sup> Finally, Justus Möser argued that if procedures were properly followed, “it does not matter if judges have erred or not; their final sentence transforms actual white into formal black, and vice versa.”<sup>259</sup> Möser summarized his position succinctly by explaining

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*Der Ständeversammlung in Den Germanischen Ländern*, 42-4.); For more on this theme consider also: Mansfield, "Hobbes and the Science of Indirect Government."

<sup>255</sup> Hans Thieme, *Ideengeschichte Und Rechtsgeschichte : Gesammelte Schriften* (Köln: Böhlau, 1986), 758-9.

<sup>256</sup> *Ibid.*

<sup>257</sup> Pölitz, *Die Staatslehre Für Denkende Geschäftsmänner, Kammeralisten Und Gebildete Leser*, 21.

<sup>258</sup> Bar, *A History of Continental Criminal Law*, 427-32.

<sup>259</sup> “...es tut im eigentlichen Verstande nichts zur Sache, ob [...] die Richter geirret haben oder nicht; ihr letzter Ausspruch verwandelt wirkliches Weiss in förmliches Schwarz, und umgekehrt.“ (Möser, *Gesellschaft Und Staat : Eine Auswahl Aus Seinen Schriften*.)

that without the primacy of the indirect question “people would never stop disputing with each other; everybody would want to act based on his own conceptions, and that would give rise to the greatest confusion.” The only way to avoid such confusion and secure peace is through a procedural understanding of truth and justice. The result of proper procedures is considered “formal truth and formal justice.” The declared outcome of such a process thus trumps truth and justice per se: “That which has been announced has to be considered formal justice and has to be obeyed.” Möser concludes by arguing that of course, “everybody retains his free opinion about actual and real justice, if he cannot convince himself [to believe in] formal justice, but nobody cares about that.”<sup>260</sup>

Möser, Pölitz, Danckelmann and their cameralist cohorts had elevated procedures above a concern with the justness of outcomes per se. They thought of law simply as the command of a sovereign that was now interpreted and applied through carefully crafted procedures and resulted in a set of known and uniformly applied sanctions. They thus helped to establish the dangerous understanding of justice as merely the outcome of properly designed procedures. Evaluations of the justness of a case no longer depended on the results reached. Under the cameralists’ theory of the state, the administration created just outcomes and legitimacy endogenously, while the public remained silent, administrated, and excluded from questions of right and wrong. Facticity and normativity, in Habermas’s phrase, were united in the administrative sphere. The public sphere, insofar as it existed at all, functioned by a different logic. It was preempted of meaningful agency

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<sup>260</sup> “Denn es ist hier ein Notrecht für die menschliche Ruhe, nach welchem nun einmal dasjenige förmliche Wahrheit und förmliches Recht sein soll, was also dafür erklärt oder ausgesprochen worden. Der Mensch würde nimmer aufhören zu zanken; jeder würde nach seinem eigenen Begriffe handeln wollen, und es würde daruas die grösste Verwirrungen entstehen, wenn man sich nicht endlich weislich darüber verstanden hätte: dass man dasjenige, was also ausgesprochen ist, für förmliches Recht halten und befolgen wollte. Einem jeden bleibt dabei seine freie Meinung von dem wirklichen Rechte, wenn er sich von dem förmlichen nicht überzeuben kann; aber man achtet darauf nicht.“ (Ibid., 214-18.)

or any role in generating legitimacy. The subject, under this account, was the entirely passive recipient of orders and instructions from a faceless bureaucratic structure.

It would not take long for critics to challenge this development.

## Chapter III.

### Critics

Critics of the cameralist project wanted to reclaim normativity from the administrative sphere. These critics came from many backgrounds and spanned the multi-dimensional ideological spectrum. They included distinguished members of the old Brandenburgian nobility such as Ludwig von der Marwitz, Karl von dem Kesebeck, and Otto von Voss-Buch; influential journalist-philosophers such as Adam Müller and Heinrich von Kleist; high ranking members of the military, including Generals Ludwig Yorck von Wartenburg, Ludwig von Jagow, and August von Kalckreuth; poets Novalis, Achim von Arnim, Joseph von Eichendorff, August and Friedrich Schlegel, Clemens Brentano, and others; members of the clergy; and pamphleteers.<sup>261</sup> They are loosely and customarily bundled under the heading of “German Romanticism” or “Romantics.”

This diverse group attacked the procedural state the cameralists were building from a wide array of angles. Their critiques are often in competition with one another. However,

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<sup>261</sup> For a quick introduction to these individuals and some of the themes they raise see: Eric Dorn Brose, *The Politics of Technological Change in Prussia : Out of the Shadow of Antiquity, 1809-1848* (Princeton, N.J.: Princeton University Press, 1993), 32-33.; Guy Stanton Ford, *Stein and the Era of Reform in Prussia, 1807-1815* (Gloucester, Mass.: P. Smith, 1965), 210.; Gordon Alexander Craig, *The End of Prussia* (Madison: University of Wisconsin Press, 1984), 68.; Goetz A. Briefs, "The Economic Philosophy of Romanticism," *Journal of the History of Ideas* 2, no. 3 (Jun., 1941): 296.; Frank-Lothar Kroll, "Romantik in Preussen," in *Preussische Stile : Ein Staat Als Kunststück*, ed. Patrick Bahners and Gerd Roellecke (Stuttgart: Klett-Cotta, 2001).

in some respects their common target unified their argumentative strategies. In the views of many, purely procedural understandings of the state's administration were destabilizing the state, undermining morality, and contributing to individual and social alienation. The cameralist project, seen from this perspective, was morally bankrupt; it undermined the foundations of a patriotic community, and so forfeited any claim to legitimacy. As the influential Prussian aristocrat Friedrich August Ludwig von der Marwitz pointed out, the cameralistic, procedural state was far from inevitable or desirable. In earlier times, before the cameralists completed their project, bureaucrats "didn't hide, as now, behind forms, without care of their relation to reality, or hide behind the 'decision of the office' so as to not to have to deal with injustices."<sup>262</sup> According to Marwitz and many like-minded critics, the cameralistic theory of the state took a myopic and self-defeating stance towards generating normativity and facticity. Disallowing meaningful agency within the public sphere undermined the efficacy of individuals, the vibrancy of the community, and the ability of the state to survive in contentious times. In contrast to the cameralists, whose primary level of analysis was the efficiency of means, the authors we will encounter in this section are fundamentally opposed to the dull, dispassionate calculation of proper means.

Opposition to the cameralists' theory of the state and social order had four interrelated elements. In chapter 4, I will first explore opposition to the bracketing of passions required by the cameralists' procedural understanding of the state. The poets Novalis, Achim von Arnim, and August Schlegel assert that the primacy of empiricism, raw calculation, means over ends, procedures, and the bracketing of passions are dangerous and fundamentally misguided. These authors aim to undermine the foundations of the

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<sup>262</sup> Friedrich August Ludwig von der Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, ed. Friedrich Schinkel (Breslau,: W.G. Korn Verlag, 1932), 62.

cameralist project by reorienting the people's imagination away from the cameralists' obsession with lifeless, mechanical efficiency and towards vibrant, heroic, mystical, poetic, and passionate individualism.

In chapter 5, I will turn to the argument of Theodor Körner, Heinrich von Kleist, and Novalis that the depersonalization entailed by the cameralists' project is destabilizing the state. In place of the cameralists' focus on mechanized and depersonalized procedures, they argue that we should think of the state as inherently personal, impulsive, idiosyncratic and beyond procedures. Legitimacy, under this model, can only spring from interactions between individuals. The state has to be personified; it must live in and through individuals, not procedures. Only once the state has been restructured to allow for dialogue and personal interactions can it lay claim to obedience and sacrifice.

Chapter 6 explores these themes further by anatomizing a clash of metaphors: while cameralists thought of the state as a machine beyond individual whims and passions, many of their critics viewed the state and society as an organism. E.T.A. Hoffman, Friedrich Schleiermacher, and Adam Müller, among others, argued that a mechanical, passionless, depersonalized conception of the state as a machine is both erroneous and harmful, draining the lifeblood out of much-needed vibrant, passionate patriotism. As one commentator put it, the state, "despite all mechanical posing," should "remain . . . heartedly organic."<sup>263</sup> Focusing on efficient, mechanical procedures rather than wholesome ends undermines the moral core of society and renders the state "merely an institution of

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<sup>263</sup> Das "ewige[s] Gesetz ist, dass das Verhältniss von Menschen zu Menschen, also auch das Verhältniss von Regierung zu Regirten überal und allezeit ein in sich lebendiges, flüssiges, sich im Guten und Bösen, in Tugend und Frucht wie in Sünde und Strafe in's Gleichgewicht setzendes, trotz alles mechanischen Verhaltens ein innerlichst organisches ist und bleibt..." (Heinrich Leo, *Lehrbuch Der Universalgeschichte Zum Gebrauche in Höheren Unterrichtsanstalten*, 6 vols., vol. 6 (Halle,: Eduard Anton, 1839), 82.).

force.”<sup>264</sup> Such deviation towards a procedural, mechanical model of the state would amount to a “communal calamity.”<sup>265</sup>

The final chapter of this section (chapter 7) turns towards one reading of what this calamity would entail. As Friedrich Schiller argued, the desubstantiation of justice by the “intricate clockwork of the states” tore apart “the inner bond of human nature.”<sup>266</sup> Justice has been “torn asunder,” dividing “laws and morals” into separate camps. Society, under such “a paltry and coarse mechanic,” is a “clockwork” that imposes a fractured “mechanistic life” on what formerly had been whole.<sup>267</sup> The end result of adhering to a procedural understanding of the state is a soulless and soul-destroying society, in which people become alienated from themselves, from their passions, from each other, and from the state.

The authors we will encounter in this section articulate numerous principled objections to the hegemony of procedures and its manifestation in bureaucracies. Their positions are sharply and completely at odds with the habits, values, and mentality of the bureaucrat and with the conceptual foundations of bureaucracies. The administrative might of the cameralistic state begot this resistance. The Romantics organized and shaped their

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<sup>264</sup> “... den Staat wie eine blosser Zwangsanstalt betrachtet...” (Friedrich August Ludwig von der Marwitz, “Lebuser Denkschrift (9. Mai. 1811) ” in *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, ed. Friedrich Schinkel (Breslau,: W.G. Korn Verlag, 1932), 247.; Craig, *The End of Prussia*, 23. )

<sup>265</sup> Friedrich Schleiermacher, “Aus Einem Brief an Georg Reimer (1806),” in *Stimmen Aus Der Zeit Der Erniedrigung*, ed. Rudolf Vaupel (München: Drei Masken, 1923), 231-2.; For more on this theme consider: Anthony J. LaVopa, *Fichte : The Self and the Calling of Philosophy, 1762-1799* (Cambridge ; New York: Cambridge University Press, 2001), 91-2.

<sup>266</sup> “...das verwickeltere Uhrwerk der Staaten eine strengere Absonderung der Stände und Geschäfte notwendig machte, so zerriss auch der innere Bund der menschlichen Natur, und ein verderblicher Streit entzweite ihre harmonische Kräfte.” (Friedrich Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, ed. Klaus L. Berghahn (Stuttgart: Reclam, 2000), 22.).

<sup>267</sup> “Diese Zerrüttung, welche Kunst und Gelehrsamkeit in dem innern Menschen anfangen, machte der neue Geist der Regierung vollkommen und allgemein.”; The old world order “machte jetzt einem kunstreichen Uhrwerke Platz, wo aus der Zusammenstückelung unendlich vieler, aber lebloser, Teile ein mechanisches Leben im Ganzen sich bildet.” (Ibid., 23.).

message in opposition to the cameralists. Often read in isolation, Romantics did not exist outside of or prior to their engagement with power. There was no a priori identity that then came into contact with administrative power. Rather, the Romantics were forged in confrontation with the cameralistic state. The managerial, bureaucratic state with its many-tentacled police powers helped to bring into being the dreaming, mythical, romantic protagonist.

As such, the Romantics were an early line of defense against the administrative state. They inform our historical understanding of how and why people resisted the rise of bureaucracy. Let's begin with the *why*.

In their writings, the Romantics express skepticism of both the foundations and the impact of the cameralistic state. To their minds, it is in open conflict with human nature. Humans are inherently passionate and cherish personal, direct interactions. In contrast, the desubstantiated, depersonalized cameralistic state treats humans as mere means to externally generated ends. It does not allow for meaningful participation; it silences the public sphere. In the end, the cameralistic state treats humans as bland, interchangeable, silent cogs in the administrative machinery. Romantics argue that such mechanical, technical, economic, functional definitions cannot capture our humanity. Nor does the cameralistic state treat humans in a dignified manner. Rationalized bureaucracy is dispiriting and dehumanizing. It reduces our humanity, stifles noble and heroic sentiments, undermines communities, and fails to engender patriotism. Even if people could endure such a world, it would be lifeless, dull, gray, devoid of beauty, and revoltingly ugly. For all these reasons, the cameralistic state and its vision of social order must be opposed.

Foucault does not speak to the question of *why* we should oppose the administrative state, its police functions, and its capillary domination. Examining the Romantics' normative commitments helps to fill this lacuna, historically and conceptually by returning us to the roots of that opposition. It also informs our understanding of *how* people opposed the emerging administrative state. For the Romantics, the content and form of their opposition are closely aligned. The questions of *why* and *how* to resist the administrative state are thus importantly related. In tracing the Romantics' opposition to the cameralistic state, it is necessary that we broaden our analytical focus to encompass a range of genres and modes of argumentation traditionally overlooked by political theory. The Romantic resistance builds on novel and innovative strategies to resist the dominant discourse of the cameralistic state. It relies on genres and literary forms that the rationality and rationalizations of the cameralists cannot adequately address. Romantics do not simply speak out against the overly calculated, unfeeling, depersonalized cameralistic project; the genres the Romantics choose already carry the same message. For example, horror stories, a staple of Romantic literature, appeal to raw sentiments beyond rational calculations of the efficacy of means to given ends. They invoke visceral, personal emotions. This is a well-calculated move. Romantics' weapons against the mechanistic state include overflowing passions, irrational horror, derision, and flowery rhetoric. Attentiveness to folktales, songs, poems, and horror stories allows us to see the interdependence of form and content in the Romantics' fight against the cameralists' vision of the state. Opposing modes of discourse were key armaments in a contentious battle between opposing visions of social and political order and of the relationship between state and society. For us, then, this cultural battlefield at the turn of the nineteenth century is a site where familiar problems, crises, and

anxieties over the articulation of competing political ideologies play out in an unfamiliar environment.

Understanding the Romantic movement as opposition to the emerging modern, bureaucratic state helps us to understand the growing antagonism and alienation between the administrative sphere and the public sphere. The two, increasingly, were in direct conflict with one another. The cameralists had attempted to monopolize facticity and normativity within the administrative sphere. Now, the Romantics wrestled normativity from the grip of the administrative sphere. However, they made no attempt to reconceptualize facticity. In an ironic twist, Romantics tried to bootstrap facticity, just as the cameralists had tried to bootstrap normativity. The Romantics believed without much elaboration that a legitimate state based on Romantic ideals would also be a state that could survive on the dangerous stage of European power politics, just as the cameralists had presumed without much elaboration that an efficient state would also inherently be a legitimate state. Romantics presumed that legitimacy would inspire patriotism and a willingness to sacrifice that could protect the state. Normativity would automatically generate facticity. Yet at the same time, they structured the public sphere in opposition to the administrative sphere and thereby antagonized the two.

Unsparring in their criticism, Romantics tirelessly vituperated against the cameralistic state and its effects. As the famous pastor Friedrich Schleiermacher, among others, argued: the procedural thinking of the cameralists has robbed us of the ability to know justice. It is undermining society everywhere by raising mechanical modes of thinking above impulsive, passionate appeals directly to justice itself. Instead, we are left

with an indirect approach to justice that thinks of the state as an “artful machine.”<sup>268</sup> The “state-machine”<sup>269</sup> is stuck in a lifeless “mechanism of administration.”<sup>270</sup> All that bureaucrats really desire is to invent vapid “controls, formalities, and forms.”<sup>271</sup> Instead of asking the direct question of justice, bureaucrats are locked into mechanized procedures that focus their attention on the indirect question – just as the cameralists had intended. However, critics argued, such a mechanical application of justice is anything but just: “It has been overlooked that precisely in [the] mechanical application [of justice] lies the most monstrous disparity.”<sup>272</sup> The “mechanical aspects”<sup>273</sup> of justice have their roots, declare these critics, in lackadaisical modes of living and a disregard for blue flowers.

#### ***4. Blue Flowers and the Fear of Living Lackadaisically***

“*The security of the throne is founded upon poetry.*”

[Gneisenau, one of the highest ranking Prussian military officers, to Friedrich Wilhelm III in 1811]<sup>274</sup>

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<sup>268</sup> Friedrich Schleiermacher, "Aus Den Monologen (1800)," in *Stimmen Aus Der Zeit Der Erniedrigung*, ed. Rudolf Vaupel (München: Drei Masken, 1923), 215.

<sup>269</sup> August Wilhelm Anton Gneisenau, "Militärisch-Politische Aufzeichnungen," in *Stimmen Aus Der Zeit Der Erniedrigung*, ed. Rudolf Vaupel (München: Drei Masken, 1923), 60.

<sup>270</sup> See for example: Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 223.

<sup>271</sup> "...Kontrollen, Formalitäten und Bezettelungen." (Friedrich von Cölln, "Über Verschiedene Mängel Im Militär Und in Der Ehemaligen Geschäftsverwaltung Im Preussischen Staate," in *Neue Feuerbrände* (Amsterdam ; Cölln: P. Hammer, 1807), 75.)

<sup>272</sup> Leo, *Lehrbuch Der Universalgeschichte Zum Gebrauche in Höheren Unterrichtsanstalten*, 312-3.

<sup>273</sup> *Ibid.*

<sup>274</sup> Gneisenau to Friedrich Wilhelm III. (8.20.1811) – cited in: August Wilhelm Anton Gneisenau, *Gneisenau; Ein Leben in Briefen*, ed. Karl Griewank (Leipzig,: Koehler & Amelang, 1939). [Letter 80]

In one of the most influential literary pieces of the era, the Baron Friedrich Leopold von Hardenberg, better known as Novalis, sets the blue flower at the center of his sumptuous tale of longing, love, and poetry.<sup>275</sup> His *Heinrich von Ofterdingen*, first published in 1802, became one of the leading inspirations for the writers of the era. It encapsulates and exemplifies much of the key aesthetic vocabulary of the time. For a while, *Heinrich von Ofterdingen* held a landmark status often compared to that of *Hamlet* or *Faust*, and its influence reached well beyond literature into the political thought of, for example, Walter Benjamin and Herbert Marcuse.<sup>276</sup> Largely because of this book, the influential Adam Müller called Novalis in 1807 the “reincarnation, under fundamentally

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<sup>275</sup> For good place to begin exploring the aesthetic discourse at the time consider: M. H. Abrams, *The Mirror and the Lamp: Romantic Theory and the Critical Tradition* (New York: Oxford University Press, 1953); Arthur O. Lovejoy, "On the Discrimination of Romanticisms," *Publications of the Modern Language Association of America* 39, no. 2 (Jun., 1924); George S. Williamson, *The Longing for Myth in Germany: Religion and Aesthetic Culture from Romanticism to Nietzsche* (Chicago: University of Chicago Press, 2004); Fritz Strich, *Deutsche Klassik Und Romantik, Oder Vollendung Und Unendlichkeit; Ein Vergleich*, 5. Aufl. ed. (Bern,: Francke, 1962); Maynard Solomon, "Some Romantic Images in Beethoven," in *Lessons of Romanticism: A Critical Companion*, ed. Thomas Pfau and Robert F. Gleckner (Durham [N.C.]: Duke University Press, 1998); Mathys Jolles, *Das Deutsche Nationalbewusstsein Im Zeitalter Napoleons*, Studien Zur Geschichte Des Staats- Und Nationalgedankens (Frankfurt am Main,: Vittorio Klostermann, 1936), 159-203.; Max Blechman, "The Revolutionary Dream of Early German Romanticism," in *Revolutionary Romanticism: A Drunken Boat Anthology*, ed. Max Blechman (San Francisco: City Lights Books, 1999); For a romanticized account of the Novalis and his followers see: Ludwig Pesch, *Die Romantische Rebellion in Der Modernen Literatur Und Kunst*, Beck'sche Schwarze Reihe ; Bd. 19 (München: Beck, 1962); Manfred Frank, *Der Kommende Gott: Vorlesungen Über Die Neue Mythologie*, 1. Aufl. ed., Edition Suhrkamp ; (Frankfurt am Main: Suhrkamp, 1982); For strong reactions to Frank's work consider: Andrew Bowie, *Aesthetics and Subjectivity: From Kant to Nietzsche*, 2nd ed. (Manchester, UK ; New York: Manchester University Press, 2003); Jochen Fried, *Die Symbolik Des Realen: Über Alte Und Neue Mythologie in Der Frühromantik*, Literatur in Der Gesellschaft ; (München: W. Fink, 1985); For a more political perspective consider: Lothar Kittstein, *Politik Im Zeitalter Der Revolution: Untersuchungen Zur Preussischen Staatlichkeit, 1792-1807* (Stuttgart: F. Steiner, 2003), 30-34, 40-1, 46-49.

<sup>276</sup> For more on the reception of Novalis' *Heinrich von Ofterdingen* see: Dennis F. Mahoney, *The Critical Fortunes of a Romantic Novel: Novalis's Heinrich Von Ofterdingen*, 1st ed. (Columbia, SC: Camden House, 1994); J.F. Haussmann, "German Estimates of Novalis from 1800 to 1850," *Modern Philology* 9, no. 3 (Jan., 1912); Walter Benjamin, *Der Begriff Der Kunstkritik in Der Deutschen Romantik*, 1. Aufl. ed. (Frankfurt (am Main): Suhrkamp, 1973); Herbert Marcuse, *Der Deutsche Künstlerroman; Frühe Aufsätze*, 1. Aufl. ed. (Frankfurt am Main: Suhrkamp, 1978); Michael Löwy, "Under the Star of Romanticism," in *Revolutionary Romanticism: A Drunken Boat Anthology*, ed. Max Blechman (San Francisco: City Lights Books, 1999).

different conditions, of Plato himself.”<sup>277</sup> Novalis thought of his literary production more humbly. Like many of the authors we will encounter in this section, Novalis spent most of his adult life as a low-level government bureaucrat [*Salinenbeamter*].<sup>278</sup> Though important to Novalis himself and ultimately to many others, his nonprofessional writings were in Novalis’s own estimation only a “minor affair” [*Nebensache*]. As Novalis explained in a letter to a friend, writing was for him, first and foremost, a diversion and an educational tool [*Bildungsmittel*].<sup>279</sup> Like Joseph von Eichendorff, who was a bureaucrat for 30 years while simultaneously writing a voluminous and influential literary *oeuvre*, Novalis spent most of his energies and his short adult life as an ordinary functionary in the state’s administration.<sup>280</sup> As a result, his implicit and explicit critiques of administrative affairs were informed by his own professional experiences. However, Novalis’s skepticism of the cameralistic practices he encountered every day at work is revealed indirectly. Instead of questioning cameralistic practices here or there, Novalis aims instead at the very foundations of the cameralist project.

On its surface, *Heinrich von Ofterdingen* is a simple, apolitical tale about the physical and spiritual journey of a young man - Heinrich.<sup>281</sup> Traveling with a group of merchants, Heinrich visits castles, encounters enchanting maidens, is led by the power of dreams, falls in love, and adventures into mystical caverns. The story is self-consciously fantastic and makes no claims to be realistic or plausible in a straightforward manner.

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<sup>277</sup> Heinrich Müller, *Vorlesungen Über Die Deutsche Wissenschaft Und Literatur*, 2., vern. und verb. Aufl. ed. (Dresden: Arnold, 1807).

<sup>278</sup> Most of Novalis’s writings from this line of work (called the “Salinenschriften”) are lost since World War 2 and have most likely been destroyed.

<sup>279</sup> Novalis, "Briefe Von Novalis," in *Schriften; Die Werke Friedrich Von Hardenbergs*, ed. Paul Kluckhohn and R. H. Samuel (Stuttgart: W. Kohlhammer, 1960), 264-67.

<sup>280</sup> Jacoby, *Die Bürokratisierung Der Welt; Ein Beitrag Zur Problemgeschichte*, 53.

<sup>281</sup> For more on this motif see: David L. Mosley, "Wandering as Topic and Trope in Early Nineteenth-Century German Culture," in *Romanticism across the Disciplines*, ed. Larry H. Peer (Lanham: University Press of America, 1998).

Novalis argues instead against the primacy of empiricism, raw calculation, means over ends, and procedural understandings of desert. Things just *are*: some people are noble and valiant, others are cowardly and evil. Novalis's tale works on a fundamentally different level than cameralistic thought. Through it, Novalis labors to reorient the reader's imagination and to kindle dormant passions.

Consider the instructive final passage of the fourth chapter of *Heinrich von Ofterdingen*, in which Novalis emphasizes the unconscious and prerational – symbolized by a stream that carries Heinrich's unconsciousness forward. In one of Novalis's characteristic narrative ploys, Heinrich finds an important insight on his journey through a dream. There, Heinrich encounters a deep, blue, mystical river. Drawn to it by the presence of his love interest (Mathilde), he approaches the river and is filled with fear. Soon he finds himself in the river, without really knowing how, and is carried away by its current, unable to struggle against its raw force. As Mathilde's boat begins to sink, "a terrible fear robbed him of his consciousness." When he becomes aware of his surroundings again (that is *not* to say that he has regained consciousness), he finds himself in an alien environment:

He didn't know what had happened to him. His mind [*Gemüt*] had disappeared. Thoughtlessly, he traveled deeper into this country.

Heinrich is exhausted from his travels but is replenished by a small spring. He ventures further and further, and "flowers and trees talked to him." Heinrich begins to feel at ease and at home in this new environment. Finally he is called again by the song of Mathilde, and as they reunite, Heinrich weeps from the heart. He asks her where the river

went, and she points out the blue waves above them. Here, in the river, they will stay united forever. At last she tells him “a wonderful, secret word,” and he awakens.<sup>282</sup>

This passage, like much of Novalis’s writing, is loaded to the brim with symbolic meaning. Perhaps Novalis meant it to literally overflow with multilayered representations of forces unseen. In the world he wants us to travel in, the unconscious, passionate, and unthought is always and necessarily spilling into seemingly mundane affairs: alongside the unexceptional work of merchants lurk the absurd and unfathomable (*Heinrich von Ofterdingen*, chapter 2). Near the huts of ordinary peasants lie caves, ready to be explored, filled with surprising treasures (*Heinrich von Ofterdingen*, chapter 5). Beneath the simple world of an insignificant youth lies the ravaging world of unconscious forces, carrying one’s mind into unknown territory, replenishing it, and providing the willing traveler with the password that might soon prove crucial.

The blue flower itself embodies this understanding of the world as split into calculating and emotional halves. For Novalis, the two are interconnected through many gates, cracks, and portals. In the beginning of the book, Heinrich, once again in a dream, travels through a gap in a mountain into a miraculous cave. In it, he is drawn to a blue flower that reveals to him the face of a girl he will not meet for a long time, but who will become the focus of his longing and journey as well as a leitmotif of Novalis’s imagery. Imagine a whole book mostly in the same vein as the two short passages I have discussed thus far, and you have a sense of where Novalis is heading and why some consider his work arduous to read. However, there is method to Novalis’s idiosyncratic style.

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<sup>282</sup> “...entsetzliche Angst raubte ihm das Bewusstsein.” - Novalis, "Heinrich Von Ofterdingen," in *Schriften; Die Werke Friedrich Von Hardenbergs*, ed. Paul Kluckhohn and R. H. Samuel (Stuttgart,: W. Kohlhammer, 1960).

## (i) The Primacy of Passions

Like those omnipresent cracks, gates, ports, passageways, and doors, Novalis presents himself as a connection, a gatekeeper and importer of the wisdom of one realm into the other. He brings us the neglected wisdom of passions lying dormant deep within us that reason could suppress but never contain. Novalis tries to get us back in touch with our allegedly dormant passions. He attempts to reunite the splintered individual into one coherent whole. Reading his books and poems is not only intended to show the reader individuals who achieved such coherence successfully and fruitfully, but the experience of reading his books is meant to demonstrate the theory on the page. Poetry, for Novalis, is based upon “*tätiger Ideenassoziation*” – the active but largely subconscious play-like association of latent meanings.<sup>283</sup> The poet, for him, necessarily “prays at the pedestal of chance and accident.”<sup>284</sup> In many of Novalis’s chapters, there is simply far too much to absorb, and the mind wanders in such passages. That is a calculated effect.

As Novalis explains, narratives are ideally “without coherence, yet with associations, like *dreams*.”<sup>285</sup> His tales have only an “allegorical meaning” and “an indirect effect like music”<sup>286</sup> that sways and moves us through latent causes. As we find ourselves

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<sup>283</sup> “idealischer Zufallsproduktion“ - from Werke Nr.128 in: ———, *Novalis Werke*, ed. Gerhard Schulz (München,: Beck, 1969), 493.

<sup>284</sup> “Der Dichter betet den Zufall an.“ (———, “Fragmente Zur Poetik,” in *Schriften; Die Werke Friedrich Von Hardenbergs*, ed. Paul Kluckhohn and R. H. Samuel (Stuttgart,: W. Kohlhammer, 1960).; for a more widely available version see: Novalis, “Fragmente Zur Poetik,” in *Romantik*, ed. Otto F. Best and Hans-Jürgen Schmitt (Stuttgart: Reclam, 1974).

<sup>285</sup> “Erzählungen, ohne Zusammenhang, jedoch mit Assoziation, wie *Träume*.” (Novalis, “Fragmente Zur Poetik.”)

<sup>286</sup> “Höchstens kann wahre Poesie einen *allegorischen* Sinn im grossen haben und eine indirekte Wirkung wie Musik usw. tun.” (Ibid.)

tapping our feet to the rhythm before us, Novalis accomplishes his two-pronged project. On the one hand, he envelops us in a fantastic universe, created in contrast to the disenchanting and dispassionate one ushered in by an undue emphasis on means rather than ends, calculation rather than passion. On the other hand, as we read about the dreams and journeys of the protagonists on the page, our minds wander as well, jumping by vague association from one symbol to another. Just as the heroes on the page get in touch with their passions and subconscious drives, so do the readers whom Novalis leads to experiment with the all-importance of spiritual intangibles, dismissed by the materialist crowd as chains that bind us to superstitions and backwardness. Only a person (real or fictitious) who is not enslaved to procedures and means can escape a spiritually numbing materialistic world.<sup>287</sup>

Two kinds of truths confront one another here. Since the waning of Novalis's era, historical and social accuracy, objectivity, and gritty realism have become central aims of literature. Novalis and his like-minded contemporaries, in sharp contrast, aimed for truth in narratives and not a simulation of "reality." A novel that merely tries to depict events accurately, they held, is an artless chronicle and bound to remain incomplete.<sup>288</sup> In contrast, the true novel is "free history – at once mythology and history (mythology here understood

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<sup>287</sup> Consider on this point Weber: "Release from the rationalism and intellectualism of science is the fundamental premise of life in communion with the divine. This, or something very like it, is one of the basic slogans that you hear from our young people who are religiously minded or in search of religious experience" or of "experience as such." The path they take is "that only realm that intellectualism had failed to touch until now, namely, the realm of the irrational" that which "is now made conscious and subjected to intellectual scrutiny. For that is what the modern intellectualist romanticism of the irrational amounts to in practice." (Max Weber, *The Vocation Lectures : "Science as a Vocation" "Politics as a Vocation"* (Indianapolis: Hackett Pub., 2004), 16.

<sup>288</sup> E.g. "Die Geschichte muss immer unvollständig bleiben." (Novalis, "Fragmente Zur Poetik."); consider also Friedrich Wilhelm Schelling: "Wollte er [der Künstler] sich aber mit Bewusstsein dem Wirklichen ganz unterordnen und das Vorhandensein mit knechtischer Treu wiedergeben, so würde er wohl Larven hervorbringen, aber keine Kunstwerke" (Friedrich Wilhelm Schelling, "Abkehr Von Der Naturnachahmung," in *Romantik*, ed. Otto F. Best and Hans-Jürgen Schmitt (Stuttgart: Reclam, 1974), 93.)

in my sense, as free poetic invention, which symbolizes reality in manifold ways).<sup>289</sup> Only through the poet and his art does a story (“Geschichte,” also translatable as history) become a true story.

Consider on this point Achim von Arnim, a poet heavily influenced by Novalis and influential in his own right as one of the main forces behind the *Berliner Abendblätter*, and one of the founders of the infamous Deutsche Tischgesellschaft. Arnim cares very little about historical truth and insists that “to lie is a beautiful duty of the poet.”<sup>290</sup> The literary author is functioning on a higher plane of truth,<sup>291</sup> where

Stories are not truths as we demand them from history and interactions with contemporaries, they wouldn’t be what we are looking for, what is looking for us, if they could completely belong to the truth of the earth, because they all lead the alienated earthly world back to the eternal community.<sup>292</sup>

In Arnim’s view, the world has gone awry and has alienated us from each other and ourselves. Given this analysis, one cornerstone of Arnim’s and Novalis’s project is to reunite us with the parts of ourselves that an overly calculating, mechanized modernity has taken from us. Emotional fervor is central to this re-joining, since “passion grants the original true, human heart”<sup>293</sup> as opposed to the naked and cold calculation of the most effective means for given ends.

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<sup>289</sup> “...*freie Geschichte* – gleichsam die Mythologie der Geschichte. (Mythol[ogie] hier in meinem Sinne, als freie poetische Erfindung, die die Wirklichkeit sehr mannigfach symbolisiert usw.)” (Novalis, “Fragmente Zur Poetik.”)

<sup>290</sup> “...die Lüge [ist] eine schöne Pflicht des Dichters” (Achim von Arnim, “Dichtung Und Geschichte,” in *Romantik*, ed. Otto F. Best and Hans-Jürgen Schmitt (Stuttgart: Reclam, 1974), 261.)

<sup>291</sup> “das Dichten ein Sehen höherer Art zu nennen.” (Ibid., 262.)

<sup>292</sup> “Dichtungen sind nicht Wahrheit, wie wir sie von der Geschichte und dem Verkehr mit Zeitgenossen fordern, sie wären nicht das, was wir suchen, was uns sucht, wenn sie der Erde in Wirklichkeit ganz gehören könnten, denn sie alle führen die irdisch entfremdete Welt zu ewiger Gemeinschaft zurück.” (Ibid.)

<sup>293</sup> „Die Leidenschaft gewährt [], das ursprünglich wahre, menschliche Herz, gleichsam den wilden Gesang des Menschen...” (Ibid.)

## (ii) Of Ends and Means

Novalis and Arnim do not seek to find truth through reason and the empirical investigation of the world. For them, such a scheme is fundamentally misguided, since “nature, per se, is incomprehensible – stillness and formed inexplicableness.”<sup>294</sup> They reject a utility-driven reliance on reason for its unrealistic understanding of the relation of humans to the universe, its dangerous downplaying of the passions, and its relentless search for utility and gain. In Friedrich Schiller’s words, “utility is the great idol of our time.”<sup>295</sup> Instead of striving for concrete, immediate aims and objects,<sup>296</sup> Novalis asks us to aim at “distant objectives”<sup>297</sup>:

Distant mountains, distant peoples, distant incidents etc. All will be romantic, which is the same – and from there springs our original, ancient nature.<sup>298</sup>

One of the Schlegel brothers (August) argues in the same vein when he questions the subordination of the good to the useful.<sup>299</sup> He continues by attacking unguided rationality for its limitation to the finite (rather than contemplation and admiration of the

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<sup>294</sup> “Die Natur ist unbegreiflich per se. Ruhe und gebildete Unbegreiflichkeit.” (Novalis, “Ferne Philosophie Klingt Wie Poesie,” in *Romantik*, ed. Otto F. Best and Hans-Jürgen Schmitt (Stuttgart: Reclam, 1974), 64.)

<sup>295</sup> “Der Nutzen ist das grosse Idol der Zeit” (Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, 9.)

<sup>296</sup> “Jeder bestimmte Zweck ist ein *konsonierter* – gehemmter Zweck überhaupt.” (Novalis, “Ferne Philosophie Klingt Wie Poesie,” 64.)

<sup>297</sup> “ferne Zwecke”

<sup>298</sup> “Ferne Berge, ferne Menschen, ferne Begebenheiten usw. Alles wird romantisch, quod idem est – dahr ergibt sich unsre urpoetische Natur.” (Novalis, “Ferne Philosophie Klingt Wie Poesie,” 64.)

<sup>299</sup> “Hier zeigt sich nun schon die ganze verkehrte Denkart, das an sich Gute (wovon das Wahre ein Teil, eine Seite ist) dem Nützlichen unterzuordnen.” (August Wilhelm Schlegel, “Kritik an Der Aufklärung,” in *Romantik*, ed. Otto F. Best and Hans-Jürgen Schmitt (Stuttgart: Reclam, 1974).; For a quick introduction to Schlegel consider: Jolles, *Das Deutsche Nationalbewusstsein Im Zeitalter Napoleons*, 182-92.

infinite), its praise for cameralistic principles, its diminution of imagination and passions in favor of reason, and its quest for complete comprehension.

Schlegel's critique begins with the assertion that a concern with usefulness and efficiency is the "economical principle [...], which leads the followers of the Enlightenment."<sup>300</sup> In the German context, economic principles and demographic politics were inherently tied up with cameralistic teachings and practice. For Schlegel, following such cameralistic principles invited disastrous consequences for individuals and for society, for example in the realm of morality:

Naturally, the Enlightenment mixed itself into morality and did thereby great damage. Based on its economic bent, it described all virtues that it did not find useful for earthly applications as mere superstition and passing fancy. Without allowing for special cases, everybody was supposed to be imprisoned under the yoke of certain bourgeois duties; in business, administration, and then family life – not out of patriotism or love, but to till the acre of the state like cattle and to advance the population.<sup>301</sup>

For Schlegel, similar thinking applies to questions about the ultimate meaning of existence. Schlegel believes it is wrong to view the world as driven by sterile and abstract principles. For him, the cameralists' unrelenting will to analyze and comprehend the universe is as dangerous as their willingness to constrain passions in the interests of reason:

Enlightened theology consists primarily in the advancement of complete comprehension of religion, that is to say in the rejection of all secrets and mysteries; wherever they are found in a revealed religion, which one pretends to find valid, they are explained away. The unreasonableness in the attempt to reduce everything

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<sup>300</sup> "...ökonomische Prinzip [...], welches die Aufklärer leitet" (Schlegel, "Kritik an Der Aufklärung.")

<sup>301</sup> "Natürlich hat sich die Aufklärung auch in die Moral gemischt und darin grosses Unheil angerichtet. Nach ihrer ökonomischen Richtung gab sie alle Tugenden, die sich nicht der Brauchbarkeit für irdische Angelegenheiten fügen wollten, für Ueberspannung und Schwärmerei aus. Ohne irgendeine Ausnahme für besondere Naturen gelten zu lassen, sollten alle gleichermassen in das Joch gewisser bürgerlicher Pflichten gespannt werden, in das Gewerbs- und Amts- und dann das Familienleben, und zwar nicht aus Patriotismus und Liebe, sondern um den Acker des Staates wie Zugvieh zu pflügen und die Bevölkerung zu befördern." (Ibid.)

to the comprehensible shows itself here to the fullest degree, since humans, which are woven together out of contradictions, cannot envelop themselves in the contemplation of the invisible and infinite, without throwing themselves down an abyss of secrets.<sup>302</sup>

August Schlegel has a desperate need for the world to remain enchanted. His writings, like Arnim's or Novalis's, are filled with the mysterious and improbable, but aspire also to the charming and lovingly quaint. These are the Romantics' weapons in the aesthetic and immediately political struggle to articulate an effective response to the dominance of "means over ends."

The anxieties of these authors stem, in part, from the cameralists' quest to build institutions that contain the personal and passionate in favor of bureaucratic regularity, efficiency, and a belief that even the social universe can be understood and regulated. Schlegel, Arnim and Novalis argue instead that "the magic of life" depends upon a world that resists such a development, a world that cherishes darkness and "unsolvable secrets." Since the dispassionate and empirical cameral science does not respect darkness, it becomes the nemesis of those like Schlegel or Arnim who seek to immerse themselves in the currents of the passions.<sup>303</sup>

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<sup>302</sup> „Die aufgeklärte Theologie besteht zuvörderst in der Förderung vollkommener Begreiflichkeit der Religion, also in der Verwerfung aller Geheimnisse und Mysterien; wo sie sich in einer geoffenbarten Religion finden, die man zum Scheine noch will gelten lassen, werden sie wegerklärt. Das Unvernünftige in dem Bestreben, alles auf Verständlichkeit zurückzuführen, tritt hier im vollsten Masse ein, denn der Mensch, der ganz aus Widersprüchen zusammengewebt ist, kann sich nicht mit seiner Betrachtung in das Unsichtbare und Ewige vertiefen, ohne sich in einen Abgrund der Geheimnisse zu stürzen.“ (Ibid.)

<sup>303</sup> The unabridged quote reads as follows: “Eben auf dem Dunkel, worin sich die Wurzel unseres Daseins verliert, auf dem unauslösllichen Geheimnis beruht der Zauber des Lebens, dies ist die Seele aller Poesie. Die Aufklärung nun, welche gar keine Ehrerbietung vor dem Dunkel hat, ist folglich die entschiedenste Gegnerin jener und tut ihr allen möglichen Abbruch.“ (Ibid.)

### (iii) The Poetic Imagination

The Romantics' conceptual project seeks to turn our scientific minds into poetic organs. Only thus, individuals whose experiences are divided into separate realms could once again become whole (just as in the dreams we encountered above). Instead of disenchanting the world, one should surrender to the mysteriousness of the universe and marvel at its glories. After all, "the unknown, mysterious is the *result* and *beginning* of everything."<sup>304</sup> That is why many of Novalis's tales seem convoluted and implausible. Novalis hopes that the reader will see the futility of analyzing the world and begin to wander through a garden she does not understand, where she loses all motivation to seek understanding and simply drowns pleasurably in the currents of her own passions. All is alive, rich, wonderful, aimless, and colorful – but also, at an important level, unknowable.<sup>305</sup> Novalis's discussion of passions, latent currents and rivers, caverns and blue flowers is not merely an early attempt at psychoanalysis. Rather, it is a distinct, clever, and influential reaction to an emphasis on calculation and procedures. Novalis and his cohorts oppose a world of institutionalized procedures that undermine the passionate will of individuals.

As we have seen, dreams are an important element of this opposition in the tales of Novalis and Schlegel.<sup>306</sup> In a space freed from the all-too-rational thought of the bright day, dreams provide a refuge and a reminder of proper human functioning. Dreams function as

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<sup>304</sup> "...das Unbekannte, Geheimnisvolle ist das *Resultat* und der *Anfang* von allem." (Novalis, "Ferne Philosophie Klingt Wie Poesie," 64.)

<sup>305</sup> "In einem echten Märchen muss alles wunderbar – geheimnisvoll und unzusammenhängend sein – alles belebt." (———, "Fragmente Zur Poetik.")

<sup>306</sup> Der Traum ist „ein sehr poetisches Element, und die Poesie, wohl eingedenk, dass sie selbst nur ein schöner Traum sei, hegt und liebt ihn.“ (Schlegel, "Kritik an Der Aufklärung.")

gates through which one can glimpse hidden truths. They frequently contain vital clues for literary protagonists that would mean nothing to a purely rational, empirically driven eye, painstakingly separated from emotional considerations. Dreams free one's imagination "from all necessity" and can thereby "reveal many . . . secrets" that are otherwise not directly accessible.<sup>307</sup>

This emphasis on passions and imagination should not be taken lightly. It immediately connects, in the minds of writers such as Schlegel, to a particular conception of liberty, one sharply at odds with more familiar competitors. Schlegel explicitly admonishes Locke and his followers for their "philosophical Protestantism,"<sup>308</sup> which would "eventually paint everything onto the empty tablet, actually onto the empty nothingness, of reason."<sup>309</sup> A related charge against formalism and procedures is that it "misunderstands completely the rights of fantasy and imagination, and would, if possible, heal humans entirely from it."<sup>310</sup> Not individuals, but an independent, anthropomorphized cognitive mode is the bearer of rights in this account. Novalis explains:

To be free is the tendency of the self – the capacity to be free is the productive imagination – *harmony* is the precondition of its functioning – the hovering, between opposing poles. To be internally united is also a condition of existence for the highest purpose – to be or to be free. [...]. From this standpoint of hovering derives all reality – in it all is contained. [...] the hovering [...] is the source, the matter of all reality, reality itself.<sup>311</sup>

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<sup>307</sup> "[Die Fantasie] scheint z.B. in Träumen, wo sie von allem Zwange entbunden spielt, manche ihrer Geheimnisse zu verraten." (Ibid.)

<sup>308</sup> "philosophischem Protestantismus" (Ibid., 33.)

<sup>309</sup> "allmählich alles auf die leere Tafel, eigentlich auf das leere Nichts, des Geistes eingezeichne[n]." (Ibid.)

<sup>310</sup> "...verkannten durchaus die Rechte der Fantasie und hätten, wo möglich, die Menschen gern ganz von ihr geheilt." (Ibid.)

<sup>311</sup> "Frei sein ist die Tendenz des Ich – das Vermögen frei zu sein ist die produktive Imagination – *Harmonie* ist die Bedingung ihrer Tätigkeit – des *Schwebens*, zwischen Entgegengesetztem. Sei einig mit dir selbst ist also Bedingungsgrundsatz des obersten Zwecks – zu sein oder frei zu sein. [...]. Aus diesem Lichtpunkt des Schwebens strömt alle Realität aus – in ihm ist alles enthalten [...]. [...] das Schweben [...] ist der Quell, die Mater aller Realität, die Realität selbst." (Novalis, "Lichtpunkt Des Schwebens," in *Romantik*, ed. Otto F. Best and Hans-Jürgen Schmitt (Stuttgart: Reclam, 1974).

Without the experience of hovering above calculating, lifeless modes of existence, we are bound to live pathological lives. The healing function of imagination is important because without it, individuals degenerate into passionless cogs in the soulless machinery of modernity. Against the nihilistic tendencies of adherence to procedures (“the empty nothingness”), people like Novalis or Arnim try to posit the pleasures and joys of loving one’s world and contemplating its mysteriousness. Their writings are a celebration of passion, but they never portray passion against social wrongs.<sup>312</sup> The passions Novalis celebrates are deeply individual and oblivious to social and political dilemmas. Novalis’s heroes are not revolutionaries. Their world is one of flowers, moons, and enchanting landscapes that envelop them. They, like their author, have an agenda: a return to simpler times, and the concomitant rejection of modern fads that threaten to estrange us from our elemental passions. They are skeptical of innovation, preferring to try to preserve a glorious past in the face of a modern onslaught.<sup>313</sup> Novalis and his allies are hard at work to romanticize personal emotions vis-à-vis a depersonalized, rationalized social order.

They celebrate the tearing down of walls that separate us from our passions—but only some of our passions. Novalis and company do not seek completely unbound passions. Rather, Novalis, like most authors of his time, advocates well-directed, controlled, and guided passions. Perhaps one of the strongest objections to this claim is Joseph von Eichendorff’s famous “Aus dem Leben eines Taugenichts.” In one of the best-

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<sup>312</sup> There is some disagreement in the secondary literature on this point. For a useful starting place on this theme see: Rupert Christiansen, *Romantic Affinities : Portrait of an Age, 1780-1830* (London: Bodley Head ; Putnam, 1988), 76.

<sup>313</sup> For a foundational and very influential discussion of this theme consider: Klaus Epstein, *The Genesis of German Conservatism* (Princeton, N.J.: Princeton University Press, 1966).

known stories of the era, Eichendorff rehearses the same themes I have discussed so far, but also depicts a romantic entanglement between a commoner and a baroness – a fundamental violation of social boundaries. Passions, after all, have the capacity to “tear down the bastions of rank and estate.”<sup>314</sup> However, we learn on the final page of the story that the protagonist’s love interest is not of aristocratic birth after all, but has simply been taken into the Baron’s household due to their kindness to an orphan. The world is in order once again. Passions rage and remain in their place. No violation of the social order has occurred, and “like in a dream” the happy couple can settle into their new home, “the little white palace that shines over there in the moonlight,” which the real baron has generously given to them. Like the writings of Arnim, Schlegel, and Novalis, Eichendorff’s tale ibrimis with passions—but only those that are suitable and safe, directed at wholesome and permissible targets.

Novalis pleads time and again for the virtues of a “childlike trust” that marks us as “children of heaven” and allows us to be rescued “from the most horrible dangers.”<sup>315</sup> The passive voice is important in the previous sentence: it is somebody else who does the saving. Instead of calling on us to save ourselves, Schlegel encourages us to be more like children and to “wander, in good faith, into the incomprehensible.”<sup>316</sup> Children are the model audience for many of the abovementioned authors because “words affect them

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<sup>314</sup> The full passage reads as follows: “Die Liebe – darüber sind nun alle Gelehrten einig – ist eine der couragiösesten Eigenschaften des menschlichen Herzens, die Bastionen von Rang und Stand schmettert sie mit einem Feuerblicke darnieder, die Welt ist ihr zu eng und die Ewigkeit zu kurz.” - Joseph Eichendorff, *Aus Dem Leben Eines Taugenichts*, Originalausg., 1. Aufl. ed., Suhrkamp Basisbibliothek ; (Frankfurt am Main: Suhrkamp, 2007).

<sup>315</sup> “Kindliches Zutrauen,” “Kinder des Himmels”, “...wunderschönen Frau der Christenheit, die mit göttlichen Kräften versehen, jeden Gläubigen aus den schrecklichsten Gefahren zu retten bereit war.” - Novalis, "Die Christenheit Oder Europa (1799)," in *Schriften; Die Werke Friedrich Von Hardenbergs*, ed. Paul Kluckhohn and R. H. Samuel (Stuttgart,: W. Kohlhammer, 1960).

<sup>316</sup> “...in guter Zuversicht sich ins Unverständliche hinein begeben.” (Schlegel, "Kritik an Der Aufklärung," 31.)

magically.”<sup>317</sup> Perhaps that is why Novalis thinks that “a child is far smarter and wiser than an adult.”<sup>318</sup> Novalis praises children for lacking autonomy, maturity, and reason. Rather than following procedures towards claims of justice, children jump passionately and impulsively to conclusions. Impatient with the indirect question, they seize unswervingly the direct question of justice—as, so Novalis, should we.

Much is thus politically at stake when Novalis proclaims that “the world has to be romanticized.” This entails giving the “commonplace the air of mysteriousness, endowing the known with the dignity of the unknown, and giving the finite the appearance of the infinite, that’s how one romanticizes” the world.<sup>319</sup> Novalis’s slogan has become necessary because instead of cherishing our passions, modern individuals have come to live dispassionate lives. Following the cameralist view would affirm the domination of cold, rational principles over spontaneous, unexamined emotions of horror and joy. Human freedom and human feeling are emptied of all meaning if calculation replaces natural inclinations and the surrender to illusion, chance, and raw passion. Following the cameralists reconfigures individuals into dull mechanical devices. Like machines, we have come to live lives without conviction, enthusiasm, or fundamental values—routinized, mechanized, rationalized, lackadaisical lives.

Consider in this context the ideal of bureaucracy and the nature of the bureaucrat. As Weber argues, the more the bureaucracy “succeeds in eliminating from official business love, hatred, and all purely personal, irrational, and emotional elements which escape

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<sup>317</sup> “...dass die Worte ganz magisch auf sie [Kinder] wirken.” (Ibid.)

<sup>318</sup> “Ein Kind ist viel klüger und weiser als ein Erwachsener” (Novalis, "Fragmente Zur Poetik.")

<sup>319</sup> “...dem Gewöhnlichen ein geheimnisvolles Ansehen, dem Bekannten die Würde des Unbekannten, dem Endlichen einen unednlichen Schein gebe, so romantisiere ich es...” (———, "Die Welt Muss Romantisiert Werden," in *Romantik*, ed. Otto F. Best and Hans-Jürgen Schmitt (Stuttgart: Reclam, 1974), 57.)

calculation,” the better it functions.<sup>320</sup> In short, we associate strong norms with bureaucrats keeping their private inclinations and passions out of public affairs. However, for predictable reasons, this modern concern is very much at odds with the Romantic authors we have encountered thus far. As one of the most important reformers of the bureaucracy (and the subject of a later chapter) complained, the army of bureaucrats is merely “salaried” and “lack[s] interests and property.”<sup>321</sup> The reference to property is significant here. Lower bureaucrats were certainly not rich, owned little, and were frequently even legally excluded from owning certain land. As such, they were a suspect category of individuals: unbound, free-floating, not tied to land and region but to an abstract administrative structure. They invoked little trust. Instead of living, as Novalis advocates in *Heinrich von Ofterdingen*, an “infinitely colorful [life], dying and returning again” and “loving to the highest extremes of passion,”<sup>322</sup> bureaucrats simply “write, write, write.”<sup>323</sup> Their professionally cultivated disinterest, far from being a valuable virtue, is cause for much scorn, then as now:

To learn how one can serve a system against one's conscience and conviction for an entire lifetime, one must be a Prussian official; to know how one covers the disgrace of abandoned conviction with a title or a decoration, one must know the secrets of the higher bureaucracy.<sup>324</sup>

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<sup>320</sup> Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, ed. Guenther Roth and Claus Wittich, 2 vols., vol. 2 (Berkeley: University of California Press, 1978), 975.

<sup>321</sup> Karl Stein, Erich Botzenhart, and Walther Hubatsch, *Briefe Und Amtliche Schriften* ([Stuttgart]: W. Kohlhammer, 1957-1974), 381.

<sup>322</sup> “Er durchlebte ein unendlich buntes Leben; starb und kam wieder, liebte bis zur höchsten Leidenschaft...” (Novalis, “Heinrich Von Ofterdingen.” Chapter 1)

<sup>323</sup> Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, 381.; consider also: Reinhart Koselleck, *Preussen Zwischen Reform Und Revolution; All-Gemeines Landrecht, Verwaltung Und Soziale Bewegung Von 1791 Bis 1848* (Stuttgart, E. Klett, 1967), 164.: Stein disliked “die beamteten Schreiberseelen abgründig.”

<sup>324</sup> Rudolph Gneist, *Der Rechtsstaat* (Berlin.: J. Springer, 1872). For a sharply diverging view consider to following quote from Klaus Epstein: “One must view the bureaucracy as the single most important progressive force in Germany at the end of the eighteenth century. Their motivation was as frequently an idealistic desire to serve mankind as a personal desire to make a career for themselves. ... Their self-respect required that they view themselves as servants of the law and the general welfare rather than instruments of the king's arbitrary whim.” (Epstein, *The Genesis of German Conservatism*, 53.); For a third perspective

Living such dispassionate lives is a cardinal sin. The vision Novalis, Schlegel, Arnim, and Eichendorff present is stridently at odds with the norms of an emerging procedural and bureaucratic order. The mentality that is supposed to drive the bureaucrat is completely out of tune with the Romantics' ideal of indulging in passions to the point of irrationalism, marveling at the world rather than administrating it, and endorsing impulse and arbitrary fiat rather than following procedures and regulations.

### ***5. The Personalized State***

Passions reside in individuals. As cameralists were well aware, to introduce procedures into the state meant to find institutional devices to contain the errant passions of individuals. In the cameralists' conception, the state machinery is revised to contain the whims of individuals and to routinize interactions. Under ideal conditions, it is of no significance who carries out the standardized procedures of the state. Such a state is not, strictly speaking, ruled by anybody, but is ruled by the bureau. It is ruled by mechanized and depersonalized procedures. Objecting to this prospect, various critics warn that the depersonification of the state entailed by the cameralist project is actually destabilizing the state. They argue that instead of focusing on mechanized and depersonalized procedures,

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see: Andre Liebich, "On the Origins of a Marxist Theory of Bureaucracy in the Critique of Hegel's "Philosophy of Right", " *Political Theory* 10, no. 1 (Feb., 1982).

we should think of the state as inherently personal, impulsive, idiosyncratic, and beyond procedures.

Consider again Weber's above-cited claim that successful bureaucracies need to eliminate "from official business love, hatred, and all purely personal, irrational, and emotional elements which escape calculation." What this amounts to, as Weber very much realizes, is to "dehumanize" bureaucracies.<sup>325</sup> For skeptics, this is simply further proof that bureaucrats misunderstand human nature and social interactions. In their view, passions are a key ingredient of our humanity. Institutions that encourage or enshrine routinized and rationalized bureaucratic norms are degenerate and have a corrupting influence upon society.

For these critics, bracketing passions off in certain areas of life amounts to dismantling our humanity and the social order that is built upon it. Not surprisingly, many resisted the move to depersonalize authority. Instead, they cherished the personal elements of political and social power. The linguistic turn whereby *Herrschaft* [domination or lordship] became increasingly applied to abstract entities (such as the state, rather than the king) was cause for considerable alarm.<sup>326</sup> As such, the idea of depersonalization (noticeably in the offices of the bureaucracy) is the second major point of contention between cameralists and their critics.

Two contending representations of the state confront one another here. The critics of bureaucratization emphasize the intensely personal, passionate, and vibrant against the ideal of the cold, depersonalized, procedural state. For example, Novalis calls for the

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<sup>325</sup> Weber, *Economy and Society : An Outline of Interpretive Sociology*, 975.

<sup>326</sup> Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*, 10-11, 90-1.

“personification of the totality of the people.”<sup>327</sup> For him, the proper state is “a person like an individual.”<sup>328</sup> Rather than being mechanical or procedural, the state for Novalis has “only one meaning. It is reality through love.”<sup>329</sup> Schlegel echoes these sentiments when he contrasts the desubstantiated mechanical qualities of the bureaucratic state with his own concept of the state as the “greater moral individual.”<sup>330</sup>

One notable site where Schlegel, Novalis, and likeminded critics of the cameralists’ project celebrated and highlighted their principles to great effect was in discussing the young Prussian queen who reigned from 1797 to 1810 beside Friedrich Wilhelm III. Such critics employed the figure of the queen as an effective device to personalize the state and to contrast their personified state with the depersonified, procedural model of the cameralists. Building on the model of the state as a (happy) family, they portrayed the queen as the compassionate mother figure. Poets such as Novalis and Körner assiduously pointed out the queen’s immense beauty, her presence, and her uniqueness. Her image was designed to clash with the purportedly uncaring, abstract, ugly bureaucrat embedded in the standard and standardizing bureaucratic machinery. Her lovely face was the antithesis of the faceless bureaucrat. The queen’s figure represented, in this context, primarily an organic, beautiful image of the state and society sharply at odds with the grey diagrams of the cameralists. The manner in which the queen was invoked in numerous poems and stories was aimed at inciting passions (for her and the nation)—a deliberate attempt to deploy the power of personal sentiment to forge and recover social and political unity.

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<sup>327</sup> “Personifizierung des Volksganzen“ (Novalis, *Novalis Werke*. Min II. No.11)

<sup>328</sup> Ibid. *Betrachtungen II*. No.627

<sup>329</sup> Jolles, *Das Deutsche Nationalbewusstsein Im Zeitalter Napoleons*, 174.

<sup>330</sup> Ibid., 187.

## (i) Drawing the Queen

Born Luise von Mecklenburg-Strelitz, the future queen was not particularly smart. Throughout her life she had difficulty writing coherently in either French or German. However, contemporaries routinely described her as exceedingly beautiful and charming.<sup>331</sup> A slew of paintings exist to allow contemporaries and later generations to judge her appearance for themselves. The most famous representation of the queen was drawn by Elisabeth Vigée-Lebrun. Widely renowned at the time, Vigée-Lebrun had made her name by drawing another queen: Marie-Antoinette.<sup>332</sup> In a bid to help arrest the deterioration of the French Queen's reputation and to shore up sympathies, Vigée-Lebrun depicted the queen with her children and the empty crib of her dead child.<sup>333</sup> That portrait is intensely political, as is less flattering contemporary pornography of the queen.. As Edmund Burke reminds us, how the crowd views a queen can significantly sway their attitudes toward revolutions. Is she the pompous, degenerate, deeply corrupted head of a

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<sup>331</sup> For a helpful biography see: Luise Schorn-Schütte, *Königin Luise : Leben Und Legende*, Originalausg. ed. (München: Beck, 2003), 15-6.; For a perspective from a contemporary of the Queen see: Hermann von Boyen, *Denkwürdigkeiten Und Erinnerungen 1771-1813*, Neue bearb. ausg. in 2 bänden mit bildnis ed. (Stuttgart: R. Lutz, 1899), 360.

<sup>332</sup> Even recently some of her paintings and self-portraits have been duplicated endlessly on postal stamps by a variety of countries. For more on Vigée-Lebrun's interactions with the Prussian Queen see: Philipp Demandt, *Luisenkult : Die Unsterblichkeit Der Königin Von Preussen* (Köln: Böhlau, 2003), 123-30, 32, 60. For recent and useful accounts of Queen Luise see: Heinrich Hartmann, *Luise : Preussens Grosse Königin*, 2. Aufl. ed. (Berg/Starnberger See: Türmer, 1985).; Johannes Thiele, *Luise : Königin Von Preussen ; Das Buch Ihres Lebens* (München: List, 2003).; Dagmar von Gersdorff, *Königin Luise Und Friedrich Wilhelm Iii. : Eine Liebe in Preussen*, Ungekürzte Ausg. ed. (Berlin: Rowohlt Berlin, 2002).; Karin Feuerstein-Prasser, *Die Preussischen Königinnen* (Regensburg: F. Pustet, 2000).

<sup>333</sup> Simon Schama, *Citizens : A Chronicle of the French Revolution* (New York: Knopf, 1989), 220-23.

defunct state? Or is she the angelic exemplification of the best the aristocracy has to offer, worthy of admiration, love, and ultimately protection?<sup>334</sup>

Predictably, people like Novalis advocate mobilizing our passions on the side of the beautiful queen and therefore, implicitly, of the personalized state. In their artistic renderings, they portray her as the exemplifier of the state, the *true* representation of the proper order of things. They argue that a state based exclusively on “mechanical administration” will inevitably fail. Administered as a “factory,” the state would be based purely on self-interest [*Eigennutz*]. Such rampant egotism is “the seed of revolutions.”<sup>335</sup> Instead, passionate love for the ruling couple should be the real glue of a society and political system. It alone can effectively prevent strife and revolution. Even with regard to the bureaucracy, “personal love” should bind civil administrators to their sovereign.<sup>336</sup> The necessity and value of an absolute love for the king and queen is the central claim of Novalis’s otherwise purposefully vague political agenda.<sup>337</sup> Without such passions, officials are just empty carriers of titles.<sup>338</sup> Novalis repeats indefatigably in his poetry that

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<sup>334</sup> Edmund Burke, *Reflections on the Revolution in France*, ed. J. G. A. Pocock (Indianapolis, Ind.: Hackett Pub. Co., 1987), 62-68.

<sup>335</sup> “Kein Staat ist mehr als Fabrik verwaltet worden, als Preußen, seit Friedrich Wilhelm des Ersten Tode. So nötig vielleicht eine solche maschinistische Administration zur physischen Gesundheit, Stärkung und Gewandtheit des Staats sein mag, so geht doch der Staat, wenn er bloß auf diese Art behandelt wird, im wesentlichen darüber zugrunde. Das Prinzip des alten berühmten Systems ist, jeden durch Eigennutz an den Staat zu binden. Die klugen Politiker hatten das Ideal eines Staats vor sich, wo das Interesse des Staats, eigennützig, wie das Interesse der Untertanen, so künstlich jedoch mit demselben verknüpft wäre, daß beide einander wechselseitig beförderten. An diese politische Quadratur des Zirkels ist sehr viel Mühe gewandt worden: aber der rohe Eigennutz scheint durchaus unermesslich, antisystematisch zu sein. Er hat sich durchaus nicht beschränken lassen, was doch die Natur jeder Staatseinrichtung notwendig erfordert. Indes ist durch diese förmliche Aufnahme des gemeinen Egoismus, als Prinzip, ein ungeheurer Schade geschehn und der Keim der Revolution unserer Tage liegt nirgends, als hier.” (Novalis, “Glauben Und Liebe Oder Der König Und Die Königin,” in *Schriften; Die Werke Friedrich Von Hardenbergs*, ed. Paul Kluckhohn and R. H. Samuel (Stuttgart, W. Kohlhammer, 1960). Section 36)

<sup>336</sup> *Ibid.*; See also: Schorn-Schütte, *Königin Luise : Leben Und Legende*, 38-9.

<sup>337</sup> “...absolute Liebe” (Novalis, “Glauben Und Liebe Oder Der König Und Die Königin.” Section 53)

<sup>338</sup> *Ibid.* Section 54.; For a literary account of such emptiness consider the work by August von Kotzenbue. In his *Die deutschen Kleinstädter* he provides an account of the dispassionate petit bourgeois that is obsessed with ridiculous administrative titles rather than the human heart. Not surprisingly, such vapid concerns fade when compared to the calm grandeur of the real attendants of the high court (August von

the king “received more than a kingdom from heaven in the form of Luise, and [his] heart needed her more than the crown.”<sup>339</sup> Novalis uses the trope of the king’s love as the foundation of the legitimacy of Friedrich Wilhelm III:

Only he who is already more than king, can rule in a royal fashion,  
Therefore, he should be king who loves the loveliest being [i.e. Luise].<sup>340</sup>

Novalis understands marriage as founded in arational passion. Such a love-marriage constitutes the foundation of the state: “Isn’t the king rendered king simply through the heartfelt feeling of *her* worth?”<sup>341</sup> Novalis defends this claim by arguing that “each improvement of imperfect constitutions amounts to an enabling of love.”<sup>342</sup> Novalis exploits here the ambiguity of the term “constitution” by paralleling a person’s internal psychological makeup and basic outlook on the world with the political and social framework of a society.<sup>343</sup> In both, so Novalis, letting love and passions reign is natural and beneficial, since it helps us return to simpler, more unified, more innocent times.<sup>344</sup> The

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Kotzebue, *Die Deutschen Kleinstädter: E. Lustspiel in 4 Akten*, Universal-Bibliothek, Nr. 90 (Stuttgart: Reclam, 1985). For Kotzebue’s considerable influence, mostly in death, see: George S. Williamson, “What Killed August Von Kotzebue? The Temptations of Virtue and the Political Theology of German Nationalism, 1789-1819,” *The Journal of Modern History* 72, no. 4 (Dec., 2000).

<sup>339</sup> Novalis, “Blumen (1798),” in *Schriften; Die Werke Friedrich Von Hardenbergs*, ed. Paul Kluckhohn and R. H. Samuel (Stuttgart: W. Kohlhammer, 1960). - An den König:

Mehr, als ein Königreich gab der Himmel dir in Louisen,  
Aber du brachtest ihr auch mehr, als die Krone, dein Herz.

<sup>340</sup> Ibid.:

Nur wer mehr, als König schon ist, kann königlich herrschen,  
Also soll König sein, welcher die Herrlichste liebt.

<sup>341</sup> “Wird nicht der König schon durch das innige Gefühl *ihres* Werts zum König?” (———, “Glauben Und Liebe Oder Der König Und Die Königin.” Section 24)

<sup>342</sup> “Jede Verbesserung unvollkommener Konstitutionen läuft daraus hinaus, daß man sie der Liebe fähiger macht. (Ibid. Section 55)

<sup>343</sup> For more on the contemporary uses of this strategy see: Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*, 130-1.

<sup>344</sup> Novalis, “Blumen (1798).” - Es ist an der Zeit

Glänzend steht nun die Brücke, der mächtige Schatten erinnert  
Nur an die Zeit noch, es ruht ewig der Tempel nun hier,  
Götzen von Stein und Metall mit furchtbaren Zeichen der Willkür  
Sind gestürzt und wir sehn dort nur ein liebendes Paar –

depictions of the queen are meant to make this journey easier for us: open your eyes and just see how deserving the queen is of your admiration. How heartless would a person have to be to resist her charms? How can you speak out against the aristocracy that produced someone like her and which she now heads as queen?

In short, just as in the French context, the image of the queen is a contested site of political campaigning. For people like Novalis, turning the popular imagination towards seeing the ruling power through the figure of the “queen of hearts”<sup>345</sup> (as Luise was frequently called) is not merely a poetic exercise, but rather a politically charged aesthetic declaration. Presenting “the image of this happy, intimately connected couple” has a morally educating effect upon the people (the youth in particular) and reduces the risk of revolution.<sup>346</sup>

In a parallel argument, Novalis uses the image of the queen to question the value of mere paper constitutions. The establishment of a tight procedural framework within a constitution was a point of frequent contention between the crown and reformers. Advocates of constitutional safeguards were repeatedly disappointed by Friedrich Wilhelm III, who promised a constitution in 1808, 1811, 1815, and again in 1820, but never delivered.<sup>347</sup> As the influential and renowned statesman Metternich argued, “a paper

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An der Umarmung erkennt ein jeder die alten Dynasten,  
Kennt den Steuermann, kennt wieder die glückliche Zeit.

<sup>345</sup> “Königin der Herzen.”

<sup>346</sup> Die edle Simplizität des königlichen Privatlebens, das Bild dieses glücklichen, innig verbundenen Paares, würde den wohlthätigsten Einfluß auf die sittliche Bildung dieses Kerns der preußischen Jugend haben, und so würde dem König am leichtesten der angeborne Wunsch seines Herzens gewährt, der wahrhafte Reformator und Restaurator seiner Nation und seiner Zeit zu werden. (Novalis, "Glauben Und Liebe Oder Der König Und Die Königin." Section 36)

<sup>347</sup> For a range of historians who comment on these promises and the implications for Prussia see: Wolfgang Neugebauer, *Geschichte Preussens* (Hildesheim ; New York: Georg Olms, 2004), 95-6.; Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*, 182-98.; Matthew Levinger, "The Prussian Reform Movement and the Rise of Enlightened Nationalism," in *The Rise of Prussia : Rethinking Prussian History, 1700-1830*, ed. Philip Dwyer (New York: Longman, 2000), 273-5.; Büsch, Neugebauer, and Historische Kommission zu Berlin., *Handbuch Der Preussischen*

constitution is as much a [real] constitution as a marriage-contract amounts to matrimony.”<sup>348</sup> Somebody interested in such technicalities misses the essence of politics. People can only be concerned about a paper constitution “the way one is interested in a single letter of the alphabet.” Their attachments should instead aim at beauty and elegance – the very attributes the queen exudes. As Novalis put it, if the “sign is not a beautiful image, or song, then attachment to the sign is one of the most misguided of inclinations.”<sup>349</sup> Paper constitutions might appease the concerns of mere reason, a theme familiar by now, but they are inattentive to the realm of emotional intangibles. Reformers might take solace in the codification and bracketing of political power, but they misinterpret law, which in the end, we are told, only amounts to the utterance of a “loved, venerated person” anyway. As such, “a true royal couple is for the whole person what a constitution is for naked reason.”<sup>350</sup>

Abstract law and political power is meaningless and without force in the absence of a way to appeal to the realm of emotions and passions. However, to do so effectively the “mystic sovereign requires a symbol, and which symbol is worthier and more fitting, than a loveable apt human being?”<sup>351</sup> An abundance of mugs, plates, mirrors, and vases adorned

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*Geschichte*, 26.; Matthew Bernard Levinger, *Enlightened Nationalism : The Transformation of Prussian Political Culture, 1806-1848* (Oxford ; New York: Oxford University Press, 2000), 12, 54, 92, 146-57.; Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen Staatsabsolutismus*, 55.; Dwyer, *The Rise of Prussia : Rethinking Prussian History, 1700-1830*, 26.; Nolte, *Staatsbildung Als Gesellschaftsreform : Politische Reformen in Preussen Und Den Süddeutschen Staaten, 1800-1820*, 79-85.

<sup>348</sup> “Eine Charte ist ebensowenig eine Verfassung, wie der Ehekontrakt die Ehe ist. Man schreibe soviel man wolle – und das Wenigste wird immer das Beste sein – und man wird nie etwas Anderes als ein Blatt Papier in der Hand haben. England allein hat eine *Verfassung* ... sie ist durch Jahrhunderte geschaffen worden. (Wien, 10. April 1820, an Mme de Lieven, cited in: Clemens Wenzel Lothar Metternich and Arthur Breycha-Vauthier, *Aus Diplomatie Und Leben; Maximen Des Fürsten Metternich*, [2. Aufl.] ed., Österreichische Diplomaten (Graz,: Verlag Styria, 1964), 85-86.

<sup>349</sup> Novalis, "Glauben Und Liebe Oder Der König Und Die Königin." Section 15.

<sup>350</sup> “Ein wahrhaftes Königspaar ist für den ganzen Menschen, was eine Konstitution für den bloßen Verstand ist.” (Ibid. Section 15)

<sup>351</sup> “Bedarf der mystische Souverän nicht, wie jede Idee, eines Symbols, und welches Symbol ist würdiger und passender, als ein liebenswürdiger trefflicher Mensch?” (Ibid. Section 15)

with the image of the queen (frequently taken from Vigée-Lebrun's painting) attests to the symbolic and propagandistic qualities of the queen, who fits, or is made to fit, Novalis's bill perfectly.

This formula for sustaining political legitimacy in the face of the challenges of the French Revolution is enabling, but also constraining. For example, Novalis, like Adam Müller,<sup>352</sup> insists forcefully that the king is *not* the first servant [*Beamte*] of the state:

One is very wrong to call the king the first servant of the state. The king is not a citizen, consequently not a civil servant either. That is precisely the differentiating element concerning monarchies in that they are based on the belief in a higher-born human, based on the voluntary acceptance of an ideal-human.<sup>353</sup>

In pronounced contrast to Frederick the Great's famous claim to the contrary, the king cannot be a depersonalized bureaucrat (*Staatsbeamter*) in Novalis's account.<sup>354</sup> Instead, he is the all-too-human, lovable and loving father of the nation. Novalis's conceptual push furnishes a ready-made and easily communicated model of political power to underwrite the coercive powers of the king. Lasting happiness, for the king and his state, only flows from unselfish love that is the "sole, eternal foundation of all true, inseparable connections." Novalis concludes this important train of thought by asking rhetorically, "What other thing is the connection in a state, than wedlock?"<sup>355</sup> What could be more

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<sup>352</sup> Berdahl, *The Politics of the Prussian Nobility: The Development of a Conservative Ideology, 1770-1848*, 171.

<sup>353</sup> "Man hat sehr unrecht, den König den ersten Beamten des Staates zu nennen. Der König ist kein Staatsbürger, mithin auch kein Staatsbeamter. Das ist eben das Unterscheidende der Monarchie, dass sie auf dem Glauben an einen höher-geborenen Menschen, auf der freiwilligen Annahme einer Idealmenschen beruht." (Novalis in the "Jahrbüchern der Preussischen Monarchie" [1798] as cited in: Jacoby, *Die Bürokratisierung Der Welt; Ein Beitrag Zur Problemgeschichte*, 54-5.

<sup>354</sup> Novalis, "Glauben Und Liebe Oder Der König Und Die Königin." Section 18.; For more on this theme consider: Jacoby, *Die Bürokratisierung Der Welt; Ein Beitrag Zur Problemgeschichte*, 54-5.

<sup>355</sup> "Ein dauerhaftes Glück macht nur der rechtliche Mann, und der rechtliche Staat. ... Uneigennützig Liebe im Herzen und ihre Maxime im Kopf, das ist die alleinige, ewige Basis aller wahrhaften, unzertrennlichen Verbindungen, und was ist die Staatsverbindung anders, als eine Ehe?" (Novalis, "Glauben Und Liebe Oder Der König Und Die Königin." Section 36)

“beautiful, poetic” or a more “natural form” than the “form of the family – monarchy - multiple masters – multiple families – one master – one family!”<sup>356</sup> As such, the family and “bands of the heart”<sup>357</sup> are the true glue that keeps society from falling into atomistic egotism and the horrors of revolution. In these times,

A regent can do nothing more purposive for the sustaining of the state ... than trying to make it as *individualized* as possible.<sup>358</sup>

Only through the personification of the state in concrete individuals, most notably the king and queen, does the counterrevolutionary agenda take root. For it to flower, Novalis develops the figure of the queen as the caring mother. In this model of the state as a family, the queen functions in a manner that makes full use of the “sphere of influence in the home.”<sup>359</sup> Portrayed as fulfilling that role effectively and tenderly, she would be the example that shifts public sentiment, “the strongest restoration- and education-tool of mores.”<sup>360</sup> Properly depicted, the queen’s court can be the “great model of a household, after which all smaller ones are modeled.”<sup>361</sup>

Highlighting the caring nature of the queen advances one crucial aspect of this model of the state. Rather than following standardized, abstract procedures, the mother of the nation loves and cares for all her children. For example, in the *Berlinische Monatsschrift* we learn that the queen cut through seemingly unjust and slow-moving

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<sup>356</sup> Dann aber würde man am ersten die schönste, poetische, die natürlichste Form wählen – Familienform – Monarchie, – mehrere Herrn – mehrere Familien – Ein Herr – Eine Familie! (Ibid. Section 67)

<sup>357</sup> Ibid. Section 40.

<sup>358</sup> “Ein Regent kann für die Erhaltung seines Staats in den jetzigen Zeiten gewiß nicht zweckmäßiger sorgen, als wenn er ihn vielmöglichst zu *individualisieren* sucht.” (Ibid. Section 20, emphasis added)

<sup>359</sup> “häuslichen Wirkungskreis” (Ibid. Section 27)

<sup>360</sup> “...und am Ende ist doch die öffentliche Meinung das kräftigste Restaurations- und Bildungsmittel der Sitten.” (Ibid. Section 27)

<sup>361</sup> “Der Hof ist eigentlich das große Muster einer Haushaltung. Nach ihm bilden sich die großen Haushaltungen des Staats, nach diesen die kleinern, und so herunter.” (Ibid. Section 29)

bureaucratic procedures and technicalities, and took upon herself the individual case of an unfairly treated subject of the state.<sup>362</sup> Rather than asking the indirect question of procedural requirements by mechanically following the prescribed steps of the bureaucracy, the queen allowed the impulse of her passion to immediately reach the direct question of guilt or innocence.

Notice that the authors of these paeans to the queen are not concerned with the issue of historical accuracy versus artifice. As Novalis himself argues rather candidly, the “true regent is an artist of artists; that is, the manager of artists.”<sup>363</sup> In this all-encompassing role, the “regent puts on a manifold theatrical spectacle, where stage and sitting-area, performer and audience are one and the same, and the regent himself is poet, director, and hero of the piece at the same time.”<sup>364</sup> Stagecraft and statecraft largely overlap here.<sup>365</sup> This spectacle grows all the more enchanting once we discover that

The co-director is also the love of the hero, the heroine of the piece, and when one notices that she is the muse, who inspired the poet with a holy glow, and who tunes his instruments for soft and heavenly play.<sup>366</sup>

Such a royal spectacle serves to mobilize affection, channel passions, and turn the tide against the depersonalization of the state. Insofar as its underlying agenda is successful, the portrayal of the queen by Novalis and his followers serves as a motivational

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<sup>362</sup> K. Mächler, "Anekdote Von Der Verewigten Königin," *Berlinische Monatschrift* 1 (1811): 312-14.

<sup>363</sup> "Ein wahrhafter Fürst [regent] ist der Künstler der Künstler; das ist, der Direktor der Künstler."

(Novalis, "Glauben Und Liebe Oder Der König Und Die Königin." Section 39)

<sup>364</sup> Der Regent führt ein unendlich mannigfaches Schauspiel auf, wo Bühne und Parterre, Schauspieler und Zuschauer eins sind, und er selbst Poet, Direktor und Held des Stücks zugleich ist. (Ibid. Section 39)

<sup>365</sup> Notice also a considerable shift in attitudes whereby Machiavelli is now publicly praised (by an unnamed author) for capturing the essence of politics in contrast to contemporary thinking on the subject: "An Machiavels Manen. 1806," *Minerva* 2 (1806): 191-2.; See also: Foucault et al., *The Foucault Effect : Studies in Governmentality : With Two Lectures by and an Interview with Michel Foucault*, 88.

<sup>366</sup> Wie entzückend, wenn wie bei dem König, die Direktrice zugleich die Geliebte des Helden, die Heldin des Stücks ist, wenn man selbst die Muse in ihr erblickt, die den Poeten mit heiliger Glut erfüllt, und zu sanften, himmlischen Weisen sein Saitenspiel stimmt. (Novalis, "Glauben Und Liebe Oder Der König Und Die Königin." Section 39)

tool that forges political unity and combats ‘vapid’ procedures. Consider in this context Karl Theodor Körner’s poem “For the Queen Luise.” It was written at the height of the war to drive Napoleon out of Germany (1813). Before Körner died in the gory war he romanticized, he wrote popular, nationalistic war songs, most notably “Lützow’s wild daring hunt,”<sup>367</sup> which celebrates an extraordinary military unit whose uniform colors (black coat, red rims, and yellow buttons) were the inspiration for the current German flag. The same patriotic fervor found in Körner’s war songs saturates his poems about the queen. With Germany lying “in cowardly shame,” only the queen was capable of “hearing her children” and “saving German courage.” Thanks to her, now “all hearts burn faithfully and courageously!”<sup>368</sup> Körner’s passionate outpouring finishes with the feverish cry that

[Her] picture should sway on their flags  
 And should shine for them through the night to victory.  
*Luise* be the guardian-spirit of German affairs,  
*Luise* be the password to revenge!<sup>369</sup>

In another poem (“Aufruf”) Körner invokes Luise again to bless the cause against Napoleon despite the growing “mountains of corpses.” Novalis, similarly, uses the beautiful image of the queen (“das schöne Wesen”) for patriotic gain and ends with the call

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<sup>367</sup> “Lützows wilde verwegene Jagd.” For more on Körner’s relative influence and popularity see: Gerhard Ritter, *Das Deutsche Problem; Grundfragen Deutschen Staatslebens, Gestern Und Heute*, 2. neu durchgearb. und erw. Aufl. ed. (München,: R. Oldenbourg, 1966), 60-61.

<sup>368</sup> Du Heilige, hör' deiner Kinder Flehen!

[...]  
 So hast du uns den deutschen Mut gerettet.  
 Jetzt sieh auf uns, sieh auf dein Volk zurück,  
 Wie alle Herzen treu und mutig brennen!  
 Nun woll' uns auch die *Deinen* wieder nennen!  
 (Karl Theodor Körner’s : “For the Queen Luise”)

<sup>369</sup> So soll *dein* Bild auf unsern Fahnen schweben  
 Und soll uns leuchten durch die Nacht zum Sieg.  
*Luise* sei der Schutzgeist deutscher Sache,  
*Luise* sei das Losungswort zur Rache!  
 (Karl Theodor Körner’s : “For the Queen Luise”)

for “eternal love toward the beautiful female-regent.”<sup>370</sup> A mere letter or picture of the queen

would be medals, honors of the highest kind, decorations that would inflame and motivate to the highest deeds. Deserving housewives should also be recipients of similar marks of distinction.<sup>371</sup>

Novalis even proposes that each wedding ceremony should include a “meaningful obeisance ceremony [*Huldigungszeremonie*] to the queen, just as the gods were treated in old times where true religiosity was created through the unrelenting mixing of the realm of gods with [daily] life.” Such personification and representation of the state would “ennoble the common life,” and the “constant presence of the royal couple in the public and private life would create true patriotism.”<sup>372</sup>

## (ii) Of Queens and Guillotines

However, this kind of patriotic fervor does not amount to a boundary-leveling force. Quite the contrary. Passion for the state as personalized through the image of the queen is a powerful boundary-preserving tool. To individualize the state through the icon of the queen as the mother of the nation invokes, as we have seen, the notion of the family

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<sup>370</sup> “Ewige Liebe der schönen Fürstin.” (Novalis, “Blumen (1798).”)

<sup>371</sup> Ein Brief, ein Bild der Königin; das wären Orden, Auszeichnungen der höchsten Art; Auszeichnungen, die zu den ausgezeichnetsten Taten entzündeten. Auch verdienstvolle Hausfrauen sollten ähnliche Ehrenzeichen bekommen. (———, “Glauben Und Liebe Oder Der König Und Die Königin.” Section 26)

<sup>372</sup> “Mit jeder Trauung ließe sich leicht eine bedeutungsvolle Huldigungszeremonie der Königin einführen; und so sollte man mit dem König und der Königin das gewöhnliche Leben veredeln, wie sonst die Alten es mit ihren Göttern taten. Dort entstand echte Religiosität durch diese unaufhörliche Mischung der Götterwelt in das Leben. So könnte hier durch diese beständige Verwebung des königlichen Paares in das häusliche und öffentliche Leben, echter Patriotismus entstehen.” (Ibid. Section 30)

as the model for a proper understanding of the state. As Novalis reminds us, wishing “to live as family, in One [sic] family – in a regulated household is to ask for order, security, quiet.” This amounts for Novalis to a “search for a true monarchy,”<sup>373</sup> certainly not to revolution or overturning the social order. In the words of one historian, “her subject’s love for her [became] a synonym for loyalty to the throne.”<sup>374</sup>

The figure of the queen served to protect the old boundaries that had given shape and form to Prussia by winning over “all hearts” through her “unspeakable grace and charm.”<sup>375</sup> The Prussian queen largely succeeded where the French Queen had mostly failed. Novalis and his allies (even when they do not directly discuss the queen) were instrumental in this antirevolutionary project. Without such literary productions, so Novalis himself, the “French king was dethroned long before the Revolution.”<sup>376</sup> When a state is lacking a proper representation of the king and queen, “the complete disintegration of the modern world is certain.”<sup>377</sup>

On the other hand, if things work well, the king and queen will be seen as the “life-principle of the state,” instilling it with life and love.<sup>378</sup> In doing so, they create the “most

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<sup>373</sup> “Mit der Verheiratung ändert sich das System. Der Verheiratete verlangt Ordnung, Sicherheit, und Ruhe – er wünscht, als Familie, in Einer Familie zu leben – in einem regelmäßigen Hauswesen – er sucht eine echte Monarchie.” (Ibid. Section 60.)

<sup>374</sup> Ford, *Stein and the Era of Reform in Prussia, 1807-1815*, 79.

<sup>375</sup> “Es war die Güte, die aus ihren Augen strahlte, und die unbeschreibliche Huld und Anmut ihres ganzen Wesens, die ihr alle Herzen gewannen.” (Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 80-1.)

<sup>376</sup> “Veredlung dieser Gesinnung ist die einzige Basis der echten Staatsreform. Der König und die Königin können und müssen als solche das Prinzip der öffentlichen Gesinnung sein. Dort gibt es keine Monarchie mehr wo der König und die Intelligenz des Staats nicht mehr identisch sind. Daher war der König von Frankreich schon lange vor der Revolution dethronisiert, und so die meisten Fürsten Europas.” (Novalis, “Glauben Und Liebe Oder Der König Und Die Königin.” Section 28.)

<sup>377</sup> “Es würde ein sehr gefährliches Symptom des neupreußischen Staats sein, wenn man zu stumpf für die wohlthätigen Einflüsse des Königs und der Königin wäre, wenn es in der Tat an Sinn für dieses klassische Menschenpaar gebräche. Das muß sich in kurzem offenbaren. Wirken diese Genien nichts, so ist die vollkommene Auflösung der modernen Welt gewiß, und die himmlische Erscheinung ist nichts, als das Aufblitzen der verfliegenden Lebenskraft, die Sphärenmusik eines Sterbenden, die sichtbare Ahnung einer bessern Welt, die edlern Generationen bevorsteht.” (Ibid. Section 28.)

<sup>378</sup> “Der König ist das gediegene Lebensprinzip des Staats...” (Ibid. Section 17)

animated impulses” that never turn uncontrollably mercurial.<sup>379</sup> Behavior will always be “an expression of the highest, contained fullness of force,” governed and “dominated” by proper attention to social “etiquette” and “rules.”<sup>380</sup> As such, the creation of brimming (not overflowing) passions contained within the boundaries of social etiquette is an important concern for the royal household and royal representations. It is an instrumental contributor to the “taste and love for the monarchical form.”<sup>381</sup> The revolutionaries, in contrast, toyed with the lines between form and lack of form (“Form” – “Unform”).<sup>382</sup>

One might consider revolutions as the ultimate expressions of passions running their full course, yet Novalis cautions us against such a dangerous misconception. He distinguishes between two kinds of energies, one born out of “weakness and disease,” the other the true force of a nation.<sup>383</sup> The wrong kinds of passions are born out of weakness and result in weakening the country further.<sup>384</sup> The trouble with revolutions is that they are built upon and foster the wrong kinds of mores:

Those who in our days clamor against aristocrats and nowhere praise order except in the new, French manner, [...] hide their shallowness and inner nakedness behind colorful flags and the currently triumphant fashion...<sup>385</sup>

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<sup>379</sup> “lebhaftesten Regungen” (Ibid. Section 17)

<sup>380</sup> “Ausdruck der höchsten, zurückgehaltenen Kraftfülle” (Ibid. Section 17)

<sup>381</sup> “Herstellung der erstern [natürliche Etiquette] wird also keine unwichtige Sorge des denkenden Königs sein, da sie einen bedeutenden Einfluß auf den Geschmack und die Liebe für die monarchische Form hat.” (Ibid. Section 17)

<sup>382</sup> Ibid. Section 45.

<sup>383</sup> “Revolutionen beweisen eher gegen die wahre Energie einer Nation. Es gibt eine Energie aus Kränklichkeit und Schwäche – die gewaltsamer wirkt, als die wahre – aber leider mit noch tieferer Schwäche aufhört.” (Ibid. Section 46)

<sup>384</sup> Novalis elaborates that “ein einstürzender Thron ist, wie ein fallender Berg, der die Ebene zerschmettert und da ein totes Meer hinterläßt, wo sonst ein fruchtbares Land und lustige Wohnstätte war.” (Ibid. Section 11)

<sup>385</sup> “Diejenigen, die in unsern Tagen gegen Fürsten, als solche, deklamieren, und nirgends Heil statuieren, als in der neuen, französischen Manier, auch die Republik nur unter der repräsentativen Form erkennen, und apodiktisch behaupten, daß nur da Republik sei, wo es Primär- und Wahlversammlungen, Direktorium und Räte, Munizipalitäten und Freiheitsbäume gäbe, die sind armselige Philister, leer an Geist und arm an Herzen, Buchstäbler, die ihre Seichtigkeit und innerliche Blöße hinter den bunten Fahnen der triumphierenden Mode, unter der imposanten Maske des Kosmopolitismus zu verstecken suchen, und die

The revolutionaries' true passions are not properly guided; they are "impoverished philistines, empty in spirit and poor at heart, mere peddlers of the letters of the alphabet."<sup>386</sup>

Novalis, in contrast, does not blindly invoke and excite all passions, only those that are well-directed and containable. At the heart of his emphasis on the embodied, individualized state is the image of the sovereign forging justice in a willful, explicitly nonprocedural manner.

The queen's premature death (at 34 years of age, in 1810) would seem in this context a severe setback to this project: it was the loss of one of the prime symbols of a personalized state beyond mechanized procedures. But then again, what could be more poetic than the tragic death of a young and beautiful queen?<sup>387</sup> Consider again Theodor Körner who reworks the rather bland death of the queen into a breathless romantic poem.<sup>388</sup> In it, the queen slumbers until called upon by her nation and "then, German woman, wake up, a good angel for a good cause."<sup>389</sup> Similarly, the poets Max von Schulendorf and

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Gegner, wie die Obskuranten verdienen, damit der Frosch- und Mäusekrieg vollkommen versinnlicht werde." (Ibid. Section 23.)

<sup>386</sup> Ibid. Section 23.

<sup>387</sup> Lest this be thought the expression of a completely archaic world-view, consider the death of Diana, Princess of Wales in 1997. For accounts by contemporaries of the Queen Luise's death see: Friedrich Schulze, *Die Franzosenzeit in Deutschen Landen 1806-1815, in Wort Und Bild Der Mitlebenden* (Leipzig: R. Voigtländer, 1908), 287-90.

<sup>388</sup> For a more somber take on the same subject see also: J.F.W. Himly, "Am Sarge Der Königin," *Berlinische Monatschrift* (1810): 167.; Feuerstein-Prasser, *Die Preussischen Königinnen*, 218-19.

<sup>389</sup> Du schläfst so sanft! - Die stillen Züge hauchen  
Noch deines Lebens schöne Träume wieder;  
Der Schlummer nur senkt seine Flügel nieder,  
Und heil'ger Friede schließt die klaren Augen.  
So schlummre fort, bis deines Volkes Brüder,  
Wenn Flammenzeichen von den Bergen rauchen,  
Mit Gott versöhnt die rost'gen Schwerter brauchen,  
Das Leben opfernd für die höchsten Güter!  
Tief führt der Herr durch Nacht und durch Verderben;  
So sollen wir im Kampf das Heil erwerben,  
Daß unsre Enkel freie Männer sterben.  
Kommt dann der Tag der Freiheit und der Rache:

Heinrich von Kleist praised the queen after her death for being a shining beacon in dark times, the only one to emerge victorious and to retain her grace.<sup>390</sup> Achim von Arnim, similarly, tried to mobilize the corpse of the queen in the context of a larger aesthetic and political moment.<sup>391</sup> Since then, Luise has been invoked innumerable times throughout the German history of the nineteenth and twentieth centuries. One of the most-cited cases comes from the legendary Prussian Field Marshall Blücher; looking down from Montmartre on the 30<sup>th</sup> of March 1814 upon a conquered Paris he allegedly proclaimed solemnly, “Luise is avenged.”<sup>392</sup>

However, all of this was still far in the unforeseeable distance. Back in the time surrounding the queen’s death, France seemed undefeatable; her troops still occupied much of Prussia and had pacts and alliances with most German states. Part of the problem, so it seemed in the minds of many, was that before 1810 the German people simply did not care one way or the other about foreign occupations. For a conquered population, the Germans of the various territories that French troops occupied were surprisingly docile. Even the now famous harsh, ad hoc execution of a lowly bookseller for distributing insidious pamphlets only briefly attracted the attention of the nation.<sup>393</sup> Most people, it seemed, had

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Dann ruft dein Volk; dann, *deutsche Frau*, erwache,  
Ein guter Engel für die gute Sache!

(Theodor Körner „Vor Rauchs Büste der Königin Luise” - 1812, first published in 1814)

<sup>390</sup> Cited in: Schorn-Schütte, *Königin Luise : Leben Und Legende*, 90.; See also: Feuerstein-Prasser, *Die Preussischen Königinnen*, 219.

<sup>391</sup> See: “Die Nachtfeier nach der Einholung der hohen Leiche Ihrer Majestät der Königin.” (Ludwig Achim Arnim, *Werke in Sechs Bänden*, ed. Roswitha Burwick, 1. Aufl. ed., 6 vols., vol. 5 (Frankfurt am Main: Deutscher Klassiker Verlag, 1989), 753-6.

<sup>392</sup> Gebhard Leberecht von Blücher, Fürst von Wahlstatt (1742-1819).

<sup>393</sup> Johann Philipp Palm had sold pamphlets that decried the brutality of the French occupying troops. After a precursory trial, he was executed on the 26<sup>th</sup> August, 1806. For the pamphlet and various letters surrounding this affair see: Eckart Klessmann, *Deutschland Unter Napoleon in Augenzeugenberichten* (Düsseldorf: Karl Rauch Verlag, 1965), 79-94.; See also: Hellmuth Rössler, *Zwischen Revolution Und Reaktion; Ein Lebensbild Des Reichsfreiherrn Hans Christoph Von Gagern, 1766-1852*, Veröffentlichungen Der Historischen Kommission Für Nassau ; (Göttingen,: Musterschmidt-Verlag, 1958), 108-9.

simply lost interest in fighting the French.<sup>394</sup> Perhaps it seemed to them a hopeless endeavor, perhaps many silently welcomed the French, or perhaps they were simply weary of yet another war. In any case, many writers depicted the population as having lost “all previous great interest, which had kept the nation together.”

Things had gotten so bad that Ricklefs in a popular magazine had to argue against the oft-heard opinion that “the Germans really have no character or backbone.”<sup>395</sup> While the honor of the nation was “trampled by the feet of public opinion,” nobody could be rallied by this thought and find sufficient enthusiasm to defend the state.<sup>396</sup> Friedrich von Gentz observed that the public was divided into two parts, “of which one, by far the greater, regards the current dismal conditions with, more or less, apathy, while the other part regards it with approval.”<sup>397</sup> Carl von Clausewitz remarked dryly that German resistance seemed to falter completely and that everybody “marches willingly into the . . . yoke.”<sup>398</sup> The influential theologian, pastor, and professor Friedrich Schleiermacher lamented similarly that the apathy of his fellow citizens amounted to a “secret war against

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<sup>394</sup> For much more on this point see: Herman Granier, *Berichte Aus Der Berliner Franzosenzeit 1807-1809, Nach Den Akten Des Berliner Geheimen Staatsarchivs Und Des Pariser Kriegsarchivs* (Leipzig: S. Hirzel, 1913), 89-90, 246-51, 78.

<sup>395</sup> F.R. Ricklefs, "Hat Der Deutsche Wirklich Keinen Character?," *Minerva* 3 (1806): 1-11.

<sup>396</sup> “Während der Jahre 1803 bis 1805 hatten sich in Deutschlands Volksbewusstsein Alle bisherigen grossen Interessen, die früher die Nation zusammengehalten hatten, vollends verloren. Die Ehre des Reiches war nun längst in der öffentlichen Meinung mit Füßen getreten; aus dieser Vorstellung konnte weder Begeisterung noch Trost mehr kommen. Selbst an dem einzelnen Statsverhältnisse hatte niemand mehr einen Anhalt.” (Heinrich Leo, *Lehrbuch Der Universalgeschichte Zum Gebrauche in Höheren Unterrichtsanstalten*, 6 vols., vol. 5 (Halle: Eduard Anton, 1839), 439, 99.)

<sup>397</sup> “...die Masse des Publikums [ist] durchgängig in zwei Klassen geteilt [] wovon die Eine, bei weitem die grösste, die Begebenheiten dieser alles-verherenden Zeit mit mehr oder weniger Gleichgültigkeit, die andere mit wohlgefallen betrachtet“ (Friedrich von Gentz, *Fragmente Aus Der Neusten Geschichte Des Politischen Gleichgewichts in Europa* (St. Petersburg: [s.n.], 1806), xxii, 13, 23.)

<sup>398</sup> Carl von Clausewitz, "An Die Braut," in *Stimmen Aus Der Zeit Der Erniedrigung*, ed. Rudolf Vaupel (München: Drei Masken, 1923), 45.

the general welfare.”<sup>399</sup> As the historian Klaus Epstein puts it, the “common mass of burghers and serfs [showed] a total apathy in the face of public calamity.”<sup>400</sup>

In the words of another commentator, many conquered Germans “embellished their private lives” while they looked upon the state as merely a “neutral framework, to which one should connect one’s heart as little as possible.” Their passions, instead of fuelling a willingness for sacrifice in defense of a humiliated and dishonored state, drove them instead to “gorge desserts, and consume their almonds in peace with a glass of wine.”<sup>401</sup> One of the prime suspects behind this almond craze was the “trivial theory of liberalism,” which amounted to “a brainchild of egotism.”<sup>402</sup> A widely shared view was that bureaucrats exemplify such narrow-minded thinking, since they are overly concerned with their salaries and petty interests. “Mediocre, philistine pleasures” drive their lives, along with a subservient willingness to execute their procedural functions expediently.<sup>403</sup> As such, the

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<sup>399</sup> Friedrich Schleiermacher, "Wie Sehr Es Die Würde Des Menschen Erhöht, Wenn Er Mit Ganzer Seele an Der Bürgerlichen Vereinigung Hängt, Der Er Angehört," in *Stimmen Aus Der Zeit Der Erniedrigung*, ed. Rudolf Vaupel (München: Drei Masken, 1923), 216.; For more on Schleiermacher consider: Jolles, *Das Deutsche Nationalbewusstsein Im Zeitalter Napoleons*, 193-203.

<sup>400</sup> Klaus Epstein, "Stein in German Historiography," *History and Theory* 5, no. 3 (1966): 250.

<sup>401</sup> “Der Staat hatte in Deutschland seine sittliche Würde verloren. Er erhielt überall die geistige Hauptdirection vom Auslande, hatte keine selbstständigen Ehren und gewährte keinen Trost. Die Folge war, dass ihn diejenigen, die die Mittel hatten, sich ihr Privatleben auszuschmücken, nur ansahen, als einen ziemlich gleichgültigen Ramen, an den man sein Herz so wenig als möglich zu hängen habe; der doch gut sei, in wiefern er im Wesentlichen Ruhe und Ordnung erhalte und das aufrecht, was man damals Gesittung zu nennen anfing, damit die Leute, die täglich ein Desert verzerten, in Sicherheit ihre Mandeln bei einem Glase Wein knacken könnten.” (Leo, *Lehrbuch Der Universalgeschichte Zum Gebrauche in Höheren Unterrichtsanstalten*, 493.). Consider also an interesting contemporary echo of similar concerns: “Painfully aware of the dangers that spiritedness poses for a pacific politics, we have, since the inception of modern political thought, sought to subordinate the ancient, masculine virtues to the virtue that Adam Smith would label ‘humanity.’ But our remarkably successful solution encounters today a new problem: in our emphasis on political peace, we now face the danger posed by the political apathy of a large and apparently growing number of self-absorbed, because self-satisfied, democratic citizens...” - Thomas K. Lindsay, "Aristotle's Appraisal of Manly Spirit: Political and Philosophic Implications," *American Journal of Political Science* 44, no. 3 (Jul., 2000)..

<sup>402</sup> Die “triviale[.] Theorie des Liberalismus” which essentially amounts to “eine Ausgeburt des Egoismus.” (Leo, *Lehrbuch Der Universalgeschichte Zum Gebrauche in Höheren Unterrichtsanstalten*, 308.)

<sup>403</sup> Der “Beamtenstand” hatte sich “hinsichtlich seiner Subsistenz vornämlich auf seine Besoldung verweisen, schon lange, lange ein von der Regierung völlig abhängiges Leben in einer gewissen Geschäftsroutine und bei mediocren, philistinen Vergnügungen geführt, in diesen engen Interessen sich an perönliche Bedeutungslosigkeit, zum Teil an eigentliche Bedientengesinnung gewönt.” (Ibid., 640-41.)

“class of bureaucrats” (*Beamtenklasse*) constitutes a “considerable, debilitating, inhibitory part of the bourgeoisie” that is unreceptive to the task of protecting the emotions surrounding patriotic honor.<sup>404</sup> Friedrich von Gentz, an influential and well-connected publicist and diplomat, railed against the bureaucrats’ procedural thinking, which renders them particularly vulnerable to lackadaisical patriotism.<sup>405</sup> Gentz found many in the French-occupied territories who, “even if they are not exceptionally bitter, find themselves with vituperations [against the French] bubbling from their mouths.” The only remaining supporters of the French were, it seems, bureaucrats, “because others don’t exist anymore.”<sup>406</sup>

In short, we once again find the figure of the bureaucrat used as a contrasting foil to purportedly healthy, vibrant passions for patriotism that Romantics encouraged to flourish. The corrosive influence of bureaucracies is here demonstrated through the passivity and indifference of their incumbents, which has a corrupting influence on the nation as a whole.

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<sup>404</sup> “Bildete aber diese zaghafte zum Teil geradezu in Nidrigkeit, zum Teil in Selbstteuschung den Fremden zugewendete Beamtenklasse auch einen ansehnlichen, drückend und hemmend ansehnlichen Teil des Mittelstandes im grössten Teile Deutschlands, so darf man darum nicht glauben, dass überall das Gefühl für vaterländische Ehre erstorben gewesen wäre.” (Ibid., 641.)

<sup>405</sup> For the standard introductions to Gentz’s life, work and considerable influence see: Jakob Baxa, *Friedrich Von Gentz*, Österreich-Reihe ; (Wien,: Bergland Verlag, 1965).; Golo Mann, *Friedrich Von Gentz; Geschichte Eines Europäischen Staatsmannes* (Zürich,: Europa Verlag, 1947).; Paul R. Sweet, *Friedrich Von Gentz, Defender of the Old Order* (Westport, Conn.: Greenwood Press, 1970).; Jolles, *Das Deutsche Nationalbewusstsein Im Zeitalter Napoleons*, 220-30.; For Gentz’s own writings see: Friedrich von Gentz, John Quincy Adams, and Richard Loss, *The Origins and Principles of the American Revolution Compared with the Origin and Principles of the French Revolution : A Facsimile Reproduction* (Delmar, N.Y.: Scholars' Facsimiles & Reprints, 1977).; Friedrich von Gentz and Günther Kronenbitter, *Gesammelte Schriften* (Hildesheim ; New York: Olms-Weidmann, 2004).; Friedrich von Gentz and Stefan Thomas Possony, *Three Revolutions: The French and American Revolutions Compared* (Chicago,: H. Regnery, 1959).; For Gentz’s unlikely connection to John Quincy Adams see: Walter J. Morris, "John Quincy Adams's German Library, with a Catalog of His German Books," *Proceedings of the American Philosophical Society* 118, no. 4 (Sep. 13, 1974).; John Torrey Morse, *John Quincy Adams*, American Statesmen (Boston,: Houghton, Mifflin, 1899), 24.

<sup>406</sup> From a letter from Gentz to Adam Müller (23 & 25th Oct, 1802): “Selbst, wenn sie gar nicht vorzüglich erbittert sind, quillen ihnen die Schimpfwörter aus dem Munde. Wenn Sie einen Anhänger der Franzosen, d.h. *einen Beamten* (den andre gibt es nicht mehr) begegnen, und fragen den ersten besten Menschen aus der Stadt: qui est cela? So antwortet er Ihnen ganz ruhig: c’est un coquin, Monsieur: bloss um Ihnen dadurch zu bezeichnen, zu welcher Klasse er gehört.” (Friedrich von Gentz and Friedrich Karl Wittichen, *Briefe Von Und an Friedrich Von Gentz ; Auf Veranlassung Und Mit Unterstützung Der Wedekind-Stiftung Zu Göttingen* (Munchen: R. Oldenbourg, 1909), 385.)

Within the paradigm of this critique, it is of no use for bureaucrats to claim that they compartmentalize emotions in order to rationalize the administration of the state and achieve cameralistic goals. The depersonalization of the state that they represent and enact is the very antithesis of the personified state that many of the Romantic authors cherished. Such critics advocated for the personified state as the bedrock of vibrant, healthy, passionate patriotism. In Schleiermacher's understanding, a mode of thought [*Denkensart*] was prevalent in Germany that made it impossible for people to take a "devoted interest in the future of the state."<sup>407</sup> If "one thought of the state as an artful machine," then only those within the administration would properly take an interest in the state's welfare. "However, for all others an intense love of one's country" remains necessarily only a limited sentiment."<sup>408</sup> It was to counter this threat that people like Novalis developed a personified understanding of the state. As Novalis put it most starkly: the state *is* an individual [*Staatsindividuum, Staatskörper, Staatsseele, Staatsgeist*], and the state's administrative branches are its "internal organs."<sup>409</sup>

## ***6. The Organic and the Mechanic***

In a familiar refrain at the time, the philosopher, temporary minister, and cofounder of the University of Berlin, Wilhelm von Humboldt charged that "in the ministries of

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<sup>407</sup> Schleiermacher, "Wie Sehr Es Die Würde Des Menschen Erhöht, Wenn Er Mit Ganzer Seele an Der Bürgerlichen Vereinigung Hängt, Der Er Angehört," 216.

<sup>408</sup> "...man hält den Staat für eine kunstreiche Maschine [...] nur denjenigen, so meint man, denen das Wohl des Staates unmittelbar anvertraut ist, gezieme es, an allem, was ihn betrifft, einen lebhaften Anteil zu nehmen; für alle andere aber sei eine eifrige Vaterlandsliebe nur eine beschränkte Gesinnung." (Ibid.)

<sup>409</sup> Novalis, *Novalis Werke*, 336, 456-7, 64.

justice and internal affairs a simple and pure *mechanism* is the order of the day that kills all thought and spirit.”<sup>410</sup> He and others suggested that the mechanical, dispassionate, depersonalized administration of the state was undermining its legitimacy and its ability to survive and thrive. They insisted that “despite all mechanical posing,” the state should “remain. . . heartedly organic.”<sup>411</sup> A mechanical, procedural understanding of the state desubstantiates the state, weakens social mores, and undermines the very foundations of patriotic sentiment. As Schleiermacher puts it, the idea that “the state should be nothing more than a machine” has been a monstrous “communal calamity.”<sup>412</sup> The “eternal law” beyond mere procedures that governs the “relation of people to people, therefore also the relation between the state and its subjects” must be “lively, fluid, and self-balancing.” In contrast to its desubstantiated, mechanical nemesis, this organic understanding of the state is deeply concerned “with good and evil, virtue and fear, as well as sin and punishment.”<sup>413</sup>

Much is at stake here. The frequent invocations of mechanical and organic metaphors at the time carry considerable importance. Whether one refers to the state as an organism or a machine invokes paradigmatically different frameworks for the proper

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<sup>410</sup> “In den Ministerien der Justiz und des Innern sind blosser und reiner Mechanismus und Ertötung alles Geistes an der Tagesordnung.“ (Wilhelm Humboldt, *Werke in Fünf Bänden*, ed. Andreas Flitner and Klaus Giel, 5 vols., vol. 4 (Stuttgart: Cotta, 1979), 428. My emphasis)

<sup>411</sup> Das “ewige[s] Gesetz ist, dass das Verhältniss von Menschen zu Menschen, also auch das Verhältniss von Regierung zu Regirten überal und allezeit ein in sich lebendiges, flüssiges, sich im Guten und Bösen, in Tugend und Frucht wie in Sünde und Strafe in's Gleichgewicht setzendes, trotz alles mechanischen Verhaltens ein innerlichst organisches ist und bleibt...” (Leo, *Lehrbuch Der Universalgeschichte Zum Gebrauche in Höheren Unterrichtsanstalten*, 82.). Consider also Novalis on the issue of balance in organic organisms: “Gold und Silber sind das Blut des Staats. Häufungen des Bluts am Herzen und im Kopfe verraten Schwäche in beiden. Je stärker das Herz ist, desto lebhafter und freigebiger treibt es das Blut nach den äußern Teilen. Warm und belebt ist jedes Glied, und rasch und mächtig strömt das Blut nach dem Herzen zurück.” (Novalis, “Glauben Und Liebe Oder Der König Und Die Königin.” Section 10)

<sup>412</sup> Schleiermacher, “Aus Einem Brief an Georg Reimer (1806),” 231-2.; For more on this theme consider: LaVopa, *Fichte : The Self and the Calling of Philosophy, 1762-1799*, 91-2.

<sup>413</sup> Leo, *Lehrbuch Der Universalgeschichte Zum Gebrauche in Höheren Unterrichtsanstalten*, 82.

purpose and configuration of the state and its role in the administration of justice.<sup>414</sup> Just as many authors had contrasted vibrant passions with the lifeless, passionless bureaucrat, or the personal state with the impersonal bureaucracy, so too did critics of procedures and bureaucratization contrast the dull machine of the bureaucracy (characterized by rigid procedures and clockwork heartlessness) with the allegedly vibrant and warm organism of the nation.

All mechanical behavior between individuals is a surrender of being God's children. Not solely in the smallest circles, in the family, [...] – is love the mistress – no! it is so everywhere! Worldwide! As far as the breath of god reaches. It is in state and church as good as in the home.<sup>415</sup>

The Romantic celebration of the vital play of passions and opposition to potentially depersonalizing institutions is closely linked to a rejection of the mechanical in favor of the organic. Heinrich Leo, a renowned Prussian historian and politician, explains this third component of skepticism towards bureaucracies by elaborating on the first two elements. All “mechanical behavior, each act, which treats humans not as humans, but instead as

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<sup>414</sup> For helpful introductions to this material consider: Lieselotte Sauer, "Romantic Automata," in *European Romanticism : Literary Cross-Currents, Modes, and Models*, ed. Gerhart Hoffmeister (Detroit: Wayne State University Press, 1990).; Barry Brummett, *Rhetoric of Machine Aesthetics* (Westport, Conn.: Praeger, 1999).; Alan Scott, "Modernity's Machine Metaphor," *The British Journal of Sociology* 48, no. 4 (Dec. 1997).; F.M. Barnard, "Metaphors, Laments, and the Organic Community," *The Canadian Journal of Economics and Political Science / Revue canadienne d'Economique et de Science politique* 32, no. 3 (Aug., 1966).; H.J. McCloskey, "The State as an Organism, as a Person, and as an End in Itself," *The Philosophical Review* 72, no. 3 (Jul., 1963).; Edward A. Hacker, "Rationality Versus Dehumanization," *Philosophy and Phenomenological Research* 33, no. 2 (Dec., 1972).; For more on the origins of the mechanical metaphor in the thought of Hobbes and Spinoza consider: Olson, *The Emergence of the Social Sciences, 1642-1792*, 38-48, 52-3.; Jacoby, *Die Bürokratisierung Der Welt; Ein Beitrag Zur Problemgeschichte*, 69.; Many readers might also recall Herbert Spencer's influential use of similar dichotomies: Herbert Spencer and J. D. Y. Peel, *On Social Evolution; Selected Writings* (Chicago: University of Chicago Press, 1972).; For a helpful but highly selective account of the origins and legacies of organic accounts consider: Charles I. Armstrong, *Romantic Organicism : From Idealist Origins to Ambivalent Afterlife* (Houndmills, Basingstoke, Hampshire ; New York: Palgrave Macmillan, 2003).

<sup>415</sup> “Alles mechanische Verhalten aber von Menschen zu Menschen ist ein Aufgeben der Kindschaft Gottes. Nicht bloss in den kleinen Kreisen, in der Familie, in dem Sonderverhältnisse eines wohlthuenden zum Woltaten empfangenden - ist die Liebe die Herrin - nein! sie ist es überall! weltenweit! so weit des Herren Athem dringt. Sie ist es in Staat und Kirche so gut als im Hause.” (Leo, *Lehrbuch Der Universalgeschichte Zum Gebrauche in Höheren Unterrichtsanstalten*, 83.)

governed, dead mass” leads to the decay and downfall of the nation. Only the “inner organic force” of humans can prevent this from happening.<sup>416</sup>

How dry, how poor is everything mechanical without that which snatches it away from meagerness and poverty – the connection that fuses together love, the individuals, the peoples, state and subject, all into One living Whole, into spiritual organisms.<sup>417</sup>

A mechanical order lacks the glue, the proper coherence and order that keep society and individuals from falling apart. In short, if we let passions slip away, if we think of the state no longer as personified by the unified and unifying figures of the king and queen as the embodied state, then we are co-opted into a mechanical, fractured understanding of the individual, the state, and society that undermines them all. With the French lurking nefariously on the Rhine, this might not be a good idea. Many critics of the cameralist agenda thus pushed strenuously for a conceptual stance founded upon organic themes.

### **(i) Humans as Machines**

These critics had concrete reasons to be concerned. Cameralist authors had habitually employed machine metaphors in their writings to describe the workings of the

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<sup>416</sup> “...jedes mechanische Verhalten, jedes Verhalten, was in den Menschen nicht mehr Menschen, sondern regirte, todte Massen sieht, bricht sich entweder oder führt zur Demoralisation, zum Untergange beider Teile - es strekt die innere organische Kraft des Menschen sich dagegen als rächende Hand empor.” (Ibid., 82.). For more on Heinrich Leo and the “organic society“ see: William Shanahan, “The Social Outlook of Prussian Conservatism,” *The Review of Politics* 15, no. 2 (Apr., 1953): 245-6, 51.

<sup>417</sup> “Wie dürr, wie arm ist Alles mechanische ohne das, die Verbindung womit allein es seiner Dürre und Armut entreissen kan, ohne die Liebe, die Menschen, die Völker, die Regierung und Regirte zusammen zu Einem lebendigen Ganzen, zu geistigen Organismen macht.” (Leo, *Lehrbuch Der Universalgeschichte Zum Gebrauche in Höheren Unterrichtsanstalten*, 301-4, 744.)

state and society. Johann Justi, for example, described “the great installation of the common being as a machine, whereby all parts, all wheels, all springs must fit together.”<sup>418</sup> Going one step further, the French author and physician Julien Offray de La Mettrie argued in an infamous series of publications that humans are machines as well.<sup>419</sup> Widely condemned, La Mettrie had to flee from France to Holland. Eventually, La Mettrie had to leave even this relatively liberal bastion. He found refuge in Prussia under the protection of Frederick II. The Prussian king had made La Mettrie head of the Berlin Academy of the Sciences in 1746, gave him a pension, made him his official physician, and displayed much affection and familiarity with La Mettrie in public. Frederick’s eulogy for La Mettrie remains one of the most important primary sources on La Mettrie’s life and work.<sup>420</sup> La Mettrie’s books outraged many, and Frederick’s friendship with him heightened the fears and anxieties that many felt. Frederick’s eulogy, for example, was read before the Berlin Academy of Sciences in 1752 by Frederick’s secretary and was met with much disgust.<sup>421</sup> An understanding of the state, society, and individuals as machines struck many as morally defunct. As La Mettrie argues in *Man a Machine*, his account seeks to “materialize . . . the

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<sup>418</sup> The quotation reads in full: “Die grosse Einrichtung des gemeinen Wesens ist eine Maschine, davon alle Teile, alle Räder, alle Triebfedern übereinstimmen müssen. Ein jedes muss sich in vollkommenem Stande und zulänglicher Einrichtung befinden, seinen Endzweck erfüllen zu können. Der Mangel in den kleinsten Teilen zieht allemal eine Unvollkommenheit des Ganzen nach sich, und die geringen Bedienten des Staates können durch ihre Unwissenheit und Ungeschicklichkeit so viel verderben und verabsäumen, dass die grösste Einsicht und Fähigkeit den daraus entstandenen Schaden und Nachteil kaum wieder auszubessern vermögend ist.“ (Justi, *Auf Höchsten Befehl an Sr. Röm. Kaiserl. Und Zu Ungarn Und Böhmen Königl. Majestät Erstattetes Allerunterthänigstes Gutachten Von Dem Vernünftigen Zusammenhange Und Practischen Vortrage Aller Oeconomischen Und Cameralwissenschaften Wobey Zugleich Zur Probe Die Grundsätze Der Policywissenschaft Mit Denen Darzu Gehörigen Practischen Arbeiten Vorgetragen Werdenachen*, 77.)

<sup>419</sup> Julien Offray de La Mettrie and Julien Offray de La Mettrie, *Man a Machine ; and, Man a Plant* (Indianapolis: Hackett Pub. Co., 1994).

<sup>420</sup> Julien Offray de La Mettrie, Gertrude Carman Bussey, and Frederick, *Man, a Machine: Including Frederick the Great's "Eulogy" On La Mettrie and Extracts from La Mettrie's "The Natural History of the Soul"*, French-English ed. (Chicago, Ill.: Open Court Publishing Co., 1943).; For a useful account of La Mettrie’s life and career see: Kathleen Anne Wellman, *La Mettrie : Medicine, Philosophy, and Enlightenment* (Durham: Duke University Press, 1992).

<sup>421</sup> Ann Thomson and Julien Offray de La Mettrie, *Materialism and Society in the Mid-Eighteenth Century : La Mettrie's Discours Préliminaire* (Genève: Droz, 1981), 5.

soul.”<sup>422</sup> La Mettrie explains unapologetically that the human body is merely “a self-winding machine.”<sup>423</sup> For him, humans are complicated arrangements of “cog wheels and springs,” and the soul, in the final analysis, “only an empty word to which no idea corresponds.”<sup>424</sup> As Frederick II summarized:

[La Mettrie] could clearly see that thought is but a consequence of the organization of the machine, and that the disturbance of the springs has considerable influence on that part of us which the metaphysicians call soul. [La Mettrie] tried to explain by the aid of anatomy the thin texture of understanding, and he found only mechanisms where others had supposed an essence superior to matter.<sup>425</sup>

Corrupt and corrupting in the eyes of many, mechanical metaphors only leave room for hollow procedural conceptions of the state and society that are completely at odds with the goals and aspirations of the cameralists’ critics.

## **(ii) Horror, Laughter, Wonder: The Tools of the Trade**

To fight back, these critics turned to invocations of horror and ridicule to mobilize people against the mechanistic ethos. As we have seen, the first step of the aesthetic-political project of such patriotic poets as Novalis, Schulendorf, Kleist, and Körner was to excite and incite the Germans, to get them to stand up and get going.<sup>426</sup> Only by lighting a

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<sup>422</sup> La Mettrie and La Mettrie, *Man a Machine ; and, Man a Plant*, 27.

<sup>423</sup> *Ibid.*, 32.

<sup>424</sup> *Ibid.*, 59.

<sup>425</sup> La Mettrie, Bussey, and Frederick, *Man, a Machine: Including Frederick the Great's "Eulogy" On La Mettrie and Extracts from La Mettrie's "The Natural History of the Soul"*, 6.

<sup>426</sup> For much more on this see: Johann Gottlieb Fichte, *Staat Und Vaterland : Eine Auswahl Aus Seinen Politischen Schriften*, vol. 4, Deutsche Staatsgedanke. 1. Reihe. Fürer Und Denker ; (München: Drei Masken Verlag, 1921), 153-97.; Johann Gottlieb Fichte and Reinhard Lauth, *Reden an Die Deutsche*

fire under their comfortable seats could the docile population be moved to abandon the comfort of their homes and march to war. The skillful portrayal of the queen was one specific aspect of this project. A second, broader attempt to reshape the imagination of the people was carried out through the invocation of horror and childlike suspension of judgment. By invoking the power of horror, a staple of the literature of the time, one could unsettle reasoned thinking and awaken gut responses. Not only could disgust and fear be cultivated and aimed at specific targets (such as a fear of the mechanical, as we will see), but it could also be used as the principal fuel to drive the forging of social and political (organic) unity. The grotesque and the unexplainable are wholly consistent with the deployment of the power of passion against depersonalized rule.<sup>427</sup> They fuel a boundary-preserving social agenda sharply and explicitly at odds with the model of cameralistic bureaucracies. Through the deeply personal experience of feeling horror, the German people would be unsettled and their imagination could be redirected toward goals other than wine and almonds. Consider in this context the original fairy tales of the brothers Grimm.<sup>428</sup> As they themselves argued, extremes and the playfulness of fantasy and imagination characterize the tales they collected:

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*Nation*, 5., durchges. Aufl. nach d. Erstdr. von 1808, mit neuer Einl. von Reinhard Lauth, mit Literaturhinweisen u. Reg. ed. (Hamburg: Meiner, 1978).; Jolles, *Das Deutsche Nationalbewusstsein Im Zeitalter Napoleons*, 122-43.

<sup>427</sup> For more on this theme consider: Frederick Burwick, "The Grotesque in the Romantic Movement," in *European Romanticism : Literary Cross-Currents, Modes, and Models*, ed. Gerhart Hoffmeister (Detroit: Wayne State University Press, 1990), 45-6.

<sup>428</sup> Jacob and Wilhelm Grimm began collecting the tales in 1805. The first edition of their work appeared in 1812 and the last edition was produced by Wilhelm in 1857. For useful accounts of the Grimm tales, their collection, and their reception see: Maria Tatar, *The Hard Facts of the Grimms' Fairy Tales*, Expanded 2nd ed. (Princeton, N.J.: Princeton University Press, 2003).; Donald Haase, *The Reception of Grimms' Fairy Tales : Responses, Reactions, Revisions* (Detroit: Wayne State University Press, 1993).; Ingrid Spörk, *Studien Zu Ausgewählten Märchen Der Brüder Grimm : Frauenproblematik, Struktur, Rollentheorie, Psychoanalyse, Überlieferung, Rezeption*, Hochschulschriften Literaturwissenschaft ; (Königstein/Ts.: Verlag A. Hain, 1985), 39-51.

Everything beautiful is golden and covered in pearls, even golden people live here; calamity on the other hand is a nefarious force, a monstrous human-consuming giant, who is however beaten in the end. [...]. And such an epic tale always ends by opening up endless joys. Evil is not something small, close, or bad, because one could get used to that, instead, it is something ghastly and abominable.<sup>429</sup>

Justice in the tales of the brothers Grimm is never procedural. It is administered directly and springs from individual will and impulse. It is passionate and it is as personalized as the evil at which it aims. The indirect question of justice never arises in these tales. The state, insofar as it is present at all, is represented as highly personalized. The tales of the Grimm brothers are filled with kind and vile kings, local nobles, and handsome princes. Bureaucratic institutions concerned with measuring and improving administrative tasks find little room in fairy tales.

In the words of Eichendorff, the subject drunk with freedom [*freiheitstrunkener Subjekt*] should be exposed through tales to the “alluring song of nature,” the inner music the poet hears, the “demonic.”<sup>430</sup> However, such tales do not eradicate or even question fundamental social boundaries, quite the contrary. As Eichendorff is at pains to point out, these fairy tales, even though there is something heathen, messy, and confused about them, nevertheless feverishly reject disorder. Only a “pure, faithful, chaste mind”<sup>431</sup> can write

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<sup>429</sup> “Alles schöne ist golden und mit Perlen bestreut, selbst golden Menschen leben hier, das Unglück aber [ist] eine finstere Gewalt, ein ungeheurer menschenfressender Riese, der doch wieder besiegt wird [...] und dieses Epos endigt immer, indem es eine endlose Freude aufzut. Das Böse auch ist kein kleines, nahestehendes und das schlechteste, weil man sich daran gewöhnen könnte, sondern etwas Entsetzliches, Schwarzes, streng Geschiedenes, dem man sich nicht nähern darf...” - Wilhelm Grimm and Jakob Grimm, "Vorrede Zu Den Kinder- Und Hausmärchen," in *Romantik*, ed. Otto F. Best and Hans-Jürgen Schmitt (Stuttgart: Reclam, 1974).

<sup>430</sup> Joseph von Eichendorff, "Brentano Und Seine Märchen," in *Romantik*, ed. Otto F. Best and Hans-Jürgen Schmitt (Stuttgart: Reclam, 1974), 298.

<sup>431</sup> "... nur ein reiner, Gott ergebener, keuscher Sinn kennt die Zauberformel..." (Ibid., 305.)

proper fairy tales for the people (“Volksmärchen,” in contrast to “philosophische Märchen”) that are as harmlessly beautiful as the “unseen breeze of a Sunday morning.”<sup>432</sup>

In Eichendorff’s estimation, poets have powerful tools at hand to shape the public’s imagination. They lead an “extraordinary, fantastic partisan war with the mirror-like magic weapons of poetry.”<sup>433</sup> This struggle is at odds with central pillars of the cameralist project. Rather than seeking to understand the world and administer it effectively, horror stories emphasize emotional ecstasy (through the extremes the brothers Grimm portrayed) and an endorsement of the grotesque and unexplainable. A demystified universe does not lend itself to fairy tales. Rather, delusion, illusion, and a magical, organic universe are the primary elements of the fairy and horror tales of the era. The worlds authors like Eichendorff or Arnim create remain mysterious and keep their secrets locked away.<sup>434</sup> In sharp contrast to the cameralists’ trust in the power of empirical investigation and reason to unlock the causal relations in nature, these authors neither endorse that faith nor think it wise.

Instead, they propagate tales filled with “forest and household goblins, river deities, nymphs, ‘father Rhine,’”<sup>435</sup> and a by-now-familiar, colorful cast of fantastic characters, all at work to drive the reader to experience “longing, rage, and love.”<sup>436</sup> As in a dream, these tales speak in a “wondrous manner, touchingly, childishly, shockingly.”<sup>437</sup> The association of childish thinking with fairy tales is important here. Clearly, these tales were not originally written exclusively (or perhaps even primarily) for children. But they are the

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<sup>432</sup> “... der unsichtbare Hauch eines Sonntagmorgens.” (Ibid., 303.)

<sup>433</sup> Clemens Brentano lead a “unordentlichen, phantastischen Partisanenkrieg geführt hat mit allen spiegelblanken Zauberwaffen der Poesie...” (Ibid., 298.)

<sup>434</sup> “...geheimnisvoll[e] Natur...” (Ibid.)

<sup>435</sup> “...Wald- und Haus-Kobolde, Flussgötter, Nymphen, ... , Vater Rhein ...” (Ibid., 303.)

<sup>436</sup> “...Sehnsucht, Zorn, und Liebe.” (Ibid.)

<sup>437</sup> “... und spricht im Traume in abgebrochenen, wundersamen Lauten rührend, kindisch, erschütternd...” (Ibid., 305.)

model audience since, children (or childlike adults) show an exemplary willingness to suspend belief and surrender their imagination to a strange and exciting alien universe. They are also, as Kleist argues, more in touch with the simple truth of vibrant, unerring patriotism.<sup>438</sup> For example, in one of Kleist's stories a father asks his son why he loves his country ("Vaterland"). Rather than contemplating the lengthy intellectual explanations of his father, the child repeats stubbornly (here a virtue it seems) that he loves his country simply because it is his country. We cannot all be as unerring as this child, but fairy tales can encourage us to become the kind of political agents that writers like Kleist want us to be. Through tales that encourage us to marvel at the strangeness of the world, we can return to the experience of early childhood. Fairy tales are also filled with highly personalized representations of good and evil, beyond procedural questions of due process or administrative efficiency. Kleist and his colleagues hope that in reading these tales of horror and wonder, we will experience, for once, strong emotional reactions. Consequently, Kleist, like many of his time, chose fairy tales as one of his preferred genres. Some, like Friedrich Schlegel, argued that "all novels should be constructed like fairy tales."<sup>439</sup> The conventions of the genre are highly conducive to the aesthetic sensibilities and political aspirations of those like Kleist or Novalis who seek to retard bureaucratization.

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<sup>438</sup> Heinrich von Kleist, "Katechismus Der Deutschen Abgefasst Nach Dem Spanischen, Zum Gebrauch Für Kinger Und Alte in Sechzehn Kapitel " in *Stimmen Aus Der Zeit Der Erniedrigung*, ed. Rudolf Vaupel (München: Drei Masken, 1923), 155-66.; Heinrich von Kleist, "Aus Dem Katechismus Der Deutschen," in *Romantik*, ed. Otto F. Best and Hans-Jürgen Schmitt (Stuttgart: Reclam, 1974).; For a helpful short introduction to Kleist see: Christiansen, *Romantic Affinities : Portrait of an Age, 1780-1830*, 76-83.

<sup>439</sup> "... jeder Roman nach Art eines Märchens konstruirt seyn sollte" [sic] cited in: Dennis F. Mahoney, "The Myth of Death and Resurrection in 'Heinrich Von Ofterdingen'," *South Atlantic Review* 48, no. 2 (May, 1983).

One of the most famous (and for many most haunting) tales of the time is E.T.A. Hoffman's *The Sandman*.<sup>440</sup> In it, we follow the adventures of the young university student Nathanael. Instead of remaining faithful to the love of his youth (a simple, animated, charming young lady named Clara), he falls instead for Olympia, the somewhat strange daughter of one of his cerebral professors. Even though she moves stiffly, hardly talks, and seems to lack vitality, Nathanael nevertheless (or perhaps therefore) can't help himself and becomes obsessed with her. Friends try unsuccessfully to warn him about his new love interest:

She seems to us – please don't be mad at us brother – strangely stiff and soulless. Her growth and stature is regular, as is her face, that is true! – She could be called beautiful, if her face wasn't without all life, I would say, without the power of sight. Her pace is strangely measured; each movement seems to be governed by the movements of a wound up wheelwork. Her playing, her singing has the unpleasant correct soulless tact of a singing *machine*, similarly her dancing."<sup>441</sup>

The riddle is finally solved when it is accidentally revealed that Olympia is a machine – an ingeniously designed mechanism that pretends to be alive but is doomed to be little more than clockwork. As Nathanael stares again at the grotesque façade of Olympia's mask and sees behind it just wheels and springs, his life falls to pieces, and in his madness he commits suicide. Hoffmann immediately contrasts Nathanael's dire fate—the wages of falling in love with the mechanical—with Clara's human happiness, for she

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<sup>440</sup> Hoffmann's even greater claim to fame derives from his authorship of the original *Nutcracker*, now an unrelenting holiday season delight due to Tchaikovsky's ballet adaptation. The *Sandman* tale itself has received musical attention by Jacques Offenbach in his *Les Contes d'Hoffmann*. It has also been turned into, of all things, a comedic ballet. For more on Hoffmann see: Sauer, "Romantic Automata," 294-6.

<sup>441</sup> "Sie ist uns – nimm es nicht übel, Bruder! – auf seltsame Weise starr und seelenlos erschienen. Ihr Wuchs ist regelmässig, so wie ihr Gesicht, das ist wahr! – Sie könnte für schön gelten, wenn ihr Blick nicht so ganz ohne Lebensstrahl, ich möchte sagen, ohne Sehkraft wäre. Ihr Schritt ist sonderbar abgemessen, jede Bewegung scheint durch den Gang eines aufgezogenene Räderwerks bedingt. Ihr Spiel, ihr Singne hat den unangenehm richtigen geislosen Takt der singenden Maschine und ebenso ist ihr Tanz." (E. T. A. Hoffmann, *Der Sandmann*, ed. Rudolf Drux (Stuttgart: Reclam, 1991), 33. My emphasis)

ultimately finds the domestic bliss Nathanael could have never provided. This story encourages us to contemplate the horrors of the mechanical versus the allure and natural order of the organic. For those who celebrate passion and fight depersonalization, a mechanized world is rife with horror.

### **(iii) Machines in the Halls of Justice**

Justice, similarly, cannot possibly derive from inhuman, unfeeling, dispassionate machine-humans. An episode from Bonaventura's chilling *Nachtwachen* from 1804/5 illustrates the horrors of a mechanical application of justice.<sup>442</sup> In the story, the watchman Kreuzgang observes a judge who is/behaves like a machine:

I neared one and glimpsed a creature in its nightgown at a worktable, about whom at the start I remained in doubt as to whether it was a human being or a mechanical figure, so very much was everything human in it erased, with only the mere expression of work remaining. The creature wrote, buried in piles of documents, as if . . . interred alive. It struck me as if it wanted to sample living and lodging under the earth already, in advance, above her, for everything passionate and sympathetic was extinguished on its cold wooden forehead and the marionette sat lifelessly erect in its document coffin full of bookworms. Now the invisible wire was pulled, the fingers clicked, grasped the pen and signed three papers in a row; I peered more acutely – they were death warrants.<sup>443</sup>

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<sup>442</sup> Bonaventura is a fictional name. The name of the real author remains much disputed, candidates include: Brentano, Schelling, Caroline Schlegel-Schelling, Friedrich Gottlob Wetzel, E.T.A. Hoffmann, Jean Paul, and Ernst August Friedrich Klingemann (the latter being a very likely candidate). For more on this question see: Jost Schillemeit, *Bonaventura, Der Verfasser Der Nachtwachen* (München.: Beck, 1973).; For a completely different approach to the same question see: Dieter Wickmann, *Eine Mathematisch-Statistische Methode Zur Untersuchung Der Verfasserfrage Literarischer Texte*, Forschungsberichte Des Landes Nordrhein-Westfalen ; (Köln.: Westdeutscher Verlag, 1969).; For perhaps the most definitive answer to this question see: Ruth Haag, "Noch Einmal: Der Verfasser Der Nachtwachen Von Bonaventura," *Euphorion* 81, no. 3 (1987).

<sup>443</sup> Bonaventura and Gerald Ernest Paul Gillespie, *Die Nachtwachen Des Bonaventura. The Night Watches of Bonaventura*, Edinburgh Bilingual Library ; (Austin.: University of Texas Press, 1971), 50-1.; For an

The “criminal code” is the “personified soul” of this creature.<sup>444</sup> Like one of La Mettrie’s automatons, this judge is the exemplar of a distasteful, purely mechanical world.<sup>445</sup> Justice, dispensed mechanically, lifelessly, procedurally, is chillingly dispassionate and horrifying. Notice, however, that the quote from Bonaventura’s episode does not address whether the death sentences were just. Perhaps a feeling, passionate, full-fledged organic individual would have issued the death warrants as well. *Irrespective* of the justness of the outcome, Bonaventura, like Hoffman, is skilled at highlighting the horrors of a mechanical application of procedures.

The irreverent author Jean Paul acquired around the same time a reputation for mirroring Eichendorff’s and Bonaventura’s methods, even though he emphasized horrifying but amusing satire over outright horror. For example, in one of his short stories he speaks of the imminent replacement of all women at court by machines that can play cards and speak just as well as they can.<sup>446</sup> Underlying this proto-*Stepford Wives* tale is the question whether anybody could even tell that a switch had been made. In an half-humorous, half-serious reversal of terms, Paul points out that people in the state’s bureaucracy routinely seek to “proceed completely like machines” in a vain attempt “to at

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unorthodox but helpful introduction to *Nachtwachen* see: Kenneth Michael Ralston, *The Captured Horizon : Heidegger and The "Nachtwachen Von Bonaventura"*, Untersuchungen Zur Deutschen Literaturgeschichte, (Tübingen: M. Niemeyer, 1994).

<sup>444</sup> Bonaventura and Gillespie, *Die Nachtwachen Des Bonaventura. The Night Watches of Bonaventura*, 50-1.

<sup>445</sup> Wolfgang Paulsen, "Bonaventuras Nachtwachen Im Literarischen Raum. Sprache Und Struktur," *Jahrbuch der deutschen Schillergesellschaft* 9 (1964): 454.

<sup>446</sup> Paul Jean, "Unterthänigste Vorstellung Der Sämtlichen Spieler Und Redenden Damen In Europa Entgegen Und Wider Die Einführung Der Kempelischen Spiel- Und Sprechmaschinen," in *Sämtliche Werke*, ed. Norbert Miller and Wilhelm Schmidt-Biggemann (München: C. Hanser, 1974).; For more on the same theme consider also: Paul Jean, "Der Maschinen-Mann Nebst Seinen Eigenschaften," in *Sämtliche Werke*, ed. Norbert Miller and Wilhelm Schmidt-Biggemann (München: C. Hanser, 1974).; Paul Jean, "Einfältige Aber Gutgemeinte Biographie Einer Neuen Angenehmen Frau Von Blossem Holz, Die Ich Längst Erfunden Und Geheirathet," in *Sämtliche Werke*, ed. Norbert Miller and Wilhelm Schmidt-Biggemann (München: C. Hanser, 1974).

least appear like artificial machines, since unfortunately they cannot be natural machines.”<sup>447</sup> Machines now preside even in the halls of justice. This is fitting, since, so Paul, machines and justice [*Gerechtigkeit*] are “built out of similar material” and justice is now “without all life,” as “everybody knows who has seen [justice] in official bureaus or elsewhere.”<sup>448</sup>

#### **(iv) The State and Society as Machines and Organisms**

The renowned, outspoken aristocrat from old stock, Friedrich von Marwitz, similarly argues against the horror of surrendering to a splintered, mechanical view of the universe rather than staying with a beautiful and unified organic order.<sup>449</sup> Marwitz claims that the misguided switch away from an organic understanding of the state and society is responsible for many of Prussia’s woes. Only in “a time, which truly only knew mechanical forces and didn’t know anything but to calculate and organize these forces, would it not occur to people that a living spirit exists in bodies, and that it had escaped from the

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<sup>447</sup> “Daher suchen Männer, die in der Verwaltung wichtigerer Aemter es zu etwas mehr als träger Mittelmässigkeit zu treiben wünschen, so viel sie können ganz Maschinenmässig zu verfahren, und wenigstens künstliche Maschinen abzugeben, da sie unglücklicherweise keine natürliche sein können.“ (Jean, "Unterthänigste Vorstellung Unser, Der Sämtlichen Spieler Und Redenden Damen in Europa Entgegen Und Wider Die Einführung Der Kempelischen Spiel- Und Sprechmaschinen," 169.)

<sup>448</sup> “...die Sprachmaschine und die Gerechtigkeit wirklich aus ähnlichen Bestandtheilen zusammengesetzt sind [...] Die Gerechtigkeit ist (wie jeder weiss, der sie an den Rathhäusern oder sonst gesehen) [...] ohne alles Leben.“ (Ibid., 173-4.)

<sup>449</sup> For a helpful accounts of Marwitz’s life and thought see: Craig, *The End of Prussia*, 8-26.; Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*, 125-41.; Robert M. Berdahl, "Prussian Aristocracy and Conservative Ideology: A Methodological Examination," *Social Science Information* 15, no. 4/5 (1976): 591-3.; Eugene Newton Anderson, *Nationalism and the Cultural Crisis in Prussia, 1806-1815* (New York: Farrar & Rinehart, 1939), 216-56.

Prussian army and the Prussian administration.”<sup>450</sup> The bureaucracy, described routinely as a clockwork and mechanism, serves once again as a contrast to the desirable organic unity that many skeptics of bureaucracies seek.<sup>451</sup> What does the model of a social order founded upon organic unity entail?

Adam Müller provides the first clue to the use of organic models for explicitly political gain.<sup>452</sup> His political theory relies frequently on organic models to illustrate and render persuasive his claims that society is inherently and fruitfully differentiated, and that these parts should be kept distinct but united by a common organic animating force (love, rather than reason). Müller’s influence at the time was considerable. However, his later reception has been mixed. Some historians describe him as “a mystic and reactionary thinker, a typical example of Romantic politics” who “pursued in politics the quest of Novalis’s blue flower.”<sup>453</sup> Similarly, Karl Marx scolded Müller in *Das Kapital* as a

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<sup>450</sup> “Es konnte dem Zeitalter, welches überhaupt nur mechanische Kräfte kannte und nichts zu kalkulieren verstand, als diese zusammensetzten und zu sondern, nicht einfallen, dass ein lebendiger Geist in Körpern existiere, und dass dieser aus dem preussischen Heere so gut wie aus der preussischen Administration und Rechtspflege gewichen sein könne.” Friedrich August Ludwig von der Marwitz, "Von Den Ursachen Des Verfalls Des Preussischen Staates (1811)," in *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, ed. Friedrich Schinkel (Breslau,: W.G. Korn Verlag, 1932), 272-5.

<sup>451</sup> E.g. Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 223.

<sup>452</sup> The best introduction to Adam Müller’s writings are the following: Adam Heinrich Müller, *Die Elemente Der Staatskunst. Oeffentliche Vorlesungen, Vor Sr. Durchlaucht Dem Prinzen Bernhard Von Sachsen-Weimar Und Einer Versammlung Von Staatsmännern Und Diplomaten, Im Winter Von 1808 Auf 1809, Zu Dresden, Gehalten*, 3 vols. (Berlin: 1809).; Adam Heinrich Müller, *Ausgewählte Abhandlungen Mit Einem Bildnis, Einem Lebensabriss Und Bisher Unveröffentlichten Briefen Und Berichten Adam Müllers*, ed. Jakob Baxa, v, 251 p. front. (port.) 24 cm. vols. (Jena,: G. Fischer., 1921).; Adam Heinrich Müller, *Versuche Einer Neuen Theorie Des Geldes* (Leipzig ; Altenburg: F.A. Brockhaus, 1816).; However, they may be difficult to obtain, for a far more accessible and cheaper option consider: Adam Heinrich Müller, "Die Elemente Der Staatskunst," in *Die Politische Romantik in Deutschland*, ed. Klaus Peter (Stuttgart: Reclam, 1985).; For more biographical accounts see: Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*, 158-81.; Berdahl, "Prussian Aristocracy and Conservative Ideology: A Methodological Examination," 595-8.; Kroll, "Romantik in Preussen," 332-4.

<sup>453</sup> Haussmann, "German Estimates of Novalis from 1800 to 1850." (The description of Müller as pursuing the blue flower originates with Gottschall); See also: Briefs, "The Economic Philosophy of Romanticism."; Benedikt Koehler, *Ästhetik Der Politik : Adam Müller U.D. Politische Romantik*, 1. Aufl. ed. (Stuttgart: Klett-Cotta, 1980).

“romantic sycophant”<sup>454</sup> whose sagacity “consists in observing the clouds of dust on the surface and presumptuously declaring this dust to be something mysterious and important.”<sup>455</sup> Other historians, however, have called him one of “the leading conservative theoreticians of the early nineteenth century.”<sup>456</sup> For some, Adam Müller remains “the real and proper theoretician of the Romantic understanding of the state.”<sup>457</sup>

Müller earns this title by arguing that the state is properly understood as “complete, composed of a rich spectrum of parts and limbs, sculpted together by living parties into one whole growing entity, and not as the aggregate of singular masses.”<sup>458</sup> Like Marwitz or Schelling, Müller believes that a healthy state is synonymous with an organic state.<sup>459</sup> Not surprisingly, Müller opposes any references to the artificial origins of a state in, say, a social contract. The state “exists for itself, independent of all human arbitrariness and innovation [...], the state originates from where humans come: from *nature*, from *god*, said the wise.”<sup>460</sup> In this respect, Müller might even out-Burke Burke, one of the dominant shaping influences in Müller’s youth.<sup>461</sup> In keeping with his resistance to innovation and reform, Müller repeatedly insists that

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<sup>454</sup> Karl Marx, *Capital : A Critique of Political Economy*, ed. Ben Fowkes and David Fernbach, 3 vols. (New York: Penguin Books In association with New Left Review, 1990). Volume One, Part I., Chapter 3, section 2C, footnote 34.

<sup>455</sup> Ibid. Volume Three, Part V. Chapter 21.

<sup>456</sup> Robert M. Berdahl, "Conservative Politics and Aristocratic Landholders in Bismarckian Germany," *The Journal of Modern History* 44, no. 1 (Mar., 1972): 12.

<sup>457</sup> “Der eigentliche Theoretiker der romantischen Staatsidee war jedoch Adam Müller.” (Müller, "Die Elemente Der Staatskunst," 38.)

<sup>458</sup> “Jeder sollte ein vollständiges, reich gegliedertes, aus unendlich lebendigen Parteien zusammengewirktes Ganzes darstellen, als wachsendes Ganze gelten, und nicht als Aggregat von einzelnen Massen.” (Ibid., 41.)

<sup>459</sup> “Ein lebendiger Staat, oder ein organischer, ist der, welcher nach Totalität strebt, nicht nach Vergrößerung der Summe.” (Ibid.); See also: Briefs, "The Economic Philosophy of Romanticism," 280-4.

<sup>460</sup> “Der Staat ruhet ganz in sich; unabhängig von menschlicher Willkür und Erfindung, kommt er unmittelbar und zugleich mit dem Menschen eben daher, woher der Mensch kommt: aus der *Natur*: aus *Gott*, sagten die Alten.” (Müller, "Die Elemente Der Staatskunst," 296.)

<sup>461</sup> Gentz and Wittichen, *Briefe Von Und an Friedrich Von Gentz ; Auf Veranlassung Und Mit Unterstützung Der Wedekind-Stiftung Zu Göttingen*, 348.; For more on Burke’s influence in Germany see: F.L.W. Meyer, "Ueber Die Verdeutschung Der Burksischen Betrachtungen Über Die Französische

The state is not simply a manufactured [business association]; it is an intimate connection of all physical and psychological demands, of the complete physical and psychological wealth, of the complete inner and outer life of the nation, all combined into a grand, energetic, infinitely moved and living whole.<sup>462</sup>

Müller fiercely tries to fight the “corrupted” view that the state is merely a “large, organized police and welfare institution.”<sup>463</sup> After all, humans can only be compelled to do a limited amount by “mechanical force.” Treating subjects like machines [*maschinenweise*] leaves out too large and too central a part of their being.<sup>464</sup> One should consequently not aim at “mere obedience, fear springing out of domination.” Instead, one should seek to capture the subject’s “heart, his love,” not “tribute but intimate devotedness, unlimited sacrifice” – say, in a war against the French.<sup>465</sup> Lovely pictures of queens can be more effective than gallows at the end of every vista.<sup>466</sup>

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Revolution," *Deutsche Monatsschrift* (1793).; For Burke's influence on Gentz see: Gentz and Wittichen, *Briefe Von Und an Friedrich Von Gentz ; Auf Veranlassung Und Mit Unterstützung Der Wedekind-Stiftung Zu Göttingen*, 203-04.

<sup>462</sup> “Der Staat ist nicht eine bloße Manufaktur, Meierei, Assekuranz-Anstalt, oder merkantilitische Sozietät; er ist die innige Verbindung der gesamten physischen und geistigen Bedürfnisse, des gesamten physischen und geistigen Reichtums, des gesamten inneren und äußeren Lebens einer Nation, zu einem großen energischen, unendlich bewegten und lebendigen Ganzen.” (Müller, "Die Elemente Der Staatskunst," 289.)

<sup>463</sup> “Alle diese Einwürfe sind sehr gegründet, und aus täglichen Erfahrungen, aus einer fast allgemein verbreiteten Denkungsart her genommen; aber – welche tiefe Korruption aller ansichten vom Staate leuchtet daraus hervor! – Der Staat ist darnach weiter nichts als ein einzelnes Departement der menschlichen Angelegenheiten; der Mensch braucht Haus, Hof, Knecht, Magd, vieh und mancherlei Gerät, und unter diesem Geräte nun auch Staaten, d.h. grosse organisierte Polizei-Anstalten, erweiterte Marechausseen, damit, er alles des groben Gepäckes, welches er auf die Lebensreise mitnehmen muss, sicher sei.” (Ibid., 283.)

<sup>464</sup> “...zu einigen Handlungen kann er [der Mensch] *maschinenweise*, durch mechanische Gewalt, gezwungen werden” aber zu „andre und bei weitem die wichtigsten Handlungen der Menschen, bleiben *geisterweise* der Willkür überlassen: sein Herz, seine Liebe kann der Bürger dem Staate verweigern, schenken und zurücknehmen, wie er will.” (Ibid., 285.)

<sup>465</sup> “Andere Theorien des Staates tun „lieber auf den schöneren Teil des menschlichen Wesens, auf die Gefühle und die Gedanken der Menschen, Verzicht leisten, und sich mit rohem Gehorsam, mit der Furcht der Beherrschten, anstatt aller Liebe, mit grober Tributzahlung begnügen, wo sie die innigste Hingebung, die uneingeschränkste Aufopferung, begehren sollten.” (Ibid.)

<sup>466</sup> Consider on this point: Burke, *Reflections on the Revolution in France*, 62-68.

In Müller's estimation, the sooner people realize, or are helped to realize, that they "are a part, a limb of the state, and as such an organ of a larger corpus,"<sup>467</sup> the sooner can the corrupting and isolating theories of the time be fought and reversed. The flaw in such theories lies in "the pretense of a state of peace" while they undermine the binding force that holds society together.<sup>468</sup> As soon as the various orders demand more than their assigned domain of activity, they undermine the love that keeps these distinct and separate parts united in a functioning organic whole.<sup>469</sup>

Proper organization is the key to this understanding of diversity. A state is best thought of as consisting of separate organic elements with separate functions.<sup>470</sup> As the contemporary commentator Bendavid remarked, society approaches excellence the "more exactly the estates are separated from each other." Individuals may "work and improve" in their domain, "but outside of it they should not dare to venture."<sup>471</sup> As Müller makes clear, the unity of an organism is desirable since it implies that all parts (organs) know "their place, their relation to each other, their closer and more distant connection with the other parts," rather than demanding an autonomous "isolated existence."<sup>472</sup> As Marwitz laments,

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<sup>467</sup> "Der Mensch ist Glied eines Staates, und als solches Organ eines grösseren Körpers, also Werkzeug..." (Adam Heinrich Müller, "Die Innere Staatshaushaltung," in *Die Politische Romantik in Deutschland*, ed. Klaus Peter (Stuttgart: Reclam, 1985), 324.)

<sup>468</sup> Müller, "Die Elemente Der Staatskunst," 285.

<sup>469</sup> Consider for example of Fischer who argues that "sobald diese Stande Herrschaft und Gesetzgebung verlangen, treten sie aus ihrem Wirkungskreis heraus, und werden schaedlich, anstatt nuetzlich zu sein" and that instead each order should stick to its domain "Kriegsstand, Geistlichkeit, Kaufmannschaft." (G.N. Fischer, "Friedrich Und Friedrich Wilhelm, Die Gesetzgeber," *Deutsche Monatsschrift* 1 (1792): 10.)

<sup>470</sup> "sittliche Auflösung" (Leo, *Lehrbuch Der Universalgeschichte Zum Gebrauche in Höheren Unterrichtsanstalten*, 782.)

<sup>471</sup> "Je vollkommener die Einrichtungen in einer buergerlichen Gesellschaft ist, je genauer sind auch die Stände, in ihr von einander unterschieden. Der Staat teilt Buerger in Zuenfte, Gilden, Tanungen, u.s.w. ein; beschraenkt durch Befehle die Taetigkeit, die ungebundene Vervollkommung derselben, und wieset ihnen ein bestimmtes Feld an, das sie zwar bearbeiten und verbessern, aber ausser welchem sie sich nicht wagen sollen." (L. Bendavid, "Ist Fortschreiten Nur Mittel Zur Glückseligkeit Oder Höchster Zweck Der Menschheit?," *Deutsche Monatsschrift* 3 (1791): 32.)

<sup>472</sup> "...seine Stelle, sein Verhältniss, sein näherer und entfernterer Zusammenhang mit den übrigen Teilen..." (Jakob Baxa and Adam Heinrich Müller, *Adam Müllers Lebenszeugnisse* (München,: Schöningh, 1966), 139-40.)

the effect of introducing new teachings was to loosen connections between people and to “isolate everybody with [their new] insatiable demands.”<sup>473</sup> Previously there was a

completely regulated aristocracy in each order – the peasant above the menial servant, the master above the apprentice, the merchant and factory owner above their servants and workers, the higher bureaucrat of the state above his subordinates, the village-leader above his village, the mayor above the city, the landlord und royal bailiff above their subjects, all with mutual and reciprocal responsibilities and duties to perform certain deeds.<sup>474</sup>

The long list is important, as it makes clear that Marwitz is not concerned merely with preserving the privileges and advantages of his own order. Rather, he advocates for a harmonious social order, supported by a balance among the various parts of society that contributes to a healthy organism. The various parts are certainly not equal in stature (neither are the parts of a human body), but each was supposedly valued in its own right, in contrast to the contemporary confusion. The trouble with not acknowledging the organic diversity of society is that it leaves few means of discriminating properly between the deserving and the undeserving. Heinrich Leo demonstrates the obvious problem with such a design through the following illustrative example:

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<sup>473</sup> “Das Resultat der neuen Lehre ist gewesen, alle diese Verbindungen zu trennen und jedermann mit unbefriedigten Ansprüchen zu isolieren.” (Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 62-4.). Adam Müller makes a similar point in a letter to Brinkmann (21. Aug. 1804): „Wenn man die Ereignisse der verflossenen Jahre betrachtet, so wird man die grosse Auflösung der politischen und wissenschaftlichen Körper sich auf gleiche Weise entwickeln sehen; Das wirkliche Isoliren der einzelnen Bürger, Corporationen, Stände, was die Staaten allmähliche Trennung der Kenntnisse, der Ansichten, der Ideen in dem eingebildeten Staat oder in der Wissenschaft.” (in: Baxa and Müller, *Adam Müllers Lebenszeugnisse*, 140.)

<sup>474</sup> “Unter diesen Leuten herrschte also damals ein Esprit de corps, unter den besitzenden Klassen eine vollständig geregelte Aristokratie in jeder Klasse - der Bauer über seinen Knecht, der Meister über seine Gesellen, der Kaufmann und der Fabrikant über seine Diener und Arbeiter, der höhere Staatsbeamte über seine Unterebene, der Schulze über sein Dorf, der Bürgermeister über seine Stadt, der Gutsherr und der königliche Amtmann über seine Untertanen, alles mit gegenseitiger Verpflichtung und Diensterweisung.” (Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 62-4.; For more on this theme consider: Arthur O. Lovejoy, *The Great Chain of Being; a Study of the History of an Idea* (Cambridge, Mass.: Harvard university press, 1936).

The whole famed equality before the law reduces itself in the end to the mechanical aspects of [applying] criminal penalties: when the son of a day laborer and the son of a Baron commit the same crime, then the same mechanically equal penalty is supposed to be applied to them – it has been overlooked that precisely in this mechanical application of equality lies the most monstrous moral inequality.<sup>475</sup>

The problem of discriminating effectively between the deserving and undeserving is rooted in a concern for maintaining a proper order. Denying inequality entails “denying the possibility of a true community.” Without such inequality, people would not complement one another, would not “be bound organically, everybody would be the same as everybody else [...] – all would fall apart into atomistic points that would only permit a state based on violence.”<sup>476</sup>

In contrast, emphasizing organic metaphors for state and society allows Müller, Marwitz, Novalis and others to acknowledge diversity while keeping it well-regulated and contained within safe boundaries. Mechanical thinking, on the other hand, loosens the ties of affection that connect the governed with the governing.<sup>477</sup> If bureaucrats and subjects are reasoning cold-heartedly, then they might be willing to forgo a natural organic order for an artificial mechanical one. Bureaucracies, as the proverbial site of mechanical procedures and thoughts, are consequently associated with undermining boundaries and eroding the

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<sup>475</sup> “Diese ganze gerümete Gleichheit vor Gericht reducit sich also am Ende auf die mechanische Seite der Criminalstrafen: wenn der Sohn eines Tagelöners und der Sohn eines Herzogs dasselbe Verbrechen begangen haben, sol ihnen die mechanisch gleiche Strafe applicirt werden - das gerade in dieser mechanischen Gleichheit die ungeheuerste moralische Ungleichheit liegt, bleib übersehen.” – the comment was made with reference to reforms in France that some Germans considered attractive. (Leo, *Lehrbuch Der Universalgeschichte Zum Gebrauche in Höheren Unterrichtsanstalten*, 312-3.)

<sup>476</sup> Der “welcher die Ungleichheit der Menschen leugnet,” “leugnet die Möglichkeit eines waren Gemeinwesens,” “denn ohne diese Ungleichheit würden die Menschen einander nicht ergänzen, nicht organisch zusammengreifen; jeder würde desselbe sein, was jeder andere ist; keiner würde das Ganze an sich haben und also das Gemeinwesen als eine unnütze Last und Beschränkung fliehen - alles zerspränge in atomistische Punkte, die nur noch einen Gewaltstaat zuließen. “ (Ibid., 304.)

<sup>477</sup> For an example of this common noblesse-oblige theme see again Marwitz who argues that stability is preserved in a country because “die Sitten erhielt und bei den eigenene Gesetzten Bande nicht lösete, die seine Fürsten mit dem Volke verbanden.” (Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 238.)

bonds of society. Keeping subjects focused on ties of affection and personalized representations of the state by rallying them with fantastic tales of horror, gore, and lovely princesses is the antithesis of bureaucratic concerns with efficiency and rationality.

Consider one last example on this theme, this one coming from K.G. Neuendorf, who asks rhetorically why all citizens shouldn't be governed by one set of laws, and why all capable citizens shouldn't be allowed to rise to any level of the bureaucracy.<sup>478</sup> Wouldn't this entail the foolish attempt to make everybody "equally intelligent, equally rich, equally refined and honored"? A world where all people are equals is a world

without masters and servants, without *childlike obedience* and fatherly authority, without subordinates and superiors. [...] The child shall, for example, be equal to the father? The servant to his master? The day laborer to the one who pays him? The soldier equal to the general? The citizen to his superiors? The student to his teachers? How distasteful!<sup>479</sup>

The solution seems clear to Neuendorf: diversity and rigorously enforced separation is "as necessary as the diversity of the parts of the human body; none is equal to the others, but all are necessary and beneficial for the good of the whole."<sup>480</sup>

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<sup>478</sup> "Alle Staatsbuerger sollen utner einerlei Gesetzen stehn; jeder soll zu dem Lasten des Staates, nach verhaeltniss seines Vermoegens, gleichen Beitrag geben; und jeder soll zu dem Posten im Staat, wozu er sich tuechtig gemacht hat, eben so wohl zugelassen werden, als irgend ein anderer..." (K.G. Neuendorf, "Kurze Belehrung Für Nachdenkende Über Bürgerliche Freyheit Und Gleichheit," *Deutsche Monatsschrift* 1 (1793): 137-8.)

<sup>479</sup> "Nun sollen sogar, sagten sie spöttelnd, alle Menschen einander gleich sein; alle gleich klug; alle reich; gleich vornehm und geehrt; kein Herr und Bedienter mehr, kein *kindlicher Gehorsam* und keine väterliche Autorität, kein Untergebener und Vorgesetzter mehr: alle sollen sie gleich sein ohne Unterschied. [...] Das Kind sollte z.B. seinem Vater bürgerlich gleich sein? Der Verdiente seinem Herrn? der Tagelöhner dem, der ihn lohnt? der Soldat seinem General? der gemeine Bürger seiner Obrigkeit? der Schüler seinem Lehrer? - Wie ungereimt! Alle diese Personen haben ja nicht gleiche Verhältnisse gegen einander, nicht einerlei Pflichten gegen den Staat, nicht einen gleichen Wirkungskreis, nicht einerlei Verstand und Einsichten: wie wäre es also möglich, nur an bürgerliche Gleichheit des Standes, des Vermögens u.f.w. unter ihnen zu denken?" (Ibid.: 138-9. Emphasis added)

<sup>480</sup> "Nein, hier ist Verschiedenheit eben so notwendig, wie die Verschiedenheit der Glieder am menschlichen Körper; keins ist dem andern gleich, aber alle sind zum Besten und Ganezen unentbehrlich notwendig und höchst wohlthätig." (Ibid.)

The strength of the organic metaphor consists in its ability to establish outside boundaries (vis-à-vis the all-too-cosmopolitan, boundary-eroding alternatives) and to differentiate internally. Boundaries are preserved by contrasting the cold, rigid, and undesirable mechanical metaphor with the lively and immanently personalized metaphor of organic unity and harmony. However, acknowledging diversity is only the first step in an attempt to establish firm boundaries between various sections of society. In the same way that a leg should be reprimanded for undermining the good of the entire organism if it had the ridiculous and unnatural wish to advance up the hierarchy of organs and become a brain or a heart, so too should people from lower orders be prevented from violating the boundaries of society. The organic metaphor enables the endorsement of diversity while shunning social mobility. Here, praise of differences merely reflects and helps to justify a rigid social hierarchy.

## ***7. In Search of a Moral Core***

In response to the cameralistic understanding of the state, some of the critics of bureaucratization explicitly rejected a mechanized social order. Instead, they turned in their writings towards an idealized model of society centered on a strong moral core, beyond procedural questions. Such critics highlighted the dangers of a desubstantiated understanding of the state and argued strenuously that such a moral core must lie at the heart of any understanding of the state or society. Without it, we would have to fear “moral

dissolution.”<sup>481</sup> Marwitz, for example, highlighted the dangers of the cameralists’ obsession with the indirect question that brought “in place of right and order mere utility.”<sup>482</sup> Marwitz, like many others, regarded a procedural approach (emphasizing the indirect question) as fundamentally incapable of holding a fragmented society together. Conceptually and practically, adherence to the indirect question led, in their view, to undesirable and dangerous consequences. A procedural version of the state not based on the impulsive acts of a singular will lacks a reliable moral core. Lacking direct access to questions of normativity, the procedural understanding of the state contributes to individual alienation and social disunity. In response, authors such as Novalis stressed the all-importance of unity and substantively rich understandings of state and society. Novalis, like many of his supporters, promoted a model of society that exhibited a strong and direct involvement with normativity as a healthy antidote to the desubstantiated, mechanized model of the cameralists. Such critics frequently turn to medieval times in their writings. The commentator Bendavid, for example, remarked that he could not “resist the wish that the world had stood still at the stage it was [in medieval times].”<sup>483</sup> Similarly, Novalis remarks in the very first sentence of his famous *Christianity or Europe* that the Middle Ages was a “beautiful, shining age” full of aesthetic possibilities precisely because it had a stable, substantive moral core that forged social unity.<sup>484</sup> In search of that core, Adam Müller, Friedrich Schlegel, Clemens Brentano, and many others converted to Catholicism.

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<sup>481</sup> “sittliche Auflösung“ (Leo, *Lehrbuch Der Universalgeschichte Zum Gebrauche in Höheren Unterrichtsanstalten*, 782.)

<sup>482</sup> Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 56.)

<sup>483</sup> Bendavid, "Ist Fortschreiten Nur Mittel Zur Glückseligkeit Oder Höchster Zweck Der Menschheit?," 42.; For similar thinking in Schlegel’s work see: Jolles, *Das Deutsche Nationalbewusstsein Im Zeitalter Napoleons*, 187.

<sup>484</sup> “...schöne glänzende Zeiten...” - Novalis, "Die Christenheit Oder Europa (1799)."; See also: Simon, "Variations in Nationalism During the Great Reform Period in Prussia," 314-5.

This was an explicit effort to return to a time that was marked, in their view, by a direct and unified engagement with questions of legitimacy, agency, and sovereignty.<sup>485</sup>

At its most extreme, the critics of procedural justice argued that it contributes to a soulless, soul-destroying, and dangerous society.<sup>486</sup> The cameralist Cöllin unintentionally illustrated this point when he referred to soldiers simply and approvingly as “war machines” [Kriegsmaschinen].<sup>487</sup> Schiller subsequently argued that the desubstantiation of moral concepts through the “intricate clockwork of states” tore “asunder the internal bond of human nature.”<sup>488</sup> For him, modern states are a crucial manifestation of the “soul-dividing spirit of modern life” that fails to treat individuals as whole and justice as the impulse of such unitary individuals.<sup>489</sup> The administrative machinery of modern states fragments individuals into “eternally many, but lifeless, pieces.”<sup>490</sup> Such a “disunion” of the individual contributes to an understanding of the state as merely procedural and emptied of substantive values.<sup>491</sup> Lacking access to an intact moral core, fragmented individuals have few recourses other than mechanized, dispassionate, procedural, desubstantiated models of political agency. Such a de-substantiation has “torn asunder”

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<sup>485</sup> This interpretation is fairly widespread, see for example: Briefs, "The Economic Philosophy of Romanticism," 288.; Berdahl, *The Politics of the Prussian Nobility: The Development of a Conservative Ideology, 1770-1848*, 166.

<sup>486</sup> Consider for example the remarks by Friedrich Schleiermacher from 1800: Schleiermacher, "Aus Den Monologen (1800)," 215.

<sup>487</sup> Cölln, "Über Verschiedene Mängel Im Militär Und in Der Ehemaligen Geschäftsverwaltung Im Preussischen Staate."

<sup>488</sup> "...das verwickeltere Uhrwerk der Staaten eine strengere Absonderung der Stände und Geschäfte notwendig machte, so zerriss auch der innere Bund der menschlichen Natur, und ein verderblicher Streit entzweite ihre harmonische Kräfte." (Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, 22.).

<sup>489</sup> For one of the best introductions and interpretations of Schiller see: Bernard Yack, *The Longing for Total Revolution: Philosophic Sources of Social Discontent from Rousseau to Marx and Nietzsche*, Studies in Moral, Political, and Legal Philosophy (Princeton, N.J.: Princeton University Press, 1986), 134.; For more see also: Bernd Roeck, *Lebenswelt Und Kultur Des Bürgertums in Der Frühen Neuzeit*, Enzyklopädie Deutscher Geschichte; (München: Oldenbourg, 1991), 119-20.; Jürgen Habermas, *Der Philosophische Diskurs Der Moderne: Zwölf Vorlesungen*, 3. Aufl. ed. (Frankfurt am Main: Suhrkamp, 1986), 59.

<sup>490</sup> "...unendlich vieler, aber lebloser, Teile ein mechanisches Leben im Ganzen sich bildet." (Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, 23.)

<sup>491</sup> "Zwiespalt" (Ibid., 21.)

“laws and morals.”<sup>492</sup> Writing in 1806, Friedrich von Gentz argued similarly that the people understood the state increasingly as raw, blind force – a development that desacralized and poisoned communities.<sup>493</sup> All that remains, to the fright of critics like Gentz and Schiller, is brute force and a lack of genuine passions and personalized emotions. Individuals, living under this “new spirit of the government,” are bound to be reduced “to a paltry and coarse mechanism.”<sup>494</sup> State and society, under the model that Schiller fears, is a “clockwork” that imposes a fractured “mechanistic life” on what formerly had been whole.<sup>495</sup>

Schiller, like Novalis, had nothing but scorn for the “reformers of the state” who had brought this danger upon society.<sup>496</sup> Procedural thinking was alienating men and women from their very humanity. For Schiller, only a total revolution could restore a substantively rich understanding of the state; . only a new “soul-constructing art” could revive individuals and society.<sup>497</sup>

### **(i) The Longing for Totality**

It is for this reason that Schiller is frequently referred to as the “father” of

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<sup>492</sup> “Auseinandergerissen wurden jetzt der Staat und die Kirche, die Gesetze und die Sitten; der Genuss wurde von der Arbeit, das Mittel vom Zweck, die Anstrengung von der Belohnung geschieden.” (Ibid., 23.)

<sup>493</sup> Gentz, *Fragmente Aus Der Neusten Geschichte Des Politischen Gleichgewichts in Europa*, 23.

<sup>494</sup> “Diese Zerrüttung, welche Kunst und Gelehrsamkeit in dem innern Menschen anfangen, machte der neue Geist der Regierung vollkommen und allgemein.” (Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, 23.)

<sup>495</sup> The old world order “machte jetzt einem kunstreichen Uhrwerke Platz, wo aus der Zusammenstückelung unendlich vieler, aber lebloser, Teile ein mechanisches Leben im Ganzen sich bildet.” (Ibid.)

<sup>496</sup> Novalis, *Die Christenheit oder Europa*, 1799

<sup>497</sup> “Seelenbildende Kunst” (Letter from Schiller to: Herzog Friedrich Christian von Schleswig-Holstein-Augustenburg, 9th February, 1793).

alienation, and as such, an important source for our understanding of Marx and a range of other theories that share similar concerns.<sup>498</sup> For example, George Lukács argued that Schiller recognized the symptoms of modern ills correctly, but failed to provide an accurate analysis of their social causes,<sup>499</sup> while Jürgen Habermas found Schiller strongly reminiscent of the young Marx.<sup>500</sup> Whether this genealogy is entirely accurate or not – some vehemently doubt the claim<sup>501</sup> – Schiller articulated an influential and challenging analysis of modern woes. In *On the Aesthetic Education of Man*, Schiller investigated the sources of contemporary decline, the increasing hollowing-out of identities, and the urgent need for a return to psychic unity.

Written in 1794 as a series of letters to an aristocratic patron, *On the Aesthetic Education of Man* can fruitfully be read in the “mirror of princes” tradition. Surprisingly, then, Schiller does not concern himself with direct political responses to the French Revolution; he opts instead for a lengthy discussion of the nature of beauty, aesthetics, and the proper appreciation of art. This is not a rejection of the political. Instead, Schiller grapples with creating the preconditions that will once again allow meaningful and moral political interactions. He asserts that the fundamental integrity of the modern world must be restored before a meaningful discussion of concrete political proposals is possible. Without attacking the deep-rooted causes of our present woes, any reforms or revolutions are bound to fail. For Schiller, the French Revolution was doomed to go awry because the people

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<sup>498</sup> For a representative example see: Deric Regin, *Freedom and Dignity; the Historical and Philosophical Thought of Schiller* (The Hague,: M. Nijhoff, 1965).; See also: Yack, *The Longing for Total Revolution : Philosophic Sources of Social Discontent from Rousseau to Marx and Nietzsche*, 9.

<sup>499</sup> György Lukács, *Beiträge Zur Geschichte Der Ästhetik* (Berlin,: Aufbau-Verlag, 1954), 143.

<sup>500</sup> Habermas, *Der Philosophische Diskurs Der Moderne : Zwölf Vorlesungen*, 60, 62.

<sup>501</sup> Vicky Rippere, *Schiller And "Alienation"* (Bern ; Las Vegas: P. Lang, 1981).

were “not yet prepared” for the micropolitical task of reshaping the state.<sup>502</sup> The macro conditions underwriting political agency were simply not conducive to the task.

It is tempting to categorize Schiller’s analysis as just another attack on the Enlightenment project that emerged in the wake of the French Revolution. Schiller does indeed question the primacy of reason that disenfranchises emotions, and he is skeptical of the overly theoretical culture of the Enlightenment. But his argument does not stop at such regurgitation of widespread anti-Enlightenment rhetoric. Instead, he develops an account of desubstantiated politics that grapples with disjointed personal identities and the deep longing for moral and psychic unity.

Schiller sees the root cause of modern woes as the “elemental conflict” of clashing desires and motivations.<sup>503</sup> This “gross opposition” of contradictory positions undermines all hope for political action that can render coherent and moral results. Politics, for Schiller, is corrupted and corrupting to the point of being an unsuitable site for well-intentioned agency. The destruction of the human totality taints politics, perhaps irreparably.<sup>504</sup> In his view, modern people’s abandonment of “the totality of their being”<sup>505</sup> has had widespread, multifaceted and damaging communal effects. People have become separated from their own experiences, and thus from themselves and each other (thus the claim that Schiller’s thought is an important step in the development of the concept of alienation). No longer

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<sup>502</sup> Letter from Schiller to: Herzog Friedrich Christian von Schleswig-Holstein-Augustenburg (13th July, 1793).

<sup>503</sup> Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, 29.; H. A. Korff, *Geist Der Goethezeit : Versuch Einer Ideellen Entwicklung Der Klassisch-Romantischen Literaturgeschichte*, 8. unveränderte Aufl. ed., 5 vols. (Leipzig: Koehler & Amelag, 1964), 289.; For useful accounts of this theme see: Yack, *The Longing for Total Revolution : Philosophic Sources of Social Discontent from Rousseau to Marx and Nietzsche*, 25, 157-9.; Arthur M. Melzer, "Rousseau and the Problem of Bourgeois Society," *The American Political Science Review* 74, no. 4 (Dec., 1980).

<sup>504</sup> Korff makes this point most forcefully. See: Korff, *Geist Der Goethezeit : Versuch Einer Ideellen Entwicklung Der Klassisch-Romantischen Literaturgeschichte*, 284-5.

<sup>505</sup> “...die Totalität ihres Wesens aufgegeben, und die Wahrheit auf getrennten Bahnen verfolgt. “ (Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, 26.)

does a person experience the world as a whole, but rather as a mere component of the fractured former self. For modern individuals “sentiments are separated in experiences to the same extent that the psychologist separates them in his imagination.”<sup>506</sup> Schiller, like many others at the time, consequently “longed for totality.”<sup>507</sup> He questions “abstract thinkers” not merely because of their reliance on reason, but because their emotional coldness limits them to “dissecting impressions” that are unable to move the whole heart.<sup>508</sup> Similarly, Schiller indicts businessmen for failing to let their experiences in realms outside of their work infiltrate their sentiments at work.<sup>509</sup> This, then, is not merely an attack on reason, but on the social practices that allow the abstract thinker and the businessman to follow the procedural requirements of their professions without thought of the propriety of given ends.<sup>510</sup> For Schiller, fractured identities isolate us from our ability to evaluate outcomes, and lead to impoverished lives:

Always tied to a small fragment of his totality, the human being himself develops as a fragments . . . while never developing the harmony of his being, and instead of expressing the humanity in his nature, he becomes the mere expression of his business, his science.<sup>511</sup>

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<sup>506</sup> “Bei uns, möchte man fast versucht werden zu behaupten, äussern sich die Gemüthskräfte auch in der Erfahrung so getrennt, wie der Psychologe sie in der Vorstellung scheidet” (Ibid., 22.)

<sup>507</sup> This is a widespread view amongst commentators. See for example: Jolles, *Das Deutsche Nationalbewusstsein Im Zeitalter Napoleons*, 169.

<sup>508</sup> “Der abstrakte Denker hat daher gar oft ein kaltes Herz, weil er die Eindrücke zergliedert, die doch nur als ein Ganzes die Seele rühren” (Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, 26.)

<sup>509</sup> “...der Geschäftsmann hat gar oft ein enges Herz, weil seine Einbildungskraft, in den einförmigen Kreis seines Berufs eingeschlossen, sich zu fremder Vorstellungsart nicht erweitern kann.” (Ibid.)

<sup>510</sup> On more on this theme and some disagreement with my analysis see: Yack, *The Longing for Total Revolution : Philosophic Sources of Social Discontent from Rousseau to Marx and Nietzsche*, 157.: “The new spirit of culture divides one's life into separate spheres...”

<sup>511</sup> “Ewig nur an ein einzelnes kleines Bruckstück des Ganzen gefesselt, bildet sich der Mensch selbst nur als Bruckstück aus, ewig nur das eintönige Geräusch des Rades, das er umtreibt, im Ohre, entwickelt er nie die Harmonie seines Wissens, und anstatt die Menschheit in seiner Natur auszuprägen, wird er bloss zu einem Abdruck seines Geschäfts, seiner Wissenschaft.” (Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, 23.)

Besides alienating us from ourselves, such fragmentation and desubstantiation also undermines society and the state. Division, for Schiller, took root in the psyche and in society so that now “state and church are torn asunder, laws from morals, pleasure from work, means from ends, effort from reward.”<sup>512</sup> As a result, we have lost a reliable and stable moral core at the heart of our thinking about justice and decency. Instead, society is split into warring camps, each degenerating in its own way. The lower orders that have succumbed to “lawless passions” and “animalistic desires” threaten the present order.<sup>513</sup> Meanwhile, the higher orders, according to Schiller, have also corrupted their character and thereby contributed to the erosion of the bonds of society.<sup>514</sup> That is Schiller’s much-lamented “disadvantageous tendency of the character of our age.”<sup>515</sup> Society is crumbling into pieces in front of his eyes. Instead of valuing robust notions of justice and deserving, we praise individuals for their vapid “mechanical qualities.”<sup>516</sup> For Schiller, modern individuals are broken into mere “fragments . . . to the point where one has to ask from individual to individual to finally collect the totality of the species.”<sup>517</sup>

Schiller contrasts a time when people were whole and questions of legitimacy were directly accessible, a time before the “disunion” of the individual from self, society, and the state.<sup>518</sup> Schiller often turns at such moments towards Periclean Greece, in contrast to

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<sup>512</sup> “Auseinandergerissen wurden jetzt der Staat und die Kirche, die Gesetze und die Sitten; der Genuss wurde von der Arbeit, das Mittel vom Zweck, die Anstrengung von der Belohnung geschieden.” (Ibid.)

<sup>513</sup> Ibid., 18-19.

<sup>514</sup> Ibid., 19-20.

<sup>515</sup> “die nachteilige Richtung des Zeit-Charakters” (Ibid., 26.)

<sup>516</sup> “Wenn das gemeine Wesen das Amt zum Maastab des Mannes macht, wenn es an dem Einen seiner Bürger nur die Memorie, an einem Andern den tabellarischen Verstand, an einem Dritten nur die mechanische Fertigkeit ehrt...” (Ibid., 24.)

<sup>517</sup> In modern times, individuals are broken into “Bruchstücken, nicht in veränderten Mischungen, [so] dass man von Individuum zu Individuum herumfragen muss, um die Totalität der Gattung zusammen zu lesen.” (Ibid., 21-22.)

<sup>518</sup> “Zwiespalt” (Ibid., 21.)

Novalis, who prefers the model of medieval times.<sup>519</sup> For both, however, societies in ancient times did not suffer from the defects that befuddle modern humans and hinder our agency. As one commentator put it, Schiller is disgusted with the “soul-dividing spirit of modern life when compared with the spirit of the Greeks.”<sup>520</sup> Schiller is very much concerned, as his examples illustrate, with the social phenomenon that people are increasingly governed by one standard within one sphere of activity, and by an altogether different yardstick as soon as they move on to another sphere. Justice has become fluid and procedural, rather than clear and unitary.

The causes of this phenomenon lie in developments that are of a recent vintage. Predictably, Schiller briefly attacks reason (working through the sciences) for introducing ever more refined ways to hollow out justice.<sup>521</sup> More sustained, and more interesting, is the second prong of his attack: Schiller blames the “intricate clockwork of states” for necessitating the increasing separation of different spheres of activity that “tore asunder the internal bond of the human nature, and . . . disunited its harmonious forces.”<sup>522</sup> The state aided significantly in this process by propagating procedures that “tore human nature into pieces.”<sup>523</sup> Its administrative apparatus was “forced to deal with the diversity [*Mannichfaltigkeit*] of its citizens through classification” that turned procedural evaluations

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<sup>519</sup> For more on the similarities and dissimilarities between Novalis and Schiller see: Habermas, *Der Philosophische Diskurs Der Moderne : Zwölf Vorlesungen.*; Yack, *The Longing for Total Revolution : Philosophic Sources of Social Discontent from Rousseau to Marx and Nietzsche*, 182.

<sup>520</sup> Yack, *The Longing for Total Revolution : Philosophic Sources of Social Discontent from Rousseau to Marx and Nietzsche*, 134.; For a similar view see: Roeck, *Lebenswelt Und Kultur Des Bürgertums in Der Frühen Neuzeit*, 119-20.

<sup>521</sup> Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, 22.

<sup>522</sup> “...das verwickeltere Uhrwerk der Staaten eine strengere Absonderung der Stände und Geschäfte notwendig machte, so zerriss auch der innere Bund der menschlichen Natur, und ein verderblicher Streit entzweite ihre harmonische Kräfte.” (Ibid.)

<sup>523</sup> “...menschliche Natur.... in Stücke riss...” (Ibid., 21.)

into social facts. Schiller sees this as a clear sign of moral and political decline.<sup>524</sup>

The disruption and erosion of clear standards in “the inner individual” is now “completed and made common by the new spirit of the government.”<sup>525</sup> The world is reduced “to a paltry and coarse mechanism” that threatens the bonds of society.<sup>526</sup> Schiller can see the emerging diversified political and social order only as the loose “piecing together of eternally many, but lifeless, pieces.” State and society, under the model that Schiller fears, is a “clockwork” that imposes a fractured “mechanistic life” on what had formerly been whole.<sup>527</sup> For Schiller this amounts to a “gradual extermination of the singular, concrete life,” and it means that the state and its citizens will always be strangers to each other, “because sentiments cannot find him [the citizen] anywhere.”<sup>528</sup> State and society are separated. The public sphere, under the cameralistic model, has no role in legitimizing and guiding the state. It is a dead weight, passively guided and externally managed. This is a dangerous state of affairs. However, the state can do little to remedy it.

According to Schiller, the state, having abetted the disintegration of the individual and society, is unfit to remedy the negative effects.<sup>529</sup> The state’s corrupted contemporary configuration renders it powerless to restore the unity Schiller seeks. The state is both cause

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<sup>524</sup> “Genöthigt, sich die Mannichfaltigkeit seiner Bürger durch Klassifizierung zu erleichtern, und die Menschheit nie anders als durch Repräsentation aus der zweiten Hand zu empfangen, verliert der regierende Teil sie zuletzt ganz und gar aus den Augen, indem er sie mit einem blossen Machwerk des Verstandes vermengt; und der regierte kann nicht anders als mit Kaltsinn die Gesetze empfangen, die an ihn selbst so wenig gerichtet sind.” (Ibid., 24.)

<sup>525</sup> “Diese Zerrüttung, welche Kunst und Gelehrsamkeit in dem innern Menschen anfangen, machte der neue Geist der Regierung vollkommen und allgemein.” (Ibid., 23.)

<sup>526</sup> The world „sank [] zu einer gemeinen und groben Mechanik herab.” (Ibid.)

<sup>527</sup> The old world order “machte jetzt einem kunstreichen Uhrwerke Platz, wo aus der Zusammenstückelung unendlich vieler, aber lebloser, Teile ein mechanisches Leben im Ganzen sich bildet.” (Ibid.)

<sup>528</sup> “Und so wird denn allmählig das einzelne konkrete Leben vertilgt, damit das Abstrakt des Ganzen sein dürftiges Dasein friste, und ewig bleibt der Staat seinen Bürgern fremd, weil ihn das Gefühl nirgends findet.” (Ibid., 24.)

<sup>529</sup> “Sollte diese Wirkung vielleicht von dem Staat zu erwarten sein? Das ist nicht möglich, denn der Staat, wie er jetzt beschaffen ist, hat das Übel veranlasst” (Ibid., 29.)

and symptom of the current malady, certainly not its cure. Novalis seems to concur by describing “reformers of the state” [*Staatsumwältzer*] as variations on the Sisyphus theme.<sup>530</sup> Any attempt to reorganize the affairs of the state is, in Schiller’s words “untimely, and all hope based on it chimerical, until the separation within the inner individual is overcome, and his nature is completely developed ....”<sup>531</sup>

## (ii) Total Revolution

To achieve this, Schiller sets out to reunite what has been put asunder, to create humans and societies that are once again whole and can have direct access to questions of legitimacy, beyond the indirect question. In his analysis, current times are “far away from displaying the constitution of humanity that has been recognized as the necessary condition for the moral improvement of the state; instead, it shows us the direct opposite thereof.”<sup>532</sup> Consequently the “urgent desire of our age . . . is the ennoblement of sentiments and the moral cleansing of our will.”<sup>533</sup> For Schiller, our very humanity is at stake. To be human, for him and many contemporaries, is no longer an attribute one inherits by virtue of belonging to the human race. Instead, it is an attribute one must achieve and struggle to

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<sup>530</sup> Novalis, *Die Christenheit oder Europa*, 1799

<sup>531</sup> “...so muss man jeden Versuch einer solchen Staatsveränderung solange für unzeitig und jede darauf gegründete Hoffnung solange für schimärisch erklären, bis die Trennung in dem innern Menschen wieder aufgehoben, und seine Natur vollständig genug entwickelt ist, um selbst die Künstlerin zu sein, und der politischen Schöpfung der Vernunft ihre Realität zu verbürgen.” (Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, 29.)

<sup>532</sup> “Das jetzige Zeitalter, weit entfernt uns diejenige Form der Menschheit aufzuweisen, welche als notwendige Bedingung einer moralischen Staatsverbesserung erkannt worden ist, zeigt uns vielmehr das direkte Gegenteil davon.” (Ibid.)

<sup>533</sup> “Das dringende Bedürfniss unsers Zeitalters scheint mir die Veredlung der Gefühle und die sittliche Reinigung des Willens zu sein.” (Letter from Schiller to Herzog Friedrich Christian von Schleswig-Holstein-Augustenburg, 13th July, 1793.)

retain. Consider again a passage we encountered above:

Always tied to a small fragment of his totality, the human being himself develops as a fragment . . . while never developing the harmony of his being, and instead of expressing the humanity in his nature he becomes the mere expression of his business, his science.<sup>534</sup>

To fail to develop as a holistic being is, for Schiller, to fall far short of one's humanity. For him, to be human means to realize the potential embedded in one's nature, not merely to possess that potential. It is questionable whether many people, or anybody at all, could reach the pinnacle that Schiller sets at the core of his ideal. In Bernard Yack's words, for Schiller and some that built upon his thought, "modern man is not fully human."<sup>535</sup> As Schiller himself is at pains to articulate, current political and social practices are hard at work corroding the moral core of individuals and societies. It follows for Schiller that the goal of "making the individual into a self-sufficient whole" is as important as it is unlikely to be attained by most of us.<sup>536</sup> Only when people are reformed toward their unity and their "nature is turned around can we [begin to] think of the essential establishment of humanity."<sup>537</sup>

Schiller is thus not concerned with merely improving the conditions of the age or articulating answers to narrow political questions. For him, our very humanity is endangered, if not already lost. The processes of fragmentation and alienation have

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<sup>534</sup> "Ewig nur an ein einzelnes kleines Bruckstück des Ganzen gefesselt, bildet sich der Mensch selbst nur als Bruckstück aus, ewig nur das eintönige Geräusch des Rades, das er umtreibt, im Ohre, entwickelt er nie die Harmonie seines Wessens, und anstatt die Menschheit in seiner Natur auszuprägen, wird er bloss zu einem Abdruck seines Geschäfts, seiner Wissenschaft." (Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, 23.)

<sup>535</sup> Yack, *The Longing for Total Revolution : Philosophic Sources of Social Discontent from Rousseau to Marx and Nietzsche*, 8.

<sup>536</sup> "...den Menschen zu einem in sich selbst vollendeten Ganzen mach[en]" (Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, 68.)

<sup>537</sup> "...da können wir auf eine solche Umwälzung seiner Natur und den eigentlichen Anfang der Menschheit in ihm schliessen." (Ibid., 114.)

dehumanized us; they have rendered us less than human. To struggle against this pernicious threat is a paramount commandment. The “great calling of [our] existence” is to find and realize the “unchangeable unity” of our being that we all carry within us, “in disposition and purpose.”<sup>538</sup> Given the total corruption of our age, only a total change of our mode of existence, our laws, our habits, and our social practices can turn the tide of dehumanization. Consequently, Schiller calls for a “total revolution.”<sup>539</sup>

Characteristically, such a revolution begins for Schiller with the ways we receive and process sentiments and emotions.<sup>540</sup> Schiller needs a sphere of life, a domain of activity that has not been completely corroded by fragmentation. He finds it in art. In Habermas’s reformulation, the “historic task” of art is to “reconcile the disintegrating modern [condition]” within the individual as well as within the shared communal existence.<sup>541</sup> Only “higher art” is capable of restoring “the totality of our nature.”<sup>542</sup> In all other domains of activity, humans rely on skills that enable individuals but also constrain and limit them.<sup>543</sup> The aesthetic realm is unique in that the appreciation of art “leads to that which is not contained within boundaries.” Only the “aesthetic [condition] is a whole within itself,” where “we feel torn out of time; and our humanity displays itself with a purity and

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<sup>538</sup> “Jeder individuelle Mensch, kann man sagen, trägt, der Anlage und Bestimmung nach, einen reinen idealistischen Menschen in sich, mit dessen unveränderlicher Einheit in allen seinen Abwechslungen übereinstimmen, die grosse Aufgabe [not as a matter of course, but involves effort] seines Daseins ist.” (Ibid., 15.).

<sup>539</sup> Ibid., 114.; See also: Habermas, *Der Philosophische Diskurs Der Moderne : Zwölf Vorlesungen*, 59.

<sup>540</sup> This is admittedly a cumbersome, but hopefully precise way to express the German word: “Empfindungsweise” that is also found in Schiller’s 27<sup>th</sup> letter along with “total Revolution.” (Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, 114.).

<sup>541</sup> “Wenn die Kunst die historische Aufgabe, die mit sich zerfallene Moderne zu versöhnen, soll erfüllen können, darf sie nicht nur die Individuen ergreifen, sie muss vielmehr die Lebensformen, die die Individuen teilen, verwandeln.” (Habermas, *Der Philosophische Diskurs Der Moderne : Zwölf Vorlesungen*, 59.).

<sup>542</sup> “Es muss also falsch sein, dass die Ausbildung der einzelnen Kräfte das Opfer ihrer Totalität notwendig macht; oder wenn auch das Gesetz der Natur noch so sehr dahin strebte, so muss es bei uns stehen, diese Totalität in unsrer Natur, welche die Kunst zerstört hat, durch eine höhere Kunst wieder herzustellen.” (Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, 28, 33.).

<sup>543</sup> “Alle andere Übungen geben dem Gemüth irgend ein besondres Geschick, aber setzen ihm dafür auch eine besondere Grenze” (Ibid., 85-6.).

integrity, as if it had not been interrupted by external forces.”<sup>544</sup> Art unites that which has become disjointed.<sup>545</sup>

For Schiller, art is importantly autonomous of social and political forces. It is isolated and preserved by an “absolute immunity from the arbitrariness of humans.”<sup>546</sup> Politics might inhibit art, but it cannot control it.<sup>547</sup> Paradoxically, but tellingly, Schiller thinks artists can give us the experience of psychic unity because they themselves were nurtured by the “milk of a better age” before fragmentation – ancient Athens for Schiller, medieval times for Novalis.<sup>548</sup> When the artist returns “to his own century,” according to Schiller he should not appear cheerful, “but horrible, like Agamemnon’s son, in order to purify [his time].”<sup>549</sup> Schiller argues that artists should take the content [*Stoff*] of their art from their contemporary time, but draw its form from “a nobler time, a time beyond all time, borrowed from the absolute, unchangeable unity of their being.”<sup>550</sup> Only then can true beauty emerge.

I will leave aside the question of whether Schiller’s aesthetic is consistent or coherent. Far more important for the argument at hand is Schiller’s original and influential thesis that humans, societies, and states can and must be reformed through art and poetry. In his account, art does not merely entertain, nor does it serve for the petty edification of

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<sup>544</sup> “...die ästhetische allein führt zum Unbegrenzten. [...] ...nur der ästhetische [Zustand] ist ein Ganzes in sich selbst, da er alle Bedingungen seines Ursprungs und seiner Fortdauer in sich vereinigt. Hier allein fühlen wir uns wie aus der Zeit gerissen; und unsre Menschheit äussert sich mit einer Reinheit und Integrität, als hätte sie von der Einwirkung äusserer Kräfte noch keinen Abbruch erfahren.” (Ibid.).

<sup>545</sup> This is a common interpretation of Schiller’s work. For a well-put version see: Korff, *Geist Der Goethezeit : Versuch Einer Ideellen Entwicklung Der Klassisch-Romantischen Literaturgeschichte*, 286-7.

<sup>546</sup> “...einer absoluten Immunität von der Willkür der Menschen.” (Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, 34.).

<sup>547</sup> “Der politische Gesetzgeber kann ihr Gebiet sperren, aber darinn herrschen kann er nicht.” (Ibid.).

<sup>548</sup> “Milch eines bessern Alters” (Ibid.).

<sup>549</sup> When he returns “in sein Jahrhundert zurück” he shouldn't appear cheerful, “sondern furchtbar wie Agamemnon's Sohn, um es zu reinigen.” (Ibid.).

<sup>550</sup> “Den Stoff zwar wird er von der Gegenwart nehmen, aber die Form von einer edleren Zeit, ja jenseits aller Zeit, von der absoluten unwandelbaren Einheit seines Wesens entlehnt.” (Ibid.).

morals here and there. It serves to recover our very humanity from the abyss and to restore the “purely idealistic individual,” beyond fragmentation.<sup>551</sup> Only through true art, then, can we recover the authentic, pre-alienated life.<sup>552</sup> That is why Schiller prioritizes art over politics, why he discusses aesthetics instead of the French Revolution, and why he calls art the “daughter of liberty.”<sup>553</sup>

Schiller here formulates here, as Habermas argues, a harsh critique of bureaucratic institutions and alienation. Both contribute to and are constitutive of a soulless society that insists on divisive and mechanical classifications.<sup>554</sup> Artificial, procedural machinations on behalf of the state drag society deeper and deeper into a “paltry and coarse mechanism.”<sup>555</sup> For Schiller, the emerging modern state is, in a familiar refrain, an “intricate clockwork,” pieced together out of many lifeless fragments into a lamentable mechanical entity.<sup>556</sup> The desubstantiated state, in such a mechanical world, lacks passion, attention to individual characteristics, and a reliable moral core. Schiller, though articulate, is hardly original in his rejection of all things fragmented and mechanical and his praise of the holistic and organic. In the words of one commentator, he is merely articulating “common currency in [his] time.”<sup>557</sup>

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<sup>551</sup> “...einen reinen idealistischen Menschen...” (Ibid., 15.).

<sup>552</sup> Korff, *Geist Der Goethezeit : Versuch Einer Ideellen Entwicklung Der Klassisch-Romantischen Literaturgeschichte*, 276.

<sup>553</sup> “Kunst ist eine Tochter der Freiheit” (Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, 9, 28.). In Habermas’ words: “Die Kunst selbst ist das Medium der Bildung des Menschengeschlechts zur wahren politischen Freiheit.” (Habermas, *Der Philosophische Diskurs Der Moderne : Zwölf Vorlesungen*, 59.).

<sup>554</sup> This insight and formulation derive from Habermas: Habermas, *Der Philosophische Diskurs Der Moderne : Zwölf Vorlesungen*, 60.

<sup>555</sup> „...sank sie zu einer gemeinen und groben Mechanik herab.” (Schiller, *Über Die Ästhetische Erziehung Des Menschen in Einer Reihe Von Briefen*, 23.)

<sup>556</sup> „...künstlichem Uhrwerke Platz, wo aus der Zusammenstückelung unendlich vieler, aber lebloser, Theile ein mechanisches Leben im Ganzen sich bildet.” (Ibid.)

<sup>557</sup> Ripper, *Schiller And "Alienation"*, 23.

### (iii) Antigone in Weimar

One place where Schiller's concerns and many of the themes of this section were on display was on the stage of a little theater in Weimar. Its artistic director, Johann Wolfgang von Goethe, got it into his mind at the dawn of the nineteenth century to bring *Antigone* to Weimar.<sup>558</sup> As Goethe was the revered head of the *Weimarer Hoftheater* (from 1791 until 1817) and one of the cultural cornerstones of Germany, all that stood between his intention and its realization was an appropriate translation of the play. Though many *Antigone* adaptations had been produced as operas in the preceding decades, few had been attempted as straight plays. Fortunately for Goethe, numerous people had written or were actively working on new translations. The tricky part was choosing the right one.

Like the cameralist project, German *Antigone* translations have their roots in the Thirty Years' War. Martin Opitz was the first to translate *Antigone* into German in 1636.<sup>559</sup> Closer at hand, both Georg Christoph Tobler and Friedrich Leopold von Stolberg had translated *Antigone* in the 1780s. However, Goethe rejected both translations because they seemed outdated, beholden to the aesthetic sensibilities of another era. A fourth possibility was a very recent translation by Friedrich Ast from 1804. Ast was an important Greek

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<sup>558</sup> Johann Wolfgang von Goethe, Friedrich Rochlitz, and Woldemar Biedermann, *Briefwechsel Mit Friedrich Rochlitz*. Herausgeber: Woldemar Freiherr Von Biedermann (Leipzig: F.W.v. Biedermann, 1887), 14-15.

<sup>559</sup> For a great introduction concerning the influence of Greek theater on German culture and thought see: Flashar, *Inszenierung Der Antike : Das Griechische Drama Auf Der Bühne Der Neuzeit, 1585-1990*, 37.; For more, see Steiner, *Antigones*, 173.; For helpful introductions to Opitz's life, work, "canonical status" and "paradigm founding" influence see: Friedrich Gundolf, "Martin Opitz," in *Deutsche Barockforschung: Dokumentation Einer Epoche*, ed. Richard Alewyn (Köln: Kiepenheuer & Witsch, 1966).; Gunter Grimm, *Literatur Und Gelehrtentum in Deutschland : Untersuchungen Zum Wandel Ihres Verhältnisses Vom Humanismus Bis Zur Frühaufklärung*, Studien Zur Deutschen Literatur, (Tübingen: M. Niemeyer, 1983), 115-54.

philologist, and Goethe held his work in high esteem. But he considered Ast's translation too exact, too literal, and too mechanical.

A fifth possibility was a translation by Friedrich Hölderlin.<sup>560</sup> Hölderlin seemed well suited for the task of bringing *Antigone* to the stage. He had a deep appreciation for ancient Greek society, thought, and language, which he had put to highly acclaimed use in his best-known short novel, *Hyperion*. In it, a Greek youth named Hyperion comes to life among the Germans. Through his eyes, we see the Germans as fundamentally divided and alienated among themselves and within themselves. Hyperion remarks that "I cannot imagine a people more mangled than the Germans. You see artisans, but no human beings, thinkers, but no human beings, masters and servants, young and elderly people, but no human beings." Only through experience of the richness of life does Hyperion recover a fuller sense of humanity and "blessed unity."<sup>561</sup>

Hölderlin's translation of *Antigone* was published in 1804 (it is also referred to as *Antigonae* or *Antigonä*). Immediately Hölderlin sent two copies of it to his old school friends Hegel and Schelling.<sup>562</sup> Both were shocked.<sup>563</sup> Like much of the public, they were stunned by Hölderlin's rough and seemingly irreverent approach to Sophocles's work. Hölderlin's idiosyncratic use of the German language is in keeping with his interpretation of the play. For him, *Antigone* is seized by "the spirit of the ever-living unwritten

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<sup>560</sup> The play can be found here: Friedrich Hölderlin, *Sophokles - Sämtliche Werke : Frankfurter Ausg. : [Histor. -Krit. Ausg.]*, ed. D. E. Sattler, 19 vols., vol. 16 (Frankfurt (M.): Verlag Roter Stern, 1975), 261-407.; For a good introduction to Hölderlin's remarks on his *Antigone* translation see: Monika Kasper, *Das Gesez Von Allen Der König : Hölderlins Anmerkungen Zum Oedipus Und Zur Antigonä*, Epistemata. Reihe Literaturwissenschaft ; (Würzburg: Königshausen & Neumann, 2000).

<sup>561</sup> As quoted in: Christiansen, *Romantic Affinities : Portrait of an Age, 1780-1830*, 83-4.

<sup>562</sup> Christoph Jamme and Frank Völkel, *Hölderlin Und Der Deutsche Idealismus : Dokumente Und Kommentare Zu Hölderlins Philosophischer Entwicklung Und Den Philosophisch-Kulturellen Kontexten Seiner Zeit*, 4 vols., vol. 4, *Specula* ; (Stuttgart: Frommann-Holzboog, 2003), 50-1.

<sup>563</sup> For more on the connection between Hölderlin and Hegel see: Dieter Henrich and Eckart Förster, *The Course of Remembrance and Other Essays on Hölderlin*, Studies in Kant and German Idealism (Stanford, Calif.: Stanford University Press, 1997), 119-40.; Christiansen, *Romantic Affinities : Portrait of an Age, 1780-1830*, 84.

wilderness.”<sup>564</sup> She represents, in a duality reminiscent of the cameralists, “that which lacks form.” As such, she is the “reaction” to the “far too formal” Kreon. The clash between these two elements is, for Hölderlin, the very definition of tragedy.<sup>565</sup> Hölderlin had asked Schelling to arrange a staging of the play at the Weimar Theater. Schelling, like many, considered this highly unlikely.

The artistic establishment fiercely rejected Hölderlin’s work. Friedrich Schiller, for example, thought Hölderlin’s work was horrible and hilarious. He would ask Henrich Voss to read passages aloud and would then burst into loud laughter. Voss, for his part, vituperated privately in his letters against Hölderlin as a “lousy dog” and “fool.”<sup>566</sup> Many who felt likewise saw themselves validated when Hölderlin started to exhibit outward signs of madness and was sent to an insane asylum. He was diagnosed with *dementia praecox*, or what we call schizophrenia. Hölderlin believed that he had been driven to insanity by exposure to the sacred fire of the gods: “He who has seen God must die. . . . Like fire is the voice of God.”<sup>567</sup> Hölderlin began speaking a polyglot gibberish of Greek, German and Latin. He addressed all people around him as either “Your Majesty” or “Your Holiness.” Hölderlin also conversed often in the roles of two distinct personalities that responded to each other’s inquiries. From 1807 until the end of his life (thirty-six years later), he lived in a small room above a master carpenter’s shop in Tübingen. The carpenter, it turned out, was an admirer of *Hyperion*.<sup>568</sup>

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<sup>564</sup> As cited in: Véronique Marion Fóti, *Epochal Discordance : Hölderlin's Philosophy of Tragedy*, Suny Series in Contemporary Continental Philosophy (Albany: State University of New York Press, 2006), 76.

<sup>565</sup> “Das Unförmliche“ and “allzuförmliche.“ Both as cited in: Jamme and Völkel, *Hölderlin Und Der Deutsche Idealismus : Dokumente Und Kommentare Zu Hölderlins Philosophischer Entwicklung Und Den Philosophisch-Kulturellen Kontexten Seiner Zeit*, 63.

<sup>566</sup> “Lumpenhund” and “Narren” (Otto Pöggeler, *Antigone in Der Deutschen Dichtung, Philosophie Und Kunst* (Paderborn: F. Schöningh, 2004), 18-19.)

<sup>567</sup> Christiansen, *Romantic Affinities : Portrait of an Age, 1780-1830*, 89-90.

<sup>568</sup> *Ibid.*, 89-91.

Since the date of its first publication, a debate has raged whether Hölderlin's *Antigone* was tainted by Hölderlin's (subsequent?) derangement. Whatever the answer to this vexing question, Goethe found it difficult to present a work that was seen by many as the product of brute insanity. Hölderlin's *Antigone* was not staged until 1913.<sup>569</sup> However, despite its troubled inception, it has proven tremendously influential. It influenced Heidegger and was the basis of an opera by Carl Orff (better known for his *Carmina Burana*) and an irreverent play by Bertolt Brecht.<sup>570</sup>

With Hölderlin and other competitors out of the way, Goethe favored a translation by Karl Wilhelm Ferdinand Solger. Goethe considered him one of the few good translators of Sophocles. Like many of the authors we have encountered in this section, Solger was a lowly bureaucrat, and his day job seems to have delayed his artistic output.<sup>571</sup> With Solger's version much delayed (Solger's *Antigone* did not appear until 1808),<sup>572</sup> Goethe chose yet another *Antigone* translation, this one by Friedrich Rochlitz.<sup>573</sup>

This translation deviates purposively from the original in numerous ways. First, Rochlitz's *Antigone* heightens and adds depictions of revulsion and sentimentality. For example, Rochlitz adds to one of Kreon's commands to leave Polyneices unburied the phrase "a picture of terror" [*ein Bild des Schreckens*]. In another place, Antigone lamented

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<sup>569</sup> Jamme and Völkel, *Hölderlin Und Der Deutsche Idealismus : Dokumente Und Kommentare Zu Hölderlins Philosophischer Entwicklung Und Den Philosophisch-Kulturellen Kontexten Seiner Zeit*, 51.

<sup>570</sup> Otto Pöggeler, *Schicksal Und Geschichte : Antigone Im Spiegel Der Deutungen Und Gestaltungen Seit Hegel Und Hölderlin* (München: W. Fink, 2004), 111-81.; Pöggeler, *Antigone in Der Deutschen Dichtung, Philosophie Und Kunst*, 18-26.

<sup>571</sup> Solger worked for the Kriegs- und Domänenkammer in Berlin. For more on Solger see: Joseph Heller, *Solgers Philosophie Der Ironischen Dialektik; Ein Beitrag Zur Geschichte Der Romantischen Und Spekulativ-Idealistischen Philosophie* (Berlin.: Reuther & Reichard, 1928), 6.; Karl Wilhelm Ferdinand Solger, Ludwig Tieck, and Friedrich von Raumer, *Nachgelassene Schriften Und Briefwechsel*, 2 vols. (Leipzig: F.A. Brockhaus, 1826).

<sup>572</sup> Flashar, *Inszenierung Der Antike : Das Griechische Drama Auf Der Bühne Der Neuzeit, 1585-1990*, 54.

<sup>573</sup> Pöggeler, *Schicksal Und Geschichte : Antigone Im Spiegel Der Deutungen Und Gestaltungen Seit Hegel Und Hölderlin*, 69-70.

dryly in Sophocles's version that she dies without a friend nearby. Rochlitz turned this passage into:

I offer to you the joy of a young bride and the hope of rich marriage bliss, and, oh, the heavenly dream of mother joys.<sup>574</sup>

Second, apart from heightening the emotional thrust of the play, Rochlitz also replaces the names of the gods with an interpretation of their functions. "Eros" thus becomes, in Rochlitz's translation, a nontheistic "almighty love" [*Allmächtige Liebe*].

Third, Rochlitz weakens the role of the chorus. Rochlitz, like many German translators and interpreters before and after him, found it difficult to render the chorus passages intelligible and appealing to modern German audiences. For extended passages, the chorus simply dissolves into alternating individual speakers.

Fourth, Rochlitz tends to establish and support a clear-cut political and moral hierarchy in his translation. Sophocles's *Antigone* supports interpretations that highlight multiple sources of authority and clashing evaluations of worth. In contrast, Rochlitz's *Antigone* seems to put Kreon unambiguously in sanctioned charge of the city. Sophocles's chorus in one part remarks dryly that Kreon may do what he pleases (211). In Rochlitz's version this simple observation turns into a jubilant declaration: "Your decision, my king, pleases me as well!"<sup>575</sup> Rochlitz also defangs the zesty interactions between the slightly rebellious watchman and an aggressive Kreon. He renders the watchman meek and suppliant and Kreon magnanimous: instead of driving him away impatiently, Rochlitz's Kreon releases the watchman with the "royal word of honor" not to harm him. All in all,

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<sup>574</sup> "Ich bring die Wonne einer jungen Braut, die Hoffnung reichen Eheglücks euch dar, und ach, der Mutterfreuden Himmelstraum." (all *Antigone* quotations from Rochlitz can be found in: Flashar, *Inszenierung Der Antike : Das Griechische Drama Auf Der Bühne Der Neuzeit, 1585-1990*, 54-6.)

<sup>575</sup> The German is even stronger: "Auch mir gefällt, mein König, dein Entschluss!"

Rochlitz is hard at work to render mute Antigone's negative characterization of Kreon (506-7). Viewers of Rochlitz's *Antigone* have few opportunities to observe the potential dangers of Kreon's absolute and unchecked rule. Eurydice does not commit suicide with Kreon's sword (1295-7) but simply "falls to the ground, suddenly stiff and dead."<sup>576</sup>

All these changes are not accidental. As Rochlitz makes very clear: he made "absolutely no, not even minimal deviations from Sophocles" without abundant thought and deliberation.<sup>577</sup> Rochlitz and Goethe purposively target the sensibilities of their audience. As Goethe explains clearly to Rochlitz in a letter, his translation should aim to "ingratiate itself with the audience."<sup>578</sup> Rochlitz, in return, assured Goethe that he would try to be attentive to this end. As he explained to Goethe, he had finally found a "manner of treating" the material that is suitable for the modern stage and that would achieve a decisive "effect on the audience."<sup>579</sup> In some ways this was merely about the successful staging of a play. In other ways, however, it is a revealing window on the aesthetic, social, and political struggles of an age. Much was at stake in choosing the right *Antigone* translation. Goethe took care, deliberation, and a lot of time to find the right play. Literal or 'accurate' translations were of little appeal.<sup>580</sup> Goethe rejected some versions for being beholden to bygone aesthetic ideals, and others for being too stiff and lacking passion. He rejected Hölderlin's work for its disregard of many boundaries his audience held sacred. Rochlitz's translation, though a far cry from being faithful, avoided all of these pitfalls. In Goethe's estimation, Rochlitz's *Antigone* "approximates most closely to our sensibilities."<sup>581</sup>

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<sup>576</sup> "...sank sie zu Boden, plötzlich starr und todt."

<sup>577</sup> "durchaus keine, auch keine geringe Abweichung vom Sophokles" (Goethe, Rochlitz, and Biedermann, *Briefwechsel Mit Friedrich Rochlitz*. Herausgeber: Woldemar Freiherr Von Biedermann, 78-9.)

<sup>578</sup> "bey dem Hörer einschmeicheln." (Ibid., 94.)

<sup>579</sup> "Behandlungsart [...] Wirkung auf ein Publikum." (Ibid., 78.)

<sup>580</sup> Ibid.

<sup>581</sup> "weil sich diese wol am meisten unserm Sinn nähert." (Ibid., 77-8, 91.)

Rochlitz's translation displayed the proper balance of passion and sentimentalism without falling into irreverence. Additionally, it portrayed Kreon in a manner that was intelligible and agreeable to the audience's political sensibilities.

Goethe found Rochlitz's translation very pleasing and "useful."<sup>582</sup> He staged it repeatedly in Weimar in 1808-9, then in Lachstädt, before returning it for another run in Weimar. Rochlitz's *Antigone* had proven to be in agreement with the aesthetic and political sensibilities of the time. His Kreon and Antigone are manifestations of aesthetic sensibilities sharply at odds with the cameralist project. Simultaneously with Goethe's *Antigone* production, at the contentious intersection between cameralistic thought and its critics, a convoluted constellation of epic world historical events and mundane mistakes was about to redefine the boundaries between facticity and normativity, between the administrative sphere and the public sphere.

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<sup>582</sup> "zweckmässig." (Ibid., 93-94.)

## **Chapter IV.**

### **Experiments: Participatory Citizenship**

There existed, then, a wide gap between cameralists and their various critics. The two sides were separated by their views on the proper role of passions in governmental affairs; the ideals of a personal versus a depersonalized state; the clash of organic and mechanical metaphors; and the search for a reliable moral core versus a reliance on procedures to secure the stability of the country in contentious times. Both sides had accepted a separation between the public sphere and the administrative sphere. However, they conceived of these two spheres and their interactions along radically different lines. The cameralists emphasized efficiency and facticity in the administrative sphere. For them, social order was maintained by excluding the public from questions of legitimacy in favor of well-regulated management and administration. Romantics challenged this emphasis and posited against it an understanding of society and the state that was, in many ways, its antithesis. Romantics had constructed their understanding of the healthy public sphere precisely in opposition to the cameralistic, administrative state. The two became increasingly separated, divided by a deepening and increasingly hostile gulf. Each side had its own logic, built upon different normative commitments; each side emphasized a different role for the public; and each side relied on distinct sources of legitimacy and disparate understandings of desirable state/society interactions. All these differences

amounted to radically opposed views of how to make the country viable in contentious times.

The military repercussions of the French Revolution heightened the stakes of these debates in the opening years of the nineteenth century, just as Goethe began searching for a proper *Antigone* adaptation. Germany found itself in a precarious position in the years leading up to 1806: it was blockaded to the north by the British navy and vastly outnumbered by the armies of the Austrian empire to the south, Russia to the east, and an increasingly bellicose Napoleonic France to the west. Were the cameralists aiding Prussia's standing or undermining the very foundations of its previous strength? Were their critics wisely sounding the alarm or were they merely the roadblock to crucial and long-neglected reforms? No matter on which side one came down on these questions, they were sure to stir up strong sentiments and kindle fierce confrontations. The outcome of these debates was profoundly important to contemporaries and far from certain. Raw historical contingencies struck repeatedly to derail and enable various conceptual innovations and institutionalizations.

History and unforeseeable historical contingencies consequently matter for the account of social and political order on offer in this dissertation. Both are tied up, from beginning to end, with the fate of Karl von Stein and a number of his allies and lieutenants. All were active in high-ranking government posts and academia and had tremendous (temporary) influence on Prussian policy and institution building in the opening years of the nineteenth century. They shaped with their deeds, thoughts, and mistakes the relationship between the public sphere and the administrative sphere. Faced with a state on the brink of annihilation, they articulated and sought to implement a fusion of cameralistic

principles *with* the concerns of the critics of cameralism. That is, they attempted to combine procedures with vibrant, passionate, personalized, and substantively rich sentiments. In effect, they sought to infuse the organic into the machine, personalize the impersonal, fuse the indirect and direct questions of justice, and moderate between the antagonized public and administrative spheres. In practice, this meant the careful integration of common people into the administrative machinery of the state. Under this plan, procedures are supplemented by participatory elements.

Stein and his allies sought to prototype a new kind of participatory citizenship in an effort to stabilize and strengthen the ailing state. They imagined political participation as empowering the individuals against the state *in order to* bolster the state's capacities and its claims to legitimacy. This counterintuitive position was born out of concerns and anxieties over the antagonized separation between the public and administrative spheres. As Stein was quick to point out, the two had little in common and tended to mistrust each other deeply. The country, thus divided, was easy prey for foreign invasions and occupations. Given this analysis, the concern about how to mediate between the administrative and public spheres took center stage.

However, Stein was not content to merely seek new mechanisms to "translate," in Habermas's phrase, the input of the public sphere into the output of the administrative sphere. Stein and his followers did not take the implied division between the two spheres as a given. Instead, they theorized, perhaps for the last time, beyond this conceptual split. Their institutional innovations aimed at renegotiating and reimagining the relation of the public and administrative spheres. Stein and his allies conceived of "translation" as an endogenous process intrinsic to both the administrative and the public sphere. They

constructed an understanding of participatory citizenship *within* the administrative institutions of the state. Participation, under this model, was not about commissioning representatives or yes/no ballots. Instead, Stein and his allies came to think of political participation as entailing carefully crafted agency *within* the state. Stein attempted to import elements of the public sphere into the administrative sphere.

Crucially and paradoxically, Stein conceived of citizenship as enfranchising and empowering the individual *within* the administration *against* the state in order to strengthen the ailing legitimacy of the state. This entailed a radical reconfiguration of the relationship between state and society. The social and political orders, under this model, become entangled in novel and unfamiliar ways. Stein's thinking and reforms highlight an array of issues, concerns, and proposed solutions about how modern states might enable meaningful relations between the state and a political community. One reformer close to Stein described his plan as an "amalgamation of public representation and bureaucratic offices."<sup>583</sup> It was a strange experiment born out of desperate times.

Stein, though he could not have known this, was onto something. As abundant modern psychological research reveals, people generally perceive decisions as more legitimate if they were rendered under procedural rules that allowed for (meaningful) participation.<sup>584</sup> This finding holds true across a wide spectrum of cultures, socio-economic

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<sup>583</sup> "Amalgamierung der Repräsentation mit den Verwaltungsbehörden" (from the *Rigaer Denkschrift* as cited in: Münchow-Pohl, *Zwischen Reform Und Krieg : Untersuchungen Zur Bewusstseinslage in Preussen 1809-1812*, 293.)

<sup>584</sup> The following citations cover some of the landmark pieces on this theme and for an introduction they are best read in chronological order: John W. Thibaut and Laurens Walker, *Procedural Justice : A Psychological Analysis* (New York: L. Erlbaum Associates, 1975).; E. Allan Lind and Tom R. Tyler, *The Social Psychology of Procedural Justice, Critical Issues in Social Justice* (New York: Plenum Press, 1988).; J Brockner and P Siegel, "Understanding the Interaction between Procedural and Distributive Justice," in *Trust in Organizations : Frontiers of Theory and Research*, ed. Roderick Moreland Kramer and Tom R. Tyler (Thousand Oaks, Calif.: Sage Publications, 1996).; Edith Barrett-Howard and Tom R. Tyler, "Procedural Justice as a Criterion in Allocation Decisions," *Journal of Personality and Social Psychology*

backgrounds, educational levels, and so on. In short, it is a surprisingly robust finding. It is perhaps for this reason that various theorists in the last half-century tried, again, to incorporate citizens into the administrative machinery of the state.<sup>585</sup>

The central innovation in Stein's attempted fusion of the direct and indirect questions of justice is a bringing together of procedural requirements and participatory norms. Stein and his allies advocated for reconceptualizing popular participation as a well-regulated procedural element. For Stein, the fairness and legitimacy of a procedure became tied to citizens' opportunity to participate in proceedings. As one of the most famous phrases of the time put it, participatory procedural requirements stipulate "democratic principles in a monarchical regime."<sup>586</sup> Doing so might avoid the lifeless torpor of bureaucratic formalism, but it also invoked the specter of unruly popular participation.

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50, no. 2 (1986).; For more legal and political applications see: Tom R. Tyler, *Why People Obey the Law* (New Haven: Yale University Press, 1990), 24-25.; Amy Gangl, "Procedural Justice Theory and Evaluations of the Lawmaking Process," *Political Behavior* 25, no. 2 (Jun., 2003).; For an account of procedural justice and the U.S. Supreme Court see: Jeffery Mondak, "Perceived Legitimacy of Supreme Court Decisions: Three Functions of Source Credibility," *Political Behavior* 12 (1990).; Jeffery Mondak, "Substantive and Procedural Aspects of Supreme Court Decisions as Detrimants of Institutional Approval," *American Politics Quarterly* 19 (1991).; Consider also the debate between Gibson and Tyler & Rasinski: James L. Gibson, "Understandings of Justice: Institutional Legitimacy, Procedural Justice, and Political Tolerance," *Law & Society Review* 23 (1989).; Tom R. Tyler and Kenneth Rasinski, "Procedural Justice, Institutional Legitimacy, and the Acceptance of Unpopular U.S. Supreme Court Decisions: A Reply to Gibson," *Law & Society Review* 25 (1991).; James L. Gibson, "Institutional Legitimacy, Procedural Justice, and Compliance with Supreme Court Decisions: A Question of Causality," *Law & Society Review* 25 (1991).

<sup>585</sup> Dwight Waldo, "Development of a Theory of Democratic Administration," *The American Political Science Review* 46, no. 1 (Mar., 1952).; James V. Cunningham, "Citizen Participation in Public Affairs," *Public Administration Review* 32 (1972).; Adam W. Herbert, "Management under Conditions of Decentralization and Citizen Participation," *Public Administration Review* 32 (1972).; David K. Hart, "Theories of Government Related to Decentralization and Citizen Participation," *Public Administration Review* 32 (1972).; Jerry Frug, "Administrative Democracy," *The University of Toronto Law Journal - Special Issue on Administrative Law* 40, no. 3 (1990).; Ned Crosby, Janet M. Kelly, and Paul Schaefer, "Citizens Panels: A New Approach to Citizen Participation," *Public Administration Review* 46, no. 2 (1986).; Carolyn Tuohy, "Bureaucracy and Democracy," *The University of Toronto Law Journal - Special Issue on Administrative Law* 40, no. 3 (1990).; Cheryl Simrell King, Kathryn M. Feltey, and Bridget O'Neill Susel, "The Question of Participation: Toward Authentic Public Participation in Public Administration," *Public Administration Review* 58, no. 4 (1998).

<sup>586</sup> "Demokratische Grundsätze in einer monarchischen Regierung" (Karl August Hardenberg, "Über Die Organisation Des Preussischen Staates," in *Stimmen Aus Der Zeit Der Erniedrigung*, ed. Rudolf Vaupel (München: Drei Masken, 1923), 98.)

Stein walks, again and again, a thin line between vehemently opposed sides. His success remained and remains very much in doubt.

This section will parse Stein's thought, deeds, and the reaction he engendered within their proper historical context. I will proceed chronologically through three chapters: Chapter 8 first illuminates the conceptual background of Stein's thinking before turning to pertinent historical conditions leading up to Prussia's catastrophic defeat and near dismantlement in 1806. Chapter 9 traces the development of Stein's thought in the wake of the military upheavals of 1806/7 and his development of participatory procedural requirements. Chapter 10 focuses on the attempted implementation of Stein's thought during his brief fourteen-month tenure at the helm of Prussia's administration. In the closing pages of that chapter, I will briefly revisit various critics who remained deeply dissatisfied with Stein's reform program.

## ***8. The Reformers, the Immediate Context of the Reforms, and the Reforms Themselves***

### **(i) Bureaucracy as a Vocation**

The thinking behind Stein's proposed reforms was not born ex nihilo. His response to crisis was constrained by conceptual and historical influences. It is consequently helpful to understand the nature of the crisis that Stein's reforms confronted and the tools available for doing so.

Heinrich Friedrich Karl Stein's life is tangled up, from early on, in the literary, aesthetic-political, and pedagogical currents of the time.<sup>587</sup> He is influenced as much by his cameralist teachers as by their critics. Stein's life was embroiled in the aesthetic, social, and political debates of the time even in his youth. When Stein was still an adolescent, the

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<sup>587</sup> Stein's thought, biography, and actions have been subject to interpretation from across the ideological spectrum. Virtually all of the claims of this chapter have consequently been disputed by someone, somewhere. However, that should not obscure the considerable overlap between mainstream interpretations of Stein's work upon which I build here. For more on the wide range of interpretations of Stein see: Epstein, "Stein in German Historiography."; Stefan Berger, "Prussia in History and Historiography from the Eighteenth to the Nineteenth Century," in *The Rise of Prussia : Rethinking Prussian History, 1700-1830*, ed. Philip Dwyer (New York: Longman, 2000).; Hubatsch, *Stein-Studien : Die Preussischen Reformen Des Reichsfreiherrn Karl Vom Stein Zwischen Revolution Und Restauration*, 96-7.; Gerhard Ritter, *Stein; Eine Politische Biographie*, [3.] neugestaltete Aufl. ed. (Stuttgart,: Deutsche Verlags-Anstalt, 1958), 11.; For a distinctively marxist perspective consider: E. P. Kadel, I. I. Preis, and Institut marksizma-leninizma (Moscow Russia), *Marx and Engels on Reactionary Prussianism* (Moscow: Foreign Languages Pub. House, 1943).; For liberal accounts (with a touch of democratic socialism) see: Max Lehmann, *Freiherr Vom Stein* (Leipzig,: S. Hirzel, 1902).; Hugo Preuss, *Die Wirtschaftliche Und Soziale Bedeutung Der Stein-Hardenbergschen Reform* (Berlin: Leonhard Simion, 1908).; Hugo Preuss, *Verfassungspolitische Entwicklungen in Deutschland Und Westeuropa, Historische Grundlegung Zu Einem Staatsrecht Der Deutschen Republik* (Berlin,: C. Heymann, 1927).; For a conservative interpretation consider: Adalbert Wahl, *Über Die Nachwirkungen Der Französischen Revolution Vornehmlich in Deutschland : Gedanken Und Untersuchungen* (Stuttgart: W. Kohlhammer Verlag, 1939).; For an account of the conflicted views of DDR (East-German) historians see: Andreas Dorpalen, "The German Struggle against Napoleon: The East German View," *The Journal of Modern History* 41, no. 4 (Dec., 1969).

young Goethe spent a couple of months near Stein's ancestral home. Goethe visited Stein's home periodically while experiencing what he would later fictionalize as the ill-fated love story at the heart of the *Sufferings of the Young Werther*. Stein's mother had read a handwritten copy of *Werther* prior to its publication, but complained about the prevalence and defense of suicide in it. She thought it was an imprudent tool for moral edification.<sup>588</sup> Johann Bernhard Basedow, similarly, was a respected but critically evaluated guest at the Steins' during Karl's adolescence.

Stein's family lived at the intersection of many intellectual currents. On the one hand, the family was steeped in contemporary thought and enjoyed the company of the avant-garde. On the other hand, they were, in the words of one of the most distinguished Stein scholars, "...living vestiges of the medieval feudal system."<sup>589</sup> Similarly, while their legal status as "imperial knights"<sup>590</sup> was a doomed remnant of the feudal hierarchy, the family sent Karl to one of the most progressively oriented universities in Germany and the "door to England"<sup>591</sup> – the University of Göttingen in Hanover. George II of Britain, then still the Elector of Hanover, had founded the university that was one of the main German hubs for importing liberal English thought.<sup>592</sup> At Göttingen, Stein took courses in

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<sup>588</sup> She seemingly was also at times skeptical of Basedow's presence. (Ritter, *Stein; Eine Politische Biographie*, 20-1.; For more see: Johann Wolfgang von Goethe, Adolf Schöll, and Wilhelm Fielitz, *Goethes Briefe an Frau Von Stein*, 2. vervollständigte Aufl. bearbeitet von Wilhelm Fielitz. ed., 2 vols. (Frankfurt a. M.,: Literarische Anstalt, Rütten & Loening, 1883).).

<sup>589</sup> "... lebendige Überreste des mittelalterlichen Feudalwesens..." (Ritter, *Stein; Eine Politische Biographie*, 16.)

<sup>590</sup> "Reichsritter" (Craig, *The End of Prussia*, 9.; Levinger, "The Prussian Reform Movement and the Rise of Enlightened Nationalism," 259.)

<sup>591</sup> Marion Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," *Transactions of the American Philosophical Society* New Ser., Vol. 76, no. 1 (1986): 54.

<sup>592</sup> Consider for example: Friedrich Buchholz, *Der Neue Leviathan* (Tubingen,: In der J. G. Cottaischen buchhandlung, 1805).; However, books like that seemed to have had little impact outside of the universities and university-educated classes (Hans-Eberhard Mueller, *Bureaucracy, Education, and Monopoly : Civil Service Reforms in Prussia and England* (Berkeley: University of California Press, 1984), 145.); Stein, incidentally, would eventually marry one of the granddaughters of George II (Ritter, *Stein; Eine Politische Biographie*, 54.).

cameralism and became acquainted with two other students who remained important influences throughout his life: Ernst Brandes and August Wilhelm Rehberg. Brandes later became one of the foremost experts in Germany on English political circumstances and thought,<sup>593</sup> while Rehberg's career took him into the Hanoverian bureaucracy and towards becoming an important publicist of the epoch.<sup>594</sup>

The influence of English thought was a persistent, multilayered influence on all of them. Adam Smith in particular captured their attention, and Stein's personal copy of *The Wealth of Nations* was well worn and bountifully marked in Stein's own handwriting.<sup>595</sup>

Stein traveled eagerly to England later in his life. His visit, however, was not a sparkling

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<sup>593</sup> Ernst Brandes wurde "später zum besten Kenner englischer Personalien und politischer Verhältnisse auf deutschem Boden." (Ritter, *Stein; Eine Politische Biographie*, 31, 103.); For more on Brandes and Rehberg see: Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 57.; See also: Parry, "Enlightened Government and Its Critics in Eighteenth-Century Germany," 181.

<sup>594</sup> "August Wilhelm Rehbergs geschichtliche Rolle ist heute nach langer Vergessenheit wieder in helles Licht gerückt: nächst Friedrich Gentz, dem grössten Publizisten der Epoche, aber in vollkommener Selbständigkeit und Eigenart neben ihm stehend, hat er als der bedeutendste literarische Gegner der Französischen Revolution und Vorkämpfer englischen politischen Denkens in Deutschland zu gelten." (Ritter, *Stein; Eine Politische Biographie*, 100.). For Rehberg's influence on the reform program (especially with respect to the provincial assemblies) see: Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 110.; See also: Jolles, *Das Deutsche Nationalbewusstsein Im Zeitalter Napoleons*, 93-4.

<sup>595</sup> Ford, *Stein and the Era of Reform in Prussia, 1807-1815*, 71.; Adam Smith's impact on Stein and Germany is hotly debated. For a helpful introduction consider: August Ferdinand Lueder, *Ueber Nationalindustrie Und Staatswirthschaft Nach Adam Smith Bearbeitet* (Berlin: H. Frölich, 1800); Wunder, *Geschichte Der Bürokratie in Deutschland*, 22.; Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 52, 57.; Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 186-7, 93.; Levinger, *Enlightened Nationalism : The Transformation of Prussian Political Culture, 1806-1848*, 26-27, 60.; Sieg, *Staatsdienst, Staatsdenken Und Dienstgesinnung in Brandenburg-Preussen Im 18. Jahrhundert (1713-1806) : Studien Zum Verständnis Des Absolutismus*, 346-52.; For Adam Smith's influence on cameralism and administrators throughout Germany see: Tribe, "Cameralism and the Science of Government," 277-83.; Straubel, *Beamte Und Personalpolitik Im Altpreussischen Staat : Soziale Rekrutierung, Karriereverläufe, Entscheidungsprozesse (1763/86-1806)*, 109.; For more on Smith's reception in German culture and conservative opposition to it consider: Walter M. Simon, "Prince Hardenberg," *The Review of Politics* 18, no. 1 (1956): 91.; Berdahl, "The Stande and the Origins of Conservatism in Prussia," 313.; Levinger, "The Prussian Reform Movement and the Rise of Enlightened Nationalism," 268-9.; Walter Görnitz, *Die Junker: Adel Und Bauer Im Deutschen Osten; Geschichtliche Bilanz Von 7 Jahrhunderten* (Glücksburg, Ostsee.: C.A. Starke, 1956), 173.; Wilhelm Treue, *Wirtschaftszustände Und Wirtschaftspolitik in Preussen 1815-1825* (Stuttgart, Berlin: W. Kohlhammer, 1937), 140.; For more on connections between Edmund Burke and the conservative tradition in German thought see: Epstein, *The Genesis of German Conservatism.*; Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848.*; Berdahl, "Prussian Aristocracy and Conservative Ideology: A Methodological Examination."

social success: Stein seems to have been overeager to become acquainted with the latest English mechanical inventions, and was consequently suspected of being an industrial spy.<sup>596</sup>

While Stein found much to appreciate in English thought, he also found much to dislike. Stein left the university (1777) without taking exams since he, as an aristocrat, even a lowly aristocrat, did not need them for his bureaucratic career.<sup>597</sup> As modern scholarship confirms, in England, as in Prussia, the bureaucracy and officeholding associated with it remained “part of a ‘social security system’ for families of gentle rank,” a “gigantic outdoor relief department” even for incompetent members of the aristocracy.<sup>598</sup> However, the hiring and promoting of uneducated, inept, and inefficient aristocrats was not exclusively a charitable act of the crown, lending fellow nobility a hand. Rather, as we have seen, the crown was long caught between the cameralists’ emphasis on procedures and their critics’ emphasis on traditions and the will of individuals (preferably wellborn). In a society in which status distinctions implied and required the display of conspicuous inequalities in living standards, the crown took care lest aristocratic rank be debased by pecuniary want.<sup>599</sup> Keeping aristocrats’ hands on the levers of power within the

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<sup>596</sup> Stein was in Britain from January to July of 1786 (Ford, *Stein and the Era of Reform in Prussia, 1807-1815*, 61-2.; Ritter, *Stein; Eine Politische Biographie*, 44.).

<sup>597</sup> There is some disagreement amongst historians concerning the status of exams. Methodologically this question has been a hard nut to crack (given the sparsity of helpful data). For an assessment by a noted historian in line with my offered interpretation see: Ritter, *Stein; Eine Politische Biographie*, 31.

<sup>598</sup> This aggressive formulation comes from Mueller, see: Mueller, *Bureaucracy, Education, and Monopoly : Civil Service Reforms in Prussia and England*, 96, 107, 40.; However, he is not alone in this interpretation. See for example: Sieg, *Staatsdienst, Staatsdenken Und Dienstgesinnung in Brandenburg-Preussen Im 18. Jahrhundert (1713-1806) : Studien Zum Verständnis Des Absolutismus*, 146.

<sup>599</sup> Spring, *European Landed Elites in the Nineteenth Century*, 51.; Consider also William Cobbett who writes about England but whose views can also be found in the Prussian context. He writes approvingly that public office ought to serve the purpose of “upholding and cherishing those among the ancient nobility and gentry, who otherwise would fall into a state that would inevitably bring disgrace upon rank and would, thereby, leave us no aristocracy but that of wealth, ten thousand times more grinding and insolent than the lords of the worst feudal times.” (cited in: Mueller, *Bureaucracy, Education, and Monopoly : Civil Service Reforms in Prussia and England*, 97.)

bureaucracy did not merely provide them with money; it also reinforced extraprocedural decision making. The cost of this, as we have seen, was an inefficient, capricious administration. The requirement of higher education (let alone a completed degree) for all but the lowest bureaucratic positions was only introduced much later – by Stein, actually.<sup>600</sup> As he argued repeatedly, work would get done far more efficiently if bureaucrats actually took the trouble to learn about laws and regulations. He wished that “almost complete ignorance were to be taken care of through instrumental academic education and the strict application of tests for young people” eager to join the bureaucracy.<sup>601</sup> In the Prussian context, this implied training in the cameralist sciences and a commitment to procedures.

Stein, upon leaving the university and completing practical training, entered the Prussian administration and rose slowly through the ranks over the next 25 years.<sup>602</sup> Very much at odds with the customs of the time, Stein throughout his career repeatedly refused prestigious appointments for which he thought himself not sufficiently qualified. Early on, while still ingloriously administering mines, he refused diplomatic missions to Copenhagen, The Hague, and St. Petersburg. Stein was completely lacking in the knowledge, experience, and natural talent to be an effective diplomat.<sup>603</sup> More

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<sup>600</sup> “Although the career sequence of university education and in-service training became quite common during the generation preceding Prussia’s defeat in 1806, the requirement of higher education was formally introduced only in the context of the Stein-Hardenberg reforms.” (Mueller, *Bureaucracy, Education, and Monopoly : Civil Service Reforms in Prussia and England*, 126.).

<sup>601</sup> From a memoranda of Stein written for the “General-Direktorium” (8. June. 1801): “Es ergibt sich hieraus, wie sehr der Geschäftsgang wird abgekürzt werden, wenn öffentliche Beamte sich ernsthaft befehligen, die Gesetze und Vorschriften kennen zu lernen, wie sehr es zu wünschen, dass dieser fast allgemeinen Unwissenheit durch zweckmässigen akademischen Unterricht und strenge Prüfungs-Anstalten bei der Annahme junger Leute abgeholfen werde...” (Karl Stein, *Freiherr Vom Stein; Ausgewählte Politische Briefe Und Denkschriften* ([Stuttgart, Köln]: W. Kohlhammer, 1955), 43.).

<sup>602</sup> For helpful biographical accounts see: Craig, *The End of Prussia*, 10-11.; Hubatsch, *Stein-Studien : Die Preussischen Reformen Des Reichsfreiherrn Karl Vom Stein Zwischen Revolution Und Restauration*, 26-38.

<sup>603</sup> “Es fehle ihm [Stein] an allen Kenntnissen und Erfahrungen auf dem diplomatischen Felde, auch alle natürliche Begabung zum Diplomaten; er fühle sich ausserstande, den Auftrag befriedigend durchzuführen.

exceptionally, he was aware of his limitations and acted on this knowledge. He even initially refused his summons from regional assignments to the central administrative organs.<sup>604</sup> Throughout, incompetence and mindlessness annoyed him endlessly. Stein was, first and foremost, a skilled bureaucrat, concerned with efficiency above all else. As such, he was focused on the professional fulfillment of his tasks, which had more to do with efficiently mining and distributing salt and coal than with preferences for a nonprocedural bureaucracy. Early in his career and prior to the French Revolution, Stein showed no sign of sharing the concerns of the critics of the cameralist project. Instead, his career took the typical path through cameralist training and up through the administrative ranks. Along the way, Stein followed cameralist principles and a preference for efficient procedures, even if their implicit cost was the undermining of Prussia's social and political hierarchies. Meanwhile, hierarchies were dropping like guillotined heads elsewhere.

Stein, like many German intellectuals at the time, initially showed sympathy for the French Revolution. However, such sentiments turned quickly to outright hate.<sup>605</sup> While the story of the French Revolution and its immediate aftermath are generally well known, the less immediate consequences are less familiar. For my purposes here, they are mostly the story of a series of wars and occupations. Throughout the various wars in the aftermath of the French Revolution, the Prussian state had difficulty performing effectively and efficiently. Many Prussians "honestly feared at this time," with good reasons—as historians

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Eine Selbstkritik, die sicherlich einen Kern Wahrheit enthält." (Ritter, *Stein; Eine Politische Biographie*, 40-42.)

<sup>604</sup> Ibid., 40-42, 122.

<sup>605</sup> Eberhard Weis. "Preussen - Frankreich - Amerika - Revolution und Reform." In Otto Büsch, Monika Neugebauer-Wölk, and Helmut Berding, *Preussen Und Die Revolutionäre Herausforderung Seit 1789 : Ergebnisse Einer Konferenz* (Berlin ; New York: Walter de Gruyter, 1991), 17-8.; See also: "...gegen den herausfordernden Übermut der Gironde, gegen die Königsmörder, gegen das bluttriefende "Ungeheuer Robespierre", das Tier aus dem Abgrund "der Hölle gereift", schliesslich eine sehr primitive Abneigung "gegen die scheussliche Nation der Franzosen" überhaupt, die "Verderber des alten Europas." (Ritter, *Stein; Eine Politische Biographie*, 74-5.).

concur—that “the King of Prussia would fall victim to the fate of the King of Spain: that the remnant of the state would be annexed to Westphalia or Warsaw or become a satrapy governed directly from Paris.”<sup>606</sup>

It is easy and tempting to lay the blame for this weakness at the feet of the king, Friedrich Wilhelm III. Historians often characterize him as simply of “modest intellectual endowment, [...] though honorable and righteous, hopelessly irresolute in matters of state policy.”<sup>607</sup> His leadership style seemed to have been mostly of a paralyzed and paralyzing nature. The king, always jealously guarding his powers, tended to be

Narrow, pedantic, spare of words, embarrassed and suspicious in the presence of men of superior talents, keenly conscious at all times of his kingly prerogatives, obstinate rather than determined, he neither led nor willingly permitted others to lead.<sup>608</sup>

The king missed many opportunities during the prolonged diplomatic and military struggle with France, leading up to a series of disastrous decisions that almost wiped Prussia off the European map. Like others, Stein wondered at times whether that “average, inactive, cold man [Friedrich Wilhelm III]” would ever show some “talent, activity, liveliness?”<sup>609</sup> In private, Stein judged the king “hollow, dull and trivial.”<sup>610</sup>

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<sup>606</sup> Raack summarizes this situation neatly but it can easily be confirmed in countless letters from this time period, see: Raack, *The Fall of Stein*, 4..

<sup>607</sup> See for example: Ibid., 13.; For more on Friedrich Wilhelm III, see: Peter Mast, *Die Hohenzollern in Lebensbildern* (Graz ; Köln: Styria, 1988), 175-89.; For a contemporary account see: Boyen, *Denkwürdigkeiten Und Erinnerungen 1771-1813*, 352-59.

<sup>608</sup> Friedrich Wilhelm III is not treated favorably by historians and biographers. See for example: Ford, *Stein and the Era of Reform in Prussia, 1807-1815*, 79.; Craig, *The End of Prussia*, 13.

<sup>609</sup> Letter of Stein to Reden (Nassau 21. Juli 1807): “...wird ein sehr mittelmässiger, untätiger, kalter Mann in seinem 38. Jahr Talent, Tätigkeit, Lebendikeit zeigen?” (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/1, 418-19.); For a useful introduction to Friedrich Wilhelm III see: Thomas Stamm, *König in Preussens Grosser Zeit : Friedrich Wilhelm Iii., Der Melancholiker Auf Dem Thron* (Berlin: Siedler, 1992).

<sup>610</sup> As cited in: Raack, *The Fall of Stein*, 61.

However, incapable as the king might have been to lead his country in troubled times, Prussia's problems had deeper structural causes. It was not simply that this king or the king before him were far from ideal leaders, but that the majority of the population was de jure and de facto excluded from participating in administering and leading the country.<sup>611</sup> The exclusion of most nonaristocrats from the levers of state power barred talent from unfolding freely, undermined the procedural reforms of the cameralists, and began (due to unique historical forces) to undermine the legitimacy of the state. Singular, nonprocedural decision making was already under pressure from the cameralists, but the historical forces unleashed by the French Revolution would expose its weaknesses further. However, the legitimacy of the state was also—as the critics of the cameralists pointed out—increasingly hampered by a focus on means over ends that inhibited a strong reaction to foreign threats. The Prussian state, then, was beleaguered on many sides, internally and externally. Much that was bubbling below the surface was about to burst forth into plain and shocking view.

In the beginning years of the nineteenth century, Prussia was locked in a desperate struggle for survival against seemingly unstoppable French armies. Far from being anything like centralized states, Prussia and Germany were motley collections of domains vastly differing in size, development, and political leanings.<sup>612</sup> Prussia had all but lost in the

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<sup>611</sup> Letter of Stein to Reden (Nassau 3. Juli 1807): Stein ascribes to the King's father (Friedrich Wilhelm II.) „Egoismus und Weichlichkeit” „Kurzsichtigkeit” (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/1, 403-5.); For another assessment by a future revolutionary, see: Honoré-Gabriel de Riquetti Mirabeau, *Memoirs of the Courts of Berlin and St. Petersburg*, *Memoirs of the Courts of Europe* ; V.5 (New York: P. F. Collier & Son, 1910), 51-56, 135-41, 272-3. It was Mirabeau who is customarily credited with coining the famous saying that: “The Prussian Monarchy is not a country that has an army, but an army that has a country, in which, as it were, it is just billeted.” For more on Mirabeau's time in Prussia see: Hagen Schulze, "The Prussian Military State, 1763-1806," in *The Rise of Prussia : Rethinking Prussian History, 1700-1830*, ed. Philip Dwyer (New York: Longman, 2000), 201-2.

<sup>612</sup> The formulation “Germany” frequently obscures this point, and most modern readers simply cannot image how “Germany” could be so fragmented and politically heterogeneous to the point of near incoherence.

convoluted and treacherous game of Napoleonic diplomacy amongst the various German states. Not much stood between Napoleon and an isolated Prussia in the fall of 1806 after numerous wars that pitted a varying cast of German domains against one another; the temporary occupation of Vienna in 1805; and the abolition of the Holy Roman Empire.<sup>613</sup> Friedrich Wilhelm III had made at this most inexpedient time the fatal decision to wage war against Napoleon. Shortly afterwards, French armies routed the Prussian army soundly and notoriously at Jena and Auerstedt (October 14, 1806).<sup>614</sup> As the later general and military reformer Gerhard von Scharnhorst put it a month after this defeat in a private letter to a friend: “lack of resolve on the part of the leaders, the ignorance of our generals and

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For helpful introductions see: Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 11, 29.; Schulze, "The Prussian Military State, 1763-1806," 203-06.; Simon, "Variations in Nationalism During the Great Reform Period in Prussia," 307.; Dwyer, *The Rise of Prussia : Rethinking Prussian History, 1700-1830*, 4-5.; Gothelf, "Frederick William I and the Beginnings of Prussian Absolutism, 1713-1740," 51-3.; H.M. Scott, "Prussia's Emergence as a European Great Power, 1740-1763," in *The Rise of Prussia : Rethinking Prussian History, 1700-1830*, ed. Philip Dwyer (New York: Longman, 2000), 155.

<sup>613</sup> For useful summaries see: Levinger, *Enlightened Nationalism : The Transformation of Prussian Political Culture, 1806-1848*, 42-4.; Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen Staatsabsolutismus*, 32-4.; Simon, "Prince Hardenberg," 92-4.

<sup>614</sup> At least in part due to blurred organizational authority and the lack “of a simplified and rational command structure” akin to the French model: Neil M. Heyman, "France against Prussia: The Jena Campaign of 1806," *Military Affairs* 30, no. 4 (Winter 1966).; Just what happened at these battles and, most importantly, why has been subject to fierce debates since the day after the battle. For a fairly representative cross-section of opinions from now and then see: Gerhard von Scharnhorst, "Vergleich Der Ehemaligen Geschäftsführung Der Militärischen Oberbehörden Mit Der Jetzigen," in *Stimmen Aus Der Zeit Der Erniedrigung*, ed. Rudolf Vaupel (München: Drei Masken, 1923), 194-206.; Peter Paret, *Yorck and the Era of the Prussian Reform, 1807-1815* (Princeton, N.J.: Princeton University Press, 1966), 111-17.; Schulze, "The Prussian Military State, 1763-1806," 217.; Gerd Fesser and Reinhard Jonscher, *Umbruch Im Schatten Napoleons : Die Schlachten Von Jena Und Auerstedt Und Ihre Folgen*, Jenaer Studien (Jena: Bussert, 1998).; Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 190-1.; Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen Staatsabsolutismus*, 34.; Dwyer, *The Rise of Prussia : Rethinking Prussian History, 1700-1830*, 2-3.; Boyen, *Denkwürdigkeiten Und Erinnerungen 1771-1813*, 136-69, 366.; Mast, *Die Hohenzollern in Lebensbildern*, 177-9.; Michael V. Leggiere, *Napoleon and Berlin : The Franco-Prussian War in North Germany, 1813* (Norman: University of Oklahoma Press, 2002), 1-18.; Gerhard Johann David von Scharnhorst et al., *Private Und Dienstliche Schriften, Veröffentlichungen Aus Den Archiven Preussischer Kulturbesitz* ; (Köln: Böhlau Verlag, 2002), 363-5, 95-97, 99-403, 512-17.; Kadel, Preis, and Institut marksizma-leninizma (Moscow Russia), *Marx and Engels on Reactionary Prussianism*, 19-20.

commanders, and the poor organization of our army pushed us into this misfortune.”<sup>615</sup>  
What remained of Prussia’s once revered army fled eastwards.<sup>616</sup>

Famously, Hegel could see the advancing world spirit of history gallop past him on a horse in pursuit of the Prussian army that was fleeing towards the Russian border.<sup>617</sup> Berlin was captured by French troops shortly afterwards. The day before Napoleon entered Berlin in triumph, a theater in Berlin staged *Iphigenia in Tauris*. The chief surgeon of the French army, Pierre Francois Percy, remarked without irony that the play was well received. Iphigenia’s character, a figure that illustrates the heinous sacrifices war demands, was staged with “decorations,” that were, in Percy’s estimation, “at least as good as ours.”<sup>618</sup> Meanwhile, the Prussian king retreated from Berlin first to Königsberg and then further eastwards to the pitifully insignificant remnants of his domain, not far from the city of Tilsit.<sup>619</sup> Friedrich Wilhelm III was now only in command of a few square miles at the northeasternmost tip of his once considerable domain. A mere six months after the battles of Jena and Auerstedt the Prussian king was fortunate to retain his title and domain. He gladly signed the harsh peace treaty of Tilsit (July 1807).<sup>620</sup> The Prussians had discovered that conscripted subjects led by ill-prepared nobles were no match for French citizens.<sup>621</sup>

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<sup>615</sup> “Die Unentschlossenheit unser Anführer, die Unwissenheit unser Generale und Comandeure und die schlechte Organisation unser Armee hat uns ins Unglück gestürzt.“ (In a letter to Decken, Nov, 13th, 1806 as cited in: Scharnhorst et al., *Private Und Dienstliche Schriften*, 396.

<sup>616</sup> For numerous contemporary accounts of the escape eastwards towards Tilsit see: Schulze, *Die Franzosenzeit in Deutschen Landen 1806-1815, in Wort Und Bild Der Mitlebenden*, 105-39.

<sup>617</sup> Letter from Hegel to Niethammer, Jena, 13 October, 1806.

<sup>618</sup> Klessmann, *Deutschland Unter Napoleon in Augenzeugenberichten*, 171-3.; *Iphigenia* seemed to have been popular with German audiences that month as other productions attest (Goethe, Rochlitz, and Biedermann, *Briefwechsel Mit Friedrich Rochlitz. Herausgeber: Woldemar Freiherr Von Biedermann*, 45-7, 49-50.)

<sup>619</sup> Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 44.; Mast, *Die Hohenzollern in Lebensbildern*, 178-80.; Büsch, Neugebauer, and Historische Kommission zu Berlin., *Handbuch Der Preussischen Geschichte*, 18.

<sup>620</sup> For an extensive account of the events between the French Revolution and Prussia’s defeat see: Kittstein, *Politik Im Zeitalter Der Revolution : Untersuchungen Zur Preussischen Staatlichkeit, 1792-*

## (ii) Jena and the Lack of Procedures

To borrow Thomas Paine's pun, Prussia's nobility was best characterized by their no-ability. However, this claim is slightly misleading, as the nobility had an abundance of skills and abilities that the rest of the population could not hope to match. In fact, the education of the typical noble was geared precisely to that effect. Aristocratic education in Prussia was oriented meticulously "to the *métier des gens d'honneur*," notably dancing, riding, and fencing. The subjects of the grammar schools and most of the subjects taught at the universities were peripheral to their education. Not surprisingly, the nobles furnished few capable administrators. As the respected Prussian minister Ludwig Philipp von Hagen remarked prior to Stein's reforms, most administrators had simply not received a serious education in their youth, studied the laws and regulations of their field, or even learned the proper use of the pen.<sup>622</sup> Gerhard von Scharnhorst, later the head of the Prussian army, had hardly learned to read, write, or reckon in his youth.<sup>623</sup> Gebhard Leberecht von Blücher, who led the Prussian army into Paris in 1815 and had a considerable role in the battle of

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1807.; Philip Dwyer, "Prussia During the French Revolutionary and Napoleonic Wars, 1786-1815," in *The Rise of Prussia : Rethinking Prussian History, 1700-1830*, ed. Philip Dwyer (New York: Longman, 2000).

<sup>621</sup> Ritter, *Stein; Eine Politische Biographie*, 78.; Julius H. Schoeps and Bildarchiv Preussischer Kulturbesitz., *Preussen : Geschichte Eines Mythos*, 2., erw. Aufl. ed. (Berlin, Brandenburg: Be.bra, 2001), 91-2.; Leggiere, *Napoleon and Berlin : The Franco-Prussian War in North Germany, 1813*, 10-17.; For an account of the fear instilled by the newly constituted French troops amongst the Prussian leadership see: Kittstein, *Politik Im Zeitalter Der Revolution : Untersuchungen Zur Preussischen Staatlichkeit, 1792-1807*, 45-64.; Klessmann, *Deutschland Unter Napoleon in Augenzeugenberichten*, 67-70.; Schulze, "The Prussian Military State, 1763-1806," 211-19.; Mast, *Die Hohenzollern in Lebensbildern*, 178-80.; For a range of perspectives see: Deborah Avant, "From Mercenary to Citizen Armies: Explaining Change in the Practice of War," *International Organization* 54, no. 1 (Winter, 2000): 47-8, 55-56, 59-61.

<sup>622</sup> A.B.B. – XV, 119.; Consider also: Karl Ernst Jeismann, *Das Preussische Gymnasium in Staat Und Gesellschaft*, Vollständig überarbeitete Aufl. ed., 2 vols. (Stuttgart: Klett-Cotta, 1996).

<sup>623</sup> Schulze, "The Prussian Military State, 1763-1806," 215-6.

Waterloo, was renowned for his valiant struggles with Napoleon and with the German language.<sup>624</sup> In short, the militarization of Prussian life had done little to encourage nobles towards higher learning, which was derided as being merely bourgeois. Hermann von Boyen, a highly decorated and respected Prussian general (later field marshal and Minister of War) remarked curtly that “it is not good to have a lot of educated generals [...] the commander of the advanced guard, and perhaps one other, that is enough; the others are there to take the bait otherwise there are cabals.”<sup>625</sup> In the words of Hans Rosenberg, “To obtain an academic degree was such a rare occurrence that it almost implied conduct unbecoming a nobleman.”<sup>626</sup> Instead, the children of nobles systematically favored a military education that was consciously segregated from non-aristocratic places of learning.<sup>627</sup> Many of the graduates of the military cadet schools were, literally, illiterates.<sup>628</sup> In the minds of many, a military-aristocratic ethos shunned the learned adherence to procedures of the cameralists and favored instead proud, willful, inherently idiosyncratic decision making. As a result, such highly status-conscious training turned out legions of inept administrators and officers who presided over conscripted armies that were no match for their far better organized and superiorly led French opponents.<sup>629</sup> As various

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<sup>624</sup> Gebhard Leberecht von Blücher, F. von Colomb, and Wolfgang von Unger, *Blüchers Briefe* (Stuttgart: J. Cotta'sche Buchhandlung, 1913).

<sup>625</sup> Cited in: Schulze, "The Prussian Military State, 1763-1806," 215.; See also: Boyen, *Denkwürdigkeiten Und Erinnerungen 1771-1813*.

<sup>626</sup> Rosenberg, *Bureaucracy, Aristocracy, and Autocracy : The Prussian Experience, 1660-1815*, 58.; See also Spring, *European Landed Elites in the Nineteenth Century.*; Schulze, "The Prussian Military State, 1763-1806," 214-16.

<sup>627</sup> For a helpful account of educational institutions at the time and the thinking behind various curriculums see: Mueller, *Bureaucracy, Education, and Monopoly : Civil Service Reforms in Prussia and England*, 53.

<sup>628</sup> See for example: Rosenberg, *Bureaucracy, Aristocracy, and Autocracy : The Prussian Experience, 1660-1815*, 144-5, footnote 8.

<sup>629</sup> Heyman, "France against Prussia: The Jena Campaign of 1806."; See also: Sieg, *Staatsdienst, Staatsdenken Und Dienstgesinnung in Brandenburg-Preussen Im 18. Jahrhundert (1713-1806) : Studien Zum Verständnis Des Absolutismus*, 117, 36.; Kittstein, *Politik Im Zeitalter Der Revolution : Untersuchungen Zur Preussischen Staatlichkeit, 1792-1807*, 45-64.

contemporary pamphlets argued persuasively, divided and inept leadership drove the army to the catastrophes of Jena and Auerstedt that marked the conquest of Prussia.<sup>630</sup>

More damning still, “timid and unprepared” aristocratic officers had cravenly surrendered various key fortresses that were believed (and historians agree) to be easily defensible.<sup>631</sup> The young Friedrich Ludwig von Wachholtz, later a general of some importance, remained, like many, in shock and disbelief for days over the acts of his commanding officers.<sup>632</sup> Stein called the behavior of the army and the commanders of such fortresses “disgraceful” and named them solemnly one by one in his letters.<sup>633</sup> Embarrassingly, many of these names belonged to famous dynasties that laid claim to having shaped Prussia’s history for generations.<sup>634</sup> Similarly, many renowned nobles behaved disgracefully during the events of 1806 when they quickly and willingly swore oaths of allegiance to Napoleon after his occupation of Berlin.<sup>635</sup> Consider, for example, the case of Schulenburg-Kehnert who had collected the largest number of high-ranking

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<sup>630</sup> Anonyme Flugschrift. “Deutschland in seiner tiefen Erniedrigung” as well as another anonymous pamphlet titled “Betrachtungen über die Ursachen für den derzeitigen Zustand politischer Ohnmacht Deutschlands.” (both to be found in: Hans-Bernd Spies, *Die Erhebung Gegen Napoleon : 1806-1814/15*, Quellen Zum Politischen Denken Der Deutschen Im 19. Und 20. Jahrhundert ; (Darmstadt: Wissenschaftliche Buchgesellschaft, 1981).; Craig, *The End of Prussia*, 12.; For numerous contemporary accounts of the confusion surrounding the planning and execution at Jena see: Schulze, *Die Franzosenzeit in Deutschen Landen 1806-1815*, in *Wort Und Bild Der Mitlebenden*, 29-61.

<sup>631</sup> Friedrich von Cölln, “Fehlerhaftes Betragen Der Preussischen Festungskommandanten, Während Der Grossen Kriegsereignisse Im Jahr 1806,” in *Neue Feuerbrände* (Amsterdam ; Cölln: P. Hammer, 1807).; Ford, *Stein and the Era of Reform in Prussia, 1807-1815*, 259.; Gray, “Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808,” 44.; Schulze, “The Prussian Military State, 1763-1806,” 217.; Anderson, *Nationalism and the Cultural Crisis in Prussia, 1806-1815*, 207.; Mast, *Die Hohenzollern in Lebensbildern*, 178.; Münchow-Pohl, *Zwischen Reform Und Krieg : Untersuchungen Zur Bewusstseinslage in Preussen 1809-1812*, 38-39.; Scharnhorst et al., *Private Und Dienstliche Schriften*, 397.

<sup>632</sup> Friedrich Ludwig von Wachholtz, “Tagebuch,” in *Die Franzosenzeit in Deutschen Landen 1806-1815*, in *Wort Und Bild Der Mitlebenden*, ed. Friedrich Schulze (Leipzig; R. Voigtländer, 1908), 99-100.

<sup>633</sup> See for example two letters of Stein to Reden (5. April; 3. July 1807, both cited in: Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/1, 364, 403-5.)

<sup>634</sup> Görlitz, *Die Junker: Adel Und Bauer Im Deutschen Osten; Geschichtliche Bilanz Von 7 Jahrhunderten*, 167.

<sup>635</sup> Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*, 107.; Münchow-Pohl, *Zwischen Reform Und Krieg : Untersuchungen Zur Bewusstseinslage in Preussen 1809-1812*, 42-3.

offices and sinecures ever held by a Prussian administrator, in addition to rising to the rank of full general of the cavalry. Clumsy and ineffective, he abandoned Prussia after its defeat at Jena and sought employment in the service of Napoleon's brother.<sup>636</sup> Friedrich Wilhelm III complained bitterly:

[As king I] singled out [such people], gave them posts, attached them to my person, gave them honors, decorations, and land. . . . When all went well they seemed able to do anything and everything, [but] in misfortune they were exposed and [they] disloyally deserted.<sup>637</sup>

The inability of the Prussian aristocracy to fight honorably and effectively with troops drilled and led in antiquated fashion points to an issue of significance that surpasses mere military necessity.<sup>638</sup> The aristocratic claim to preferred treatment in the army and the administration was largely based on their nonprocedural, willful, proverbial military ethos that now turned out to be hollow. As Stein wrote:

The nobility of Prussia is bothersome for the nation, because it is numerous, mostly poor and demanding of salaries, positions, privileges and amenities of all sorts. One consequence of its poverty is a lack of education, and the necessity to be raised in incompletely equipped cadet schools, incapacity [to execute the functions of] the higher positions [...]. This great number of half-educated individuals exercises their presumptuousness at the cost of their fellow citizens in a double capacity: as aristocrats and bureaucrats.<sup>639</sup>

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<sup>636</sup> Sieg, *Staatsdienst, Staatsdenken Und Dienstgesinnung in Brandenburg-Preussen Im 18. Jahrhundert (1713-1806) : Studien Zum Verständnis Des Absolutismus*, 81-2.; Rosenberg, *Bureaucracy, Aristocracy, and Autocracy : The Prussian Experience, 1660-1815*, 164-5. Notice however that the reformer's were not immune from similar temptations: Craig, *The End of Prussia*, 14-15.

<sup>637</sup> Cited in: Brose, *The Politics of Technological Change in Prussia : Out of the Shadow of Antiquity, 1809-1848*, 29.

<sup>638</sup> "Nun erwies sich aber im Kampf mit den französischen Revolutionsheeren die Unfähigkeit der monarchischen Regierungen des alten Europa und ihrer altmodisch gedrillten und geführten Soldtruppen, mit dem Massenaufgeboten und dem wilden Draufgängertum der Revolutionsheere fertig zu werden." (Ritter, *Stein; Eine Politische Biographie*, 78.)

<sup>639</sup> "Der Adel im Preussischen ist der Nation lästig, weil er zahlreich, grösstenteils arm und anspruchsvoll auf Gehälter, Ämter, Privilegien und Vorzüge jeder Art ist. Eine Folge seiner Armut ist Mangel an Bildung, Notwendigkeit in unvollkommen eingerichteten Cadettenhäusern erzogen zu werden, Unfähigkeit zu den oberen Stellen, wozu man durch Dienstalter gelangt, oder Drängen des Brods halber nach niedrigen geringfügigen Stellen. Diese grosse Zahl halbgebildeter Menschen übt seine Anmassungen zu grossen Last

In the words of the commentator, diplomat, and later military officer Varnhagen von Ense, the “once praised names” of the Prussian aristocratic dynasties were now met with “contempt that was fueled by hate” and that gave rise to “accusations of treason.”<sup>640</sup> Thus the consequences of the French Revolution and the series of resulting wars exposed in the minds of many a vulnerability in the claims of the aristocracy to dominate society and governmental posts. The task ahead for members of the Prussian government struggling to survive was, then, to resolve the deep-rooted dilemmas facing the languishing nation.<sup>641</sup> Combined with new conceptual theories, the failures of the Old Prussian order provided room for significant reforms.<sup>642</sup> In the words of one pamphleteer in 1808, there were good chances for meaningful social changes, since

the old forms are partially completely dissolved, partially riddled with so many holes that significant changes become necessary. Thus most hindrances fall away by themselves which otherwise might paralyze the careful steps of the well-intentioned regent towards improvements. Now he has free play for his effectiveness.”<sup>643</sup>

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seiner Mitbürger in ihrer doppelten Eigenschaft als Edelleute und Beamte aus.” (Stein, “Beurteilung des Rehdiger’schen Entwurfs,” Königsberg, 8 Sept 1808 – cited in: Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, 852-6. (no.813). See also: Ritter, *Stein; Eine Politische Biographie*, 285.; Gray, “Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808,” 115.)

<sup>640</sup> Münchow-Pohl, *Zwischen Reform Und Krieg : Untersuchungen Zur Bewusstseinslage in Preussen 1809-1812*, 41.

<sup>641</sup> For a quick summary see: Raack, *The Fall of Stein*, vii.

<sup>642</sup> “German idealism and neohumanism in the decades around the turn of the eighteenth century ushered in a sort of cultural revolution giving the educated middle class a more independent social consciousness. It offered not only a political theory legitimating the rule of enlightened bureaucratic professionals but also a new standard for judging a man’s worth. The doctrines of German idealism, particularly the concept of *Bildung*, strengthened the defiant attitude of middle-class intellectuals to noble rank, and it moved some men even to reverse traditional notions of aristocratic superiority and bourgeois humility. Educated burghers who were attracted to this ideology even thought of themselves as the true aristocrats of a new enlightened age. There was an aristocracy of cultivation and personal refinement. [...] This new ideology penetrated the bureaucratic ranks in the last decades of the eighteenth century, enhancing the crisis of the aristocracy which had been brewing ever since talented commoners might be placed above aristocrats of old lineage in the chain of command.” (Mueller, *Bureaucracy, Education, and Monopoly : Civil Service Reforms in Prussia and England*, 228-9.)

<sup>643</sup> “Die alten Formen sind theils ganz aufgelöset, theils so durchlöchert, dass wesentliche Veränderungen nothwendig werden. So fallen die meisten Hindernisse von selbst weg, die sonst des wohlwollenden,

In short, the miserable performance of the nobility during the wars following the French Revolution furnished the unlikely historical contingencies that gave reformers like Stein the opportunity to lay the conceptual groundwork for later reforms.<sup>644</sup> The extraprocedural decision making that many aristocrats favored did not seem to work. Its failure opened the door to alternative proposals. Thus the moment of Prussia's conquest is also the moment when Stein and reformers like him reimagined the procedural administration of the state and its relation to the citizenry. For example, a close associate of Stein, finance councilor Theodor von Schön, argued:

It must all be for the best. The French advances are at least weakening aristocratic judicial prerogative, compulsory servitude, the nobility, [and] limitations in the use of private property. The foundation is being laid for the overthrow of [these institutions].<sup>645</sup>

Even the conservative theologian Schleiermacher wrote one month after Jena and Auerstedt that “everything political that has existed until now was, by and large, an indefensible thing, an empty chimera. This chimera must now disappear, and only on its ruins can truth arise.”<sup>646</sup>

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sorgsamem Regenten Schritte zum Besseren lähmen. Jetzt hat er freien Spielraum für seine Wirksamkeit.” (Flugschrift: Christian Ulrich Detlev Freiherr von Eggers. “Deutschlands Erwartungen vom Rheinischen Bunde.” (Braunschweig, 1808). Found in: Spies, *Die Erhebung Gegen Napoleon : 1806-1814/15.*) See also: Simon, “Variations in Nationalism During the Great Reform Period in Prussia.”

<sup>644</sup> This interpretation is widely shared amongst historians of the period. See for example: Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen Staatsabsolutismus*, 58.; Münchow-Pohl, *Zwischen Reform Und Krieg : Untersuchungen Zur Bewusstseinslage in Preussen 1809-1812*, 64-65, 285.; Karen Hagemann, *Männlicher Muth Und Teutsche Ehre : Nation, Militär Und Geschlecht Zur Zeit Der Antinapoleonischen Kriege Preussens* (Paderborn: F. Schöningh, 2002), 28-30.

<sup>645</sup> Schön to Altenstein, Königsberg, 13 Mar. 1807. Cited in: Gray, “Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808,” 46.

<sup>646</sup> Schleiermacher in a letter to Reimer (Halle, 30 Nov. 1806): “Alles Politische, was bis jetzt bestand, war, im grossen und ganzen gesehen, ein unhaltbares Ding, ein leerer Schein []. Dieser Schein muss verschwinden und nur auf seinen Trümmern kann die Wahrheit sich erheben.” (Quoted in: Münchow-Pohl, *Zwischen Reform Und Krieg : Untersuchungen Zur Bewusstseinslage in Preussen 1809-1812*, 63.)

Starting from the historical and conceptual constraints of the time, a range of reformers began to articulate a novel understanding of the state's administrative organs. While largely faithful to the vision of their cameralist teachers, these reformers *also* take into account the critics we encountered in section 2. Under the informal and formal leadership of Stein, reformers like Theodor von Schön, Karl Sigmund Altenstein,<sup>647</sup> and Karl Nikolaus von Rehdiger sought to incorporate the concerns of these critics within an administration that remained beholden to procedural principles. Their project did not begin well.

## ***9. The Nassauer Denkschrift***

On the 3<sup>rd</sup> of January 1807, a mere two months after the battles of Jena and Auerstedt, Heinrich Friedrich Karl Reichsfreiherr vom und zum Stein received his formal discharge from the royal Prussian administration. The discharge of a minister was usually of no special importance. However, Stein's dismissal is notable for two reasons. First, it marked a significant low point for the reformers of the ailing Prussian state. Second, Stein was not discharged simply for incompetence, as was common, but for resisting the king's ill-advised commands. King Friedrich Wilhelm III dismissed Stein personally, in neat and pleasing handwriting but an unusually blunt tone, for being "an intractable, defiant,

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<sup>647</sup> Altenstein "didn't just work [with Stein] on the administrative reforms, but actually determined key elements" (Ritter, *Stein; Eine Politische Biographie*, 238.)

inveterate, and disobedient servant of the state.”<sup>648</sup> Driven by “personal hate and animosity,”<sup>649</sup> he allegedly flaunted his “genius and talent”<sup>650</sup> rather than being attentive to the will of the crown.<sup>651</sup> The king’s charge is not terribly persuasive, as he himself had offered Stein, just a couple of days previously, the prestigious ministry of foreign affairs. Stein had refused the appointment. In his characteristic tone, lacking all diplomatic skill and attention to the intricate refinements of aristocratic letter writing, Stein remarked that he simply, and evidently, was not sufficiently qualified for the position.<sup>652</sup> Historians have since taken this episode as an early and important assertion of the bureaucracies’ increased deference to rationalized procedures vis-à-vis obedience to the crown’s direct will.

Stein’s loyalty, however, was never seriously in doubt. He had distinguished himself throughout his career as a loyal, attentive, and conscientious civil servant. For example, Stein helped on a most practical level to keep the Prussian state functioning at a crucial juncture in its demise by evacuating hard cash out of the reach of the rapidly advancing French armies.<sup>653</sup> However, Stein’s professionalism and commitment to efficiency through procedures continued to bother the king. Stein advanced these goals by advocating for sweeping administrative and social reforms that might save Prussia. However, many wondered whether such reforms were precisely the wrong path for Prussia

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<sup>648</sup> “ein widerspenstiger, trotziger, harnäckiger und ungehorsamer Staatsdiener.”

<sup>649</sup> “Leidenschaft” and “persönlichem Hass und Erbitterung”

<sup>650</sup> “Genie und sein Talent”

<sup>651</sup> For various accounts of this episode and a range of interpretations see: Georg Holmsten, *Freiherr Vom Stein in Selbstzeugnissen Und Bilddokumenten*, [1.-13. Tsd.]. ed., Rowohlts Monographien ; (Reinbek (bei Hamburg): Rowohlt, 1975), 51.; See also: Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.I, 329-31.; Rosenberg, *Bureaucracy, Aristocracy, and Autocracy : The Prussian Experience, 1660-1815*, 199.; Hintze and Oestreich, *Regierung Und Verwaltung. Gesammelte Abhandlungen Zur Staats-, Rechts- Und Sozialgeschichte Preussens*, 537-41.; Craig, *The End of Prussia*, 16-7.

<sup>652</sup> As recounted in: Raack, *The Fall of Stein*, 61.

<sup>653</sup> “...gelang es Stein, durch rechtzeitige Fluchtung der Kassen für die Fortsetzung des Krieges die finanziellen Mittle zu sichern.” (Ritter, *Stein; Eine Politische Biographie*, 165.; see also: Ford, *Stein and the Era of Reform in Prussia, 1807-1815*, 112.); Craig, *The End of Prussia*, 16.; Hubatsch, *Stein-Studien : Die Preussischen Reformen Des Reichsfreiherrn Karl Vom Stein Zwischen Revolution Und Restauration*, 39.

to take. After all, popular history, folklore, and legend saw Prussia as one small but growing state, constantly surrounded by mighty foreign powers, only held together by a strong military ethos and a tight social fabric. Perhaps Prussia's problems were not lagging and long-neglected reforms, but rather their proponents – like Stein – who tried to introduce foreign, fashionable ideas and thus unsettle tried and true institutions. Whatever the cause, something had gone awry in Prussia, and not following the king's wishes in this heated atmosphere, however pragmatic the reasons, was a move that simply spelled political suicide.<sup>654</sup> After Stein's dismissal, he traveled back west through the largely occupied German territories to his ancestral home in Nassau.<sup>655</sup> Even the staunchly conservative Friedrich von Marwitz lamented that:

The last pillar of the state in civil affairs, the minister Stein, received his discharge. – I ride away with a heavy heart; I see no rescue for the state in sight and no opportunity for me, to be helpful to the state.<sup>656</sup>

Just one year later the same Friedrich von Marwitz declared Stein a “Jacobin,” one “infected by the ideals of the French Revolution, an enemy of the nobility and the aristocracy.”<sup>657</sup> Many others agreed.<sup>658</sup> What happened between 1807 and 1808 that changed Marwitz's view of Stein so radically?

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<sup>654</sup> Ritter summarizes the conditions surrounding Stein's refusal succinctly, see: Ritter, *Stein; Eine Politische Biographie*, 175-8.

<sup>655</sup> Letter from Stein to Reden (Nassau 5. April 1807). (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/1, 363.)

<sup>656</sup> “Die letzte Stütze des Staates im Zivilfach, der Minister Stein, erhielt seinen Abschied. - Ich reite mit schwerem Herzen ab, ich sah keine Rettung für den Staat und keine Aussicht für mich, ihm nützlich werden zu können.“ (Ibid., 329f.); See also: Craig, *The End of Prussia*, 17.

<sup>657</sup> “...von den Idealen der Französischen Revolution angesteckter [...] Fürsten- und Aristokratenfeind” (Holmsten, *Freiherr Vom Stein in Selbstzeugnissen Und Bilddokumenten*, 68.)

<sup>658</sup> See for example: Görlitz, *Die Junker: Adel Und Bauer Im Deutschen Osten; Geschichtliche Bilanz Von 7 Jahrhunderten*, 187.); Simon, “Variations in Nationalism During the Great Reform Period in Prussia,” 305.; Münchow-Pohl, *Zwischen Reform Und Krieg : Untersuchungen Zur Bewusstseinslage in Preussen 1809-1812*, 87.

Temporarily out of work, Stein spent his time codifying his thoughts and propagating the principles of his proposed reforms. At its core, Stein's thought is marked by a desire to reinvigorate the ailing Prussian state. He advocated for streamlined administrative structures, reduced redundancies, and the involvement of a wide range of individuals from multiple orders in the decision-making process. Stein's proposals touched upon seemingly separate pillars of the establishment that were, however, deeply interconnected in Stein's mind. Like his cameralist teachers, Stein is beholden to a procedural administration of the state, but like many critics of the cameralist program, Stein also, and perhaps paradoxically, is distrustful of a purely procedural state. He attempts a synthesis of seemingly opposed positions.

To do so, his reforms aim at a wide range of targets: Peasants would no longer have to ask for the permission of their lords to marry; bureaucrats would be evaluated and rise in rank irrespective of their birth order or aristocratic titles; impoverished aristocrats could work in bourgeois professions; citizens were to be incorporated into the local administration; the cabinet was to be streamlined and rationalized; the army reorganized; land-ownership liberalized; the education system separated from religious affairs; the lower administration reshaped radically... the list goes on and on. The reduction of legal barriers between different orders—deeply ingrained in the reforms—was hailed by some as ushering in an age of new freedoms, while others feared the destruction of social and legal boundaries as an invitation to disaster and anarchy. People such as Marwitz or Wartenburg saw Stein's reform package as misguidedly emulating the dangerous French model, while others saw Stein's plans as the best answer to Prussia's deep-rooted weaknesses.<sup>659</sup> Central

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<sup>659</sup> This debate is old indeed and is periodically revived. See for example: Münchow-Pohl, *Zwischen Reform Und Krieg : Untersuchungen Zur Bewusstseinslage in Preussen 1809-1812*, 285.

to this perceived weakness was an increasingly felt legitimacy deficit that hampered the support of the people for the Prussian state. Stein's proposed reforms were aiming at precisely this predicament. They sought to make the Prussian state more capable of meeting threats by fundamentally reimagining the administrative machinery of the state to render it more legitimate in the eyes of its citizenry.

Befitting the proposed conceptual reforms, Stein's writings are not abstract treatises detached from pressing earthly concerns. Instead, Stein's thought is necessarily bound to the tasks at hand. As such, Stein's writings appear "entirely unsystematic, fragmented," and they "developed gradually out of a sober evaluation of practicability and efficiency." They are always and necessarily intertwined with "questions about organizing the organs of the state, which form the backbone of [Stein's] comments and which shape [his] idiosyncratic political ethos."<sup>60</sup> It is thus no surprise that Stein's writings are distributed among thousands of letters, memoranda, and even comments scribbled on the margins of books for historians to collect and publish in increasingly lengthy anthologies.

Stein was even approached by Johann Friedrich von Cotta, the prestigious editor of the works of Goethe and Schiller, to pen a book that summarized and explained his principles.<sup>61</sup> Stein refused, and consequently, researchers have no single work that encapsulates Stein's principles and ideas. The closest we come to such a convenience is a short but rich, highly influential memorandum by Stein called the Nassauer Denkschrift [Nassau memorandum], written between his first dismissal and the attempted

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<sup>60</sup> Stein's writings are not guided by a "beherrschender Gesichtspunkt [...] sondern ganz unsystematisch, stückweise und allmählich aus der Erörterung nüchtern praktischer Zweckmässigkeitsfragen entwickelt. Und zwar sind es Fragen der Behördenorganisation, die das Rückgrat der Erörterungen bilden und an denen sich das eigenartige politische Ethos unserer Denkschrift entzündet." (Ritter, *Stein; Eine Politische Biographie*, 182.) See also: Berdahl, *The Politics of the Prussian Nobility: The Development of a Conservative Ideology, 1770-1848*, 110.

<sup>61</sup> Holmsten, *Freiherr Vom Stein in Selbstzeugnissen Und Bilddokumenten*, 120.

implementations of his reforms.<sup>662</sup> It is, in the words of one influential historian, the “outwardly most voluminous, most famous, and biographically most important of Stein’s political avowals”<sup>663</sup> – the “most faithful mirror image of Stein’s reform ideas for Prussia” in existence.<sup>664</sup> Furthermore, the Nassau memorandum largely overlaps with the actual reforms implemented in 1807/8.<sup>665</sup> I will briefly discuss the three main constitutive elements of Stein’s reform program (as reflected in the memorandum as well as in the reforms later on)—administrative reforms, liberation of peasants, and organization of cities—before turning to the larger implications of the reforms in the next chapter.<sup>666</sup>

### (i) Taking Apart the Machine

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<sup>662</sup> Its full title is somewhat unwieldy: “Über die zweckmässige Bildung der obersten und der Provinzial-, Finanz- und Polizeibehörden in der preussischen Monarchie.” It can be found in its entirety, most widely accessible, in: Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, 380-403. Vol.II/1. Nassauer Denkschrift – Nassau, im Juni 1807.; For some background on the origins of the manifesto see: Gray, “Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808,” 66.; Marion W. Gray, “Government by Property Owners: Prussian Plans for Constitutional Reform on the County, Provincial, and National Levels in 1808,” *The Journal of Modern History* 48, no. 1 (Mar., 1976): 74.; Craig, *The End of Prussia*, 17-18.; Hubatsch, *Stein-Studien : Die Preussischen Reformen Des Reichsfreiherrn Karl Vom Stein Zwischen Revolution Und Restauration*, 40-1.

<sup>663</sup> “...das äusserlich umfangreichste, berühmteste und biographisch wichtigste seiner politischen Bekenntnisse überhaupt.” (Ritter, *Stein; Eine Politische Biographie*, 181.)

<sup>664</sup> “Sie [die Nassauer Denkschrift] ist das getreueste Spiegelbild der Steinschen Reformideen für Preussen, das wir überhaupt besitzen.” (Ibid., 182.)

<sup>665</sup> Ibid., 241.; Consider also: Ilja Mieck, “Zielsetzung Und Ertrag Der Preussischen Reformen,” in *Preussen, Versuch Einer Bilanz : Beiträge Zu Einer Politischen Kultur*, ed. Manfred Schlenke (Reinbek bei Hamburg: Rowohlt, 1981).

<sup>666</sup> “Bauernbefreiung, Verwaltungsreform, Städteordnung,” (Holmsten, *Freiherr Vom Stein in Selbstzeugnissen Und Bilddokumenten*, 64.). For useful accounts of these themes see: Ritter, *Stein; Eine Politische Biographie*, 214. For more on reforms pertaining to the “Städteordnung” see: Gray, “Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808,” 104-9.; For Stein’s attack on guilds see, for example: Craig, *The End of Prussia*, 13.; Gothelf, “Frederick William I and the Beginnings of Prussian Absolutism, 1713-1740,” 54.; Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*, 124-5.; Frank Schuurmans, “Economic Liberalization, Honour, and Perfectibility: Karl Sigmund Altenstein and the Spiritualization of Liberalism,” *German History* 16 (1998): 178-9.

The first thing to notice about the Nassau memorandum is that it is not about military affairs, as one might expect.<sup>667</sup> After all, Prussia had just suffered a series of shocking defeats on the battlefield. Stein, however, does not take a short-term approach to solving the problems of the ailing Prussian state. In his short credo, at the most improbable of times, Stein sets forth principles for internal organization, rather than opinions on international affairs or calls for military preparedness. As is clear from Stein's correspondence immediately prior to writing the Nassau memorandum, he meant to establish a loose, workable practical blueprint for re-constituting the state now on the edge of being pushed into oblivion. To do so, Stein sets out on an unintentionally radical path:

A machine is best judged, and it is easiest to propose improvements, when it is dismantled and broken into pieces before it is put together again!<sup>668</sup>

What troubles traditionalists about this approach is of course not merely the mechanical nature of the metaphor, but also the irreverence with which a sacred order is exposed to the harsh and unflattering light of rational, empirically driven inquiry. One of Stein's first targets was the imperfection at the highest level of the "machine." The cameralists had not been able to overcome the centuries-long practice of adapting the Prussian central administration bit by bit. Such organic growth tended to produce inefficient, irrational, self-defeating apparatuses that were far too slow or weak to deal with

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<sup>667</sup> Various historians comment on this discrepancy, see for example: Ritter, *Stein; Eine Politische Biographie*, 182.; See also: Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 50.; Nolte, *Staatsbildung Als Gesellschaftsreform : Politische Reformen in Preussen Und Den Süddeutschen Staaten, 1800-1820*, 29-30.

<sup>668</sup> Letter from Sack an Stein (Berlin 26. Mai 1807): "Eine Maschine wird am besten beurteilt, wenn sie auseinandergenommen, und am gelegensten werden zur Verbesserung Vorschläge getan, ehe sie wieder zusammengesetzt wird!" (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/1 - 373.)

significant threats to the state.<sup>669</sup> Stein, attempting to complete the cameralist project, took such a lack of procedures seriously. One of his first reform projects was consequently the reorganization of the highest level of the administration to provide a single, clear, rational chain of command.<sup>670</sup>

Over centuries, mere secretaries (really scribblers, copiers of letters) had acquired, step by tiny step, authority that rivaled that of ministers. Their proximity to the king gave them de facto influence over policy that competed on a daily basis with the de jure authority of ministers.<sup>671</sup> The king and his secretaries resided in Potsdam, while his ministers worked in Berlin. Ministers tended to communicate with the king by mail, and visited him rarely. During the Seven Years' War, for example, the secretaries traveled constantly with Frederick II, while his ministers remained, mostly, in Berlin – which Frederick visited only once during that time. Frederick II highlighted the special status of his secretaries in his Personal Testament: “[The secretaries] have a good knowledge of affairs and they can, at the beginning of the reign, advise the king on many things of which they have knowledge and which are unknown even to Ministers.” One of the primary means through which the secretaries exploited their privileged position was by routing mail

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<sup>669</sup> For accounts that come to the same conclusion see: Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 49.; Walter L. Dorn, "The Prussian Bureaucracy in the Eighteenth Century II," *Political Science Quarterly* 47, no. 1 (Mar., 1932).

<sup>670</sup> For a quick account of this prioritization see: Büsch, Neugebauer, and Historische Kommission zu Berlin., *Handbuch Der Preussischen Geschichte*, 27-8.; For more on this theme consider: Levinger, *Enlightened Nationalism : The Transformation of Prussian Political Culture, 1806-1848*, 49-50.; Hintze and Oestreich, *Regierung Und Verwaltung. Gesammelte Abhandlungen Zur Staats-, Rechts- Und Sozialgeschichte Preussens*, 424-8, 530-43.; Levinger, "The Prussian Reform Movement and the Rise of Enlightened Nationalism," 271.; Hubatsch, *Stein-Studien : Die Preussischen Reformen Des Reichsfreiherrn Karl Vom Stein Zwischen Revolution Und Restauration*, 38-9.; Nolte, *Staatsbildung Als Gesellschaftsreform : Politische Reformen in Preussen Und Den Süddeutschen Staaten, 1800-1820*, 48-54.; For contemporary critiques of the old administrative practices see: Karl August Hardenberg and Leopold von Ranke, *Denkwürdigkeiten Des Staatskanzlers Fürsten Von Hardenberg* (Leipzig: Duncker & Humblot, 1877), 402-11, 68-71.; Boyen, *Denkwürdigkeiten Und Erinnerungen 1771-1813*, 365-7.

<sup>671</sup> Most historians agree with this simple, but powerful interpretation. See for example: Scott, "1763-1786: The Second Reign of Frederick the Great?," 182-5, 99-200.; Dorn, "The Prussian Bureaucracy in the Eighteenth Century," 410-3.; Dwyer, *The Rise of Prussia : Rethinking Prussian History, 1700-1830*, 26.

not through ministries, but around them. Stein's objection to this system was not merely a concern with inefficiency due to duplicate orders. Rather, he objected to a system that caused an inordinate amount of confusion due to its lack of a clear hierarchy. The policy positions of ministers and secretaries were often in conflict with one another, and their mutual de facto subordinates (such as local administrators) received conflicting orders both of which seemed to have the authority of the king behind them. Competing sources of authority hampered decision making in the army in the same way as in the central administrative organs.<sup>672</sup> In response, Stein and his allies pleaded for a "unity in the administration,"<sup>673</sup> so that "the movements of the state receive a unity" and a clear direction.<sup>674</sup> However, the king and leading aristocrats continued to oppose such a scheme, perhaps because they saw it as following the Napoleonic example too closely.<sup>675</sup>

To make things even murkier, Prussia's administration was organized partially by objects of care (e.g. finance, diplomacy) and partially geographically.<sup>676</sup> Again, this was the

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<sup>672</sup> For an account of the messy intrigue, backstabbing, confusion and orderly disorder of the Prussian elite surrounding the king see: Raack, *The Fall of Stein*. See also: Simon, "Prince Hardenberg," 94-5.

<sup>673</sup> "...Einheit in der Verwaltung..." (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, 385.)

<sup>674</sup> "Je grösser der Staat, um so nötiger ist es aber, solche Einrichtungen zu treffen, dass Einheit in seiner Bewegung erhalten und die zerstückelten Geschäftszweige endlich an einem Punkt zu einem Ganzen verbunden werden." (Ibid., Vol.II/1 – p.385, Vol.II/2 – p.501-2.)

<sup>675</sup> The details of such a scheme are subject to much dispute amongst historians and contemporaries of Stein. See for example: "Hardenberg und Altenstein schwebte das Ideal einer streng „bürokratischen," dem napoleonischen Vorbild angenäherten Verwaltungsorganisation vor Augen: mit voller, an keine kollegialen Beschlüsse gebundener Entscheidungsfreiheit der Minister, die rasches, energisch durchgreifendes Handeln erlaubte – in schärfstem Gegensatz zu den schwerfälligen Verhandlungsformen des alten Generaldirektoriums, das sie denn auch gänzlich beseitigen wollten. Vor einer solchen Neuerung hat Stein, wie wir schon früher hörten, nachdrücklich gewarnt. Seine Staatsratsideen setzten kollegiale Beschlüsse und ein kollegial organisiertes Ausführungsorgan zur Entlastung des leitenden Ministerkonseils voraus." (Ritter, *Stein; Eine Politische Biographie*, 170.)

<sup>676</sup> For a more detailed discussion of this subject by Stein outside of the Nassauer manifesto turn to his "Organisationsplan der oberen Behörden des preussischen Staats" (written in November of 1807) found here: Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/2 – p.506-45. For a brief commentary turn to Ritter: "Dabei sollen Verwaltungs- und Rechtssachen klarer als bisher geschieden werden; vor allem soll die alte systemlose Mischung von Provinzial- und Fachministerien beseitigt werden, zugunsten ausschliesslich realer, sachlicher Einteilungsprinzipien, wie sie seit dem Ende des 18. Jahrhunderts sich überall in Europa durchzusetzen begannen." (Ritter, *Stein; Eine Politische Biographie*, 183.). See also: "Territorialprinzips" versus "Sachprinzip" (Wunder, *Geschichte Der Bürokratie in*

product of a state growing over many centuries from a royal household overseeing a small province to something on the verge of being a nation. While each step of this organic growth might have been sensible in the minds of the actors at the time, the cumulative effect was a cumbersome mess. Stein proposed to reorganize departments by businesses [*Geschäften*]<sup>677</sup> in order to increase the effectiveness and efficiency of the administrative organs.<sup>678</sup> Born out of cold-minded rational principles, this scheme was once again met by bitter opposition.<sup>679</sup> Such resistance was motivated partially by petty self-interest and partly by veneration of a Burkean “gallery of portraits”<sup>680</sup> that would be discounted were it revealed that their ancestors had immobilized their own state by their ill-advised insistence on traditional methods of maintaining order.

Apart from trying to redefine the main organizational principle of the central administrative organs, Stein also proposed reshuffling some responsibilities within ministries. Most notably, his proposal called for removing responsibility for general public education from the ecclesiastical department, while all religious affairs would be subsumed under the department for culture. Stein’s opponents saw in such a proposal not merely an

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*Deutschland*, 24-5.); Ernst Rudolf Huber, *Dokumente Zur Deutschen Verfassungsgeschichte*, 3., neubearb. u. verm. Aufl. ed., 5 vols., vol. 1 (Stuttgart ; Berlin ; Köln ; Mainz: Kohlhammer, 1978), 162-4.; Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 66-67.

<sup>677</sup> “...halte ich es für ratsam, den Wirkungskreis des General-Direktorii nach Geschäften und nicht nach Bezirken zu verteilen.” (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/1 – p.386.). See also: Organization „nach Gegenständen” nicht nach Provinzen, so dass „ein allgemeiner das Ganze umfassender Geist [sich in] der obern Staatsbehörde bildet” (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/2- p.502.).

<sup>678</sup> “Der grosse Vorteil von Fachressorts für das Ganze eines grossen Staatsgebietes – weitgehende Spezialisierung der Erfahrungen und Kenntnisse und damit erhöhte Qualität der Leistungen in den einzelnen Verwaltungszweigen – fiel bei den Provinzialressorts aus...” (Holmsten, *Freiherr Vom Stein in Selbstzeugnissen Und Bilddokumenten*, 38.; see also Bill Drews, *Freiherr Vom Stein*, vol. 6, Meister Des Rechts (Berlin: Heymann, 1930), 64-5.; Wilhelm Humboldt, *Werke in Fünf Bänden*, ed. Andreas Flitner and Klaus Giel, 5 vols., vol. 5 (Stuttgart: Cotta, 1979), 590.)

<sup>679</sup> “moderne rationale Grundsätze.” See also: “...die Abgrenzung der verschiedenen Ressorts und die innere Organisation der Ministerien [erfolgt] nunmehr nach streng rationalen Gesichtspunkten.” (Ritter, *Stein; Eine Politische Biographie*, 241.)

<sup>680</sup> Burke, *Reflections on the Revolution in France*, 30.

appeal to maximizing the effectiveness of different social programs, but also, inherently tied up with it, yet another piece-by-piece erosion of the pillars of the old order.<sup>681</sup>

## **(ii) Death by a Thousand Administrative Reforms**

Stein's plans did not stop there. Rather, he argued that the state would only be truly viable if it related properly to its citizenry and took their experiences and demands seriously.<sup>682</sup> This was not an easy proposition. Much of Prussia's population at the time was closer to being subjects, even serfs, than self-possessing citizens. Stein's proposal includes, almost accidentally, key steps towards emancipating the peasant class: the removal of the jurisdiction of aristocrats over "their" peasants,<sup>683</sup> the freedom of peasants to possess or to leave the land,<sup>684</sup> and the removal of various requirements on peasants to work (unpaid) for their masters.<sup>685</sup>

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<sup>681</sup> Stein goes into more detail that I will not address here. He sketches a newly to be built central administrative organ (Zentralbehörde), as well as the organization of the departments of finance and justice and the administration of sub-sections headed each by a minister.

<sup>682</sup> Levinger, *Enlightened Nationalism : The Transformation of Prussian Political Culture, 1806-1848*, 55-6.; Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*, 109.

<sup>683</sup> Heinrich Scheel and Doris Schmidt, *Von Stein Zu Hardenberg : Dokumente Aus Dem Interimsministerium Altenstein/Dohna*, Schriften Des Zentralinstituts Für Geschichte ; (Berlin: Akademie-Verlag, 1986), 1.; Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*, 54-62.; Brose, *The Politics of Technological Change in Prussia : Out of the Shadow of Antiquity, 1809-1848*, 31.

<sup>684</sup> Ritter, *Stein; Eine Politische Biographie*, 216-7.; Hermann Beck, "The Social Policies of Prussian Officials: The Bureaucracy in a New Light," *The Journal of Modern History* 64, no. 2 (Jun., 1992): 278.

<sup>685</sup> Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/1 – p.397. On more about "Frondiensten" see: Des Bauers wirtschaftliche Lage soll erleichtert werden indem "er von Frondiensten, Zinsen und Abgaben befreit wird, die am Boden haften." (Ritter, *Stein; Eine Politische Biographie*, 216-7.). In summary: "Gesindezwangsdienst, gutsherrliche Erlaubnis zur Heirat, Abzug, zu allen Belastungen oder Veräusserungen der Grundstücke u. dgl. mehr" (Ritter, *Stein; Eine Politische Biographie*, 228.). Historians have commented extensively on the tremendously important themes of "Gutsherrschaft," "Leibeigenschaft," and "Erbuntertänigkeit." For general introductions see: Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 102, 25-8.; Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 140-2, 92-3.; Sieg,

It is telling how Stein justifies the liberation of large portions of the peasant class: he bases his controversial proposal not on an appeal to basic moral principles, but rather on a cold, Lockean, Protestant hate of waste and inefficiency and a concern with Prussia's economic viability. (Meanwhile, the rhetoric of many aristocrats, who exploited a class of peasants living in miserable conditions, is filled with appeals to love, care, and family-like obligations).<sup>686</sup> Hardenberg, similarly, argued that the elimination of peasants' servile obligations, "the abolition of their drudgery," would be highly beneficial, to the tune of four million taler in annual state revenue.<sup>687</sup>

As a common strand of argumentation at the time held, "the evil" of servile peasants living in miserable conditions "lies deep in the present system, under which the peasant becomes constantly poorer, lazier, and more stupid."<sup>688</sup> In the words of Stein's co-worker Altenstein:

The more rationally a farm/enterprise organizes itself under the guiding light of modern influences, the more clearly it was felt that the old system, purely based on

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*Staatsdienst, Staatsdenken Und Dienstgesinnung in Brandenburg-Preussen Im 18. Jahrhundert (1713-1806) : Studien Zum Verständnis Des Absolutismus*, 279-87.; Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen Staatsabsolutismus*, 47-9.; Schulze, "The Prussian Military State, 1763-1806," 206-10.; Hintze and Oestreich, *Regierung Und Verwaltung. Gesammelte Abhandlungen Zur Staats-, Rechts- Und Sozialgeschichte Preussens*, 508-14.; Berdahl, "The Stande and the Origins of Conservatism in Prussia," 309-10.; Gray, "Government by Property Owners: Prussian Plans for Constitutional Reform on the County, Provincial, and National Levels in 1808," 76, 79.; Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*, 18-9, 115-23.; For more on conditions before Stein's reforms consider: J. C. Schmohl, *Sammlung Von Aufsätzen Verschiedner Verfasser Besonders Für Freunde Der Cameralwissenschaften Und Der Staatswirthschaft* (Leipzig: Im Schwickertschen Verlage, 1781), 421-33.

<sup>686</sup> This view finds adherents old and young: Ford, *Stein and the Era of Reform in Prussia, 1807-1815*, 163-98.; Edgar Melton, "The Transformation of the Rural Economy in East Elbian Prussia, 1750-1830," in *The Rise of Prussia : Rethinking Prussian History, 1700-1830*, ed. Philip Dwyer (New York: Longman, 2000), 111-22.

<sup>687</sup> As cited in: Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*, 109.

<sup>688</sup> "'The evil,' says Thaer, writing in 1806 of the servile peasants of the Mark, 'lies deep in the present system, under which the peasant becomes constantly poorer, lazier, and more stupid.'" (Ford, *Stein and the Era of Reform in Prussia, 1807-1815*, 196. Quoting Knapp, "Bauernbefreiung," I, 75).

coercion, was inefficient. Many landlords understood that coerced labor was only seemingly cheap, but was actually disproportionately expensive.<sup>689</sup>

Reading Altenstein quickly,<sup>690</sup> one could mistake his position as concerned purely with economics.<sup>691</sup> Financial concerns indeed loomed large over the beleaguered Prussian state, and consequently it might be tempting to think of the reforms as motivated merely by short-term financial needs, rather being than the expression of an emancipatory understanding of the state and society.<sup>692</sup> Stein himself realized that many elements of his reforms would save the state monetary expenses,<sup>693</sup> but he argued (sometimes in the same breath) that “saving administrative costs is the less important gain which the proposed participation [of citizens] would entail,” compared with far more important effects such as increasing their autonomy [*Selbständigkeit*].<sup>694</sup> I do not mean to belittle the importance of

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<sup>689</sup> From Altenstein's 'Rigaer Denkschrift': "Je rationaler sich der Betreib unter dem Einfluss moderner Zeitströmungen gestaltete, um so deutlicher empfand man das Unwirtschaftliche der alten, auf blossen Zwang gegründeten Arbeitsverfassung. Viele Gutsbesitzer begriffen, dass die Fronarbeit nur scheinbar billig, in Wahrheit unverhältnismässig teuer bezahlt wurde..." (Ritter, *Stein; Eine Politische Biographie*, 218.); Consider also the comments of another one of Stein's allies, von Schrötter, who argued "that freedom of person and property beget prosperity." (cited in Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 150.). See also: Berdahl, "The Stande and the Origins of Conservatism in Prussia," 318.; For more on the Riga Memorandum see: Schuurmans, "Economic Liberalization, Honour, and Perfectibility: Karl Sigmund Altenstein and the Spiritualization of Liberalism," 178-81.

<sup>690</sup> Which might be difficult since he wrote in a "schwer lesbaren Bürokratenhandschrift" (Ritter, *Stein; Eine Politische Biographie*, 239.)

<sup>691</sup> For more on this potential pitfall see: Gray, "Government by Property Owners: Prussian Plans for Constitutional Reform on the County, Provincial, and National Levels in 1808." See also: "Schrötter forderte nichts Geringeres als ein umfassendes Reformgesetz, das alles auf einmal bringen sollte: volle Durchführung des Freihandelssystems, Vererbpachtung der Domänen an bäuerliche Parzellenbesitzer, Gewerbefreiheit, Beseitigung des Zunft- und Fabrikenzwanges, schliesslich und vor allem: Neiderreissen aller Schranken, die der freien Verwertung des Grundbesitzes im Sinne der kapitalistischen Wirtschaftsordnung im Wege stehen." (Ritter, *Stein; Eine Politische Biographie*, 219.)

<sup>692</sup> The reforms "were born not of a desire to secure the rights of man but to regenerate the state as a better instrument for national defense under dynastic leadership. It is this which gives them their essentially Prussian-German character." (Ford, *Stein and the Era of Reform in Prussia, 1807-1815*, 221-2.); See also: Büsch, Neugebauer, and Historische Kommission zu Berlin., *Handbuch Der Preussischen Geschichte*, 21.; Levinger, *Enlightened Nationalism : The Transformation of Prussian Political Culture, 1806-1848*, 46.

<sup>693</sup> Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*. Vol.II/1. See for example: p. 390-1, 394, 502 as well as: Ritter, *Stein; Eine Politische Biographie*, 314.

<sup>694</sup> "Ersparung an Verwaltungskosten ist aber der weniger bedeutende Gewinn, der erhalten wird durch die vorgeschlagene Teilnahm der Eigentümer an der Provinzial-Verwaltung, sondern weit wichtiger ist die

financial motives (especially in eroding much opposition to the reforms on the part of the king and nobles). In fact, the two offered explanations constitute a false dichotomy.<sup>695</sup> Rather than searching futilely for the correct direction of causal arrows, I suggest that the crisis brought about by foreign invasion required and enabled drastic measures. Given the need to preserve the mere chances for the state's survival,<sup>696</sup> the reformers around Stein found it useful to combine economic and social reforms. Tying the welfare of peasants more closely to the state rather than to their masters would not only be financially beneficial, but would also increase the legitimacy of the state. Given that these peasants formed the backbone of the Prussian army, this was a crucial project in the wake of Jena and Auerstedt.<sup>697</sup> "Stein was both by training and experience primarily an administrative and not a social reformer," but one implicated the other.<sup>698</sup> A concern with financial solvency as well as with the efficient workings of the state and its organization and administration implied, necessarily, a concern with social reforms. Consider again Altenstein, who argued strenuously that the "ruined economy of the provinces would recover the more speedily the more completely it was liberated from the fetters of state-

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Belebung des Gemeingeistes und Bürgersinns, die Benutzung der schlafenden oder falsch geleiteten Kräfte und der zerstreut liegende Kenntnisse, der Einklang zwischen dem Geist der Nation, ihren Ansichten und Bedürfnissen und denen der Staatsbehörde, die Wiederbelebung der Gefühle für Vaterland, Selbständigkeit und Nationalehre." (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/1 - p.394.)

<sup>695</sup> I am indebted to Levinger for this important insight: Levinger, "The Prussian Reform Movement and the Rise of Enlightened Nationalism," 269-70.

<sup>696</sup> For more on these chances and the perceived urgency of drastic actions see: Ritter, *Stein; Eine Politische Biographie*, 308.

<sup>697</sup> For more on the military reforms of the period see: Heinz G. Nitschke, *Die Preussischen Militärreformen 1807-1813 : Die Tätigkeit Der Militärreorganisationskommission Und Ihre Auswirkungen Auf Die Preussische Armee*, Kleine Beiträge Zur Geschichte Preussens ([Berlin]: Haude & Spener, 1983).; Heinz Stübiger, "Die Wehrverfassung Preussens in Der Reformzeit," in *Die Wehrpflicht : Entstehung, Erscheinungsformen Und Politisch-Militärische Wirkung*, ed. Roland G. Foerster (München: R. Oldenbourg, 1994).; For more on economic reforms (for example pertaining to guilds) see: Jacoby, *Die Bürokratisierung Der Welt; Ein Beitrag Zur Problemgeschichte*, 26.; See also: Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 105, 36.; Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 20-1.; Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen Staatsabsolutismus*, 44.;

<sup>698</sup> For the quotation and the well-supported conclusion see: Ford, *Stein and the Era of Reform in Prussia, 1807-1815*, 221.

sponsored protection and the mutual segregation of the estates.”<sup>699</sup> It seems he, like Stein, simply cannot help it: for both, economic and administrative concerns necessarily implicate issues of social organization and the structure of political practices.

Stein and Altenstein might focus on the economic benefits of emancipating significant parts of the population, yet this should not surprise us, given their main audience. Deeply embedded in their reform programs is the new understanding that old aristocratic norms are detrimental to the flourishing of the state. Notice Stein’s comment, for example, that “experience shows that coerced labor [*Zwangsarbeit*] is bad in the same degree that coercion [*Zwang*] occurs and that it is consequently more salutary to properly reward the labor of all individuals.”<sup>700</sup> Not surprisingly, the peasant-emancipation reforms encountered considerable opposition from a range of skeptics who doubted the reformers’ claims that only by removing old barriers and by governing everybody directly through a newly constituted bureaucracy could the country prosper in these changed times.<sup>701</sup>

The erosion of time-honored legal and social boundaries did not end with peasants, since the elimination of all explicit relations of domination [*Untertänigkeitsverhältnisse*] was an important element of Stein’s reforms.<sup>702</sup> As such, the reforms also aimed at

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<sup>699</sup> From Altenstein’s ‘Rigaer Denkschrift’: “Die ruinierte Wirtschaft der Provinz wird sich um so schneller erholen [...] je vollkommener sie befreit wird von den Fesseln staatlicher Protektion und gegenseitiger Absonderung der Stände.” (cited in: Ritter, *Stein; Eine Politische Biographie*, 219.)

<sup>700</sup> Letter from Stein to Sulzowsky (Memel 29. Dez 1807): “Die Erfahrung zeigt, dass Zwangsarbeit in dem Grade schlecht ist, als Zwang dabei stattfindet und dass es daher dem Ganzen heilsamer ist, die Arbeit jedes Menschen angemessen zu belohnen...” (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/2 – p.604-5.)

<sup>701</sup> For a quick overview of sources and the reasons of this opposition see: Ritter, *Stein; Eine Politische Biographie*, 215.

<sup>702</sup> “Nach dem Datum dieser Verordnung entsteht fernerhin kein Untertänigkeitsverhältnis, weder durch Geburt, noch durch Heirat, noch durch Übernehmung einer untertänigen Stelle, noch durch Vertrag.” (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/2 – p.457-60.); Neugebauer, *Geschichte Preussens*, 94.; Schoeps and Bildarchiv Preussischer Kulturbesitz., *Preussen : Geschichte Eines Mythos*, 93-5.; For a fairly comprehensive overview of “Gutsherrschaft” in general see: Heinrich Kaak, *Die Gutsherrschaft : Theoriegeschichtliche Untersuchungen Zum Agrarwesen Im Ostelbischen Raum* (Berlin ;

removing many legal boundaries that prevented individuals of certain estates from occupying a range of professions [*Gewerbefreiheit*].<sup>703</sup> In Stein's words:

Each aristocrat is allowed, without any disadvantage, to practice bourgeois businesses and every member of the bourgeoisie or peasantry is allowed to move from the peasant to the bourgeois estate or from the bourgeois to the peasant estate.<sup>704</sup>

Similarly, ancient limitations on the possession of property (particularly land) were to be removed through the proposed reforms.<sup>705</sup> Most troubling to some:

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New York: Walter de Gruyter, 1991.); Berdahl, "The Stande and the Origins of Conservatism in Prussia," 300.

<sup>703</sup> This topic is of immense importance to the development of German culture and political institutions. It has received considerable attention from a wide spectrum of historians and commentators. For helpful introductions and discussions see: Levinger, "The Prussian Reform Movement and the Rise of Enlightened Nationalism," 269.; Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 130.; Levinger, *Enlightened Nationalism : The Transformation of Prussian Political Culture, 1806-1848*, 56, 58-9.; Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*, 124-5.; For Stein's attack on the guilds see: Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 136-9.; Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 20-1.; Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen Staatsabsolutismus*, 44.; For Stein's attack on guilds see, for example: Craig, *The End of Prussia*, 13.; Gothelf, "Frederick William I and the Beginnings of Prussian Absolutism, 1713-1740," 54.; Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*, 124-5.; Schuurmans, "Economic Liberalization, Honour, and Perfectibility: Karl Sigmund Altenstein and the Spiritualization of Liberalism," 178-9.; Notice also the proud pronouncement by one of Stein's supporters within the Prussian administration that "Serfdom will be abolished, everyone will be able to purchase aristocratic lands, *compulsory guilds will be destroyed*, and all foreign products will become importable!" (my emphasis, from a letter by Friedrich Staegemann to Elisabeth von Staegemann, 20 Aug. 1807 cited in: Friedrich August von Stägemann, Franz Ruehl, and Verein für die Geschichte von Ost- und Westpreussen Königsberg., *Aus Der Franzosenzeit. Ergänzungen Zu Den Briefen Und Aktenstücken Zur Geschichte Preussens Unter Friedrich Wilhelm Iii* (Leipzig,: Duncker & Humblot, 1904).

<sup>704</sup> "Jeder Edelmann ist ohne allen Nachteil seines Standes befugt, bürgerliche Gewerbe zu treiben, und jeder Bürger oder Bauer ist berechtigt, aus dem Bauer- in den Bürger- und aus dem Bürger- in den Bauernstand zu treten." (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/2 – p.458. Stein in Memel, 9. Okt. 1807). See also: Holmsten, *Freiherr Vom Stein in Selbstzeugnissen Und Bilddokumenten*, 66-7.

<sup>705</sup> Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 127-8.; Neugebauer, *Geschichte Preussens*, 94.; Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 21-2.; See also: Hintze and Oestreich, *Regierung Und Verwaltung. Gesammelte Abhandlungen Zur Staats-, Rechts- Und Sozialgeschichte Preussens*, 495-6.; Berdahl, "The Stande and the Origins of Conservatism in Prussia," 318-20.; Gray, "Government by Property Owners: Prussian Plans for Constitutional Reform on the County, Provincial, and National Levels in 1808," 78-9.; Görlitz, *Die Junker: Adel Und Bauer Im Deutschen Osten; Geschichtliche Bilanz Von 7 Jahrhunderten*, 174-5.; Hubatsch, *Stein-Studien : Die Preussischen Reformen Des Reichsfreiherrn Karl Vom Stein Zwischen Revolution Und Restauration*, 42-3.; For the effects of this development on the

The aristocrat is permitted to own not merely aristocratic land but also non-aristocratic land, bourgeois and peasant property of all sorts, and the members of the bourgeoisie and the peasantry are allowed to own not merely bourgeois and peasant land and other non-aristocratic land but also aristocratic land, without the requirements of special permissions.<sup>706</sup>

It is telling how specific and longwinded Stein's articulations of these reforms are. Stein needs to spell out in great detail how the reforms would reshape the pillars of the old order. The aristocrat was to be reshaped from a privileged lord of the manor [*Gutsherr*] into a landholder [*Gutsbesitzer*], a mere proprietor.<sup>707</sup> As people realized at the time and historians argue now, such a switch would severely undermine the old system of separate estates. The "enactments that eliminated serfdom and certain class barriers to professional and social mobility" might even be taken to "envisage . . . an end to the feudal organization of society."<sup>708</sup>

As if this was not jolting the established order enough, Stein's proposal then takes an additional step that is integral to his overall reform package. The plethora of individual policy proposals here and there seek to emancipate subjects and turn them into citizens.

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ideology of Prussian *Herrschaft* see: Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*. (Especially chapter 3); Schuurmans, "Economic Liberalization, Honour, and Perfectibility: Karl Sigmund Altenstein and the Spiritualization of Liberalism," 178-9.

<sup>706</sup> "Jeder Einwohner Unserer Staaten ist ohne alle Einschränkung in Beziehung auf den Staat zum eigentümlichen und Pfandbesitz unbeweglicher Grundstücke aller Art berechtigt; der Edelmann also zum Besitz nicht bloss adeliger, sondern auch unadeliger, bürgerlicher und bäuerlicher Güter aller Art, und der Bürger und Bauer zum Besitz nicht bloss bürgerlicher, bäuerlicher und anderer unadeliger, sondern auch adeliger Grundstücke, ohne dass der eine oder der andere zu irgendeinem Gütererwerb einer besonderen Erlaubnis bedarf..." (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/2 – p.458. Stein in Memel, 9. Okt. 1807). See also: "Dazu kam, kaum weniger bedeutungsvoll, die Niederlegung der gesetzlichen Schranken, die bisher den einen Stand von dem anderen getrennt hatten. Künftig darf der Bauer und Bürger adlige Grundstücke ohne besondere Erlaubnis erwerben; alle Vorzüge des adligen Erben vor dem bürgerlichen fallen ebenso weg wie der Ausschluss bürgerlicher Rittergutsbesitzer von Kreis- und Landtagen, vom Patronat, von der Gerichtsbarkeit und von der Jagdgerechtigkeit, die auf adligen Gütern haftet. Der Adlige ist ohne Nachteil seines Standes befugt, bürgerliche Gewerbe zu treiben; der Bauer darf ohne weiteres in den Bürgerstand übertreten und umgekehrt." (Ritter, *Stein; Eine Politische Biographie*, 220.)

<sup>707</sup> Ritter, *Stein; Eine Politische Biographie*, 220.; Levinger, *Enlightened Nationalism : The Transformation of Prussian Political Culture, 1806-1848*, 62.; Craig, *The End of Prussia*, 23.

<sup>708</sup> Raack, *The Fall of Stein*, 28.

However, Stein does not advocate for this move out of some ethical commitment to autonomy or an Enlightenment belief in the inviolability of the individual. For him, this is merely an artful but practical attempt to strengthen the state, to maximize the chances of attaining that end by inventing new means.

His plans incorporate properly situated citizens into the administrative functions of the state. They would not primarily be “representatives of the people,” but rather, temporary “members of the bureau.”<sup>709</sup> Such citizens would be taking on two roles, switching back and forth between their functions within their private lives and professions, and their functions within the administration. Stein seeks to create roles for citizens so that they infuse the recently reorganized, rationalized administrative organs with fresh ideas, energy, and legitimacy.<sup>710</sup> The main responsibilities of such citizens in administrative posts would include financial oversight, administration of judiciary functions, and administering the local police and welfare institutions.<sup>711</sup> They were to continually check the procedures of the administration and, if necessary, apply appropriate pressure to remedy inefficiencies and corruption.<sup>712</sup> As such, one of the key goals of the reforms was the creation of a sphere of liberty within the mechanical workings of the bureaucratic administration of the state.<sup>713</sup> Rather than being a temporary workforce of additional administrators, they were positioned to be a source of information for the administrative organs and, most importantly, an

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<sup>709</sup> “Den Ausdruck Repräsentanten”, so schrieb er über die Stellung solcher Laien in den Behörden, “halte ich für ganz unpassend. Es sind ständische Mitglieder der Kollegien”, sie handeln daher „wirklich als Offizianten, nicht als Volksrepräsentanten.” (Koselleck, *Preussen Zwischen Reform Und Revolution; Allgemeines Landrecht, Verwaltung Und Soziale Bewegung Von 1791 Bis 1848*, 174.)

<sup>710</sup> For more on Stein’s goals and motivations see: Thompson, "Patrician Society, Plebeian Culture," 392-3.

<sup>711</sup> For more on their duties and spheres of responsibility see: Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/1 – p.392.; Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*, 111-2.

<sup>712</sup> “...den Magistrat und seine Geschäftsführung laufend kontrollieren, ihre Gutachten öffentlich erstatten, unter Umständen drucken lassen.” (Ritter, *Stein; Eine Politische Biographie*, 261.)

<sup>713</sup> *Ibid.*, 116.)

outside check on institutions rife with abuse.<sup>714</sup> Furthermore, citizens attached to administrative offices would commission reports and surveys as well as vote for local legislative and executive positions.<sup>715</sup> Finally, in addition to financial controls, such citizens would also oversee and check local police functions. As we saw above, this did not merely entail security affairs but also what we now understand to be the internal administration: “care for commerce and trade, affairs concerning the poor, schools, churches, health care, rations, markets, cleaning, maintenance of roads, immigration and tourism, and things like that...”<sup>716</sup>

Some commentators have interpreted Stein’s reforms as amounting to “an in modern terms hardly comprehensible degree of local autonomy!”<sup>717</sup> Notice, however, that the citizens in Stein’s plan are not citizens the way we might read the term: they do not vote in national elections, they have no say on the constitution of the land, and they are not protected by a uniform bill of rights. It is far more accurate and useful to interpret Stein’s citizens within a procedural framework that tries to establish participatory requirements. Stein attempted to merge the right kind of emancipated citizens with the right kind of

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<sup>714</sup> “Stände müssen nicht Administratoren sein, sondern die Kontrolle und das Informationsmittel der Verwaltung.” (Ibid., 92.)

<sup>715</sup> “Sie blieben beschränkt auf die Aufgabe von Erklärungen und Beschwerden „auf dem Instanzenweg“, Abnahme von Kämmererechnungen zur Entlastung der Stadtkasse, Erstaten von Gutachten u. dgl.; dazu trat, als einzige Neuerung, die Wahl der Magistratsmitglieder und Landtagsdeputierten.” (Ibid., 259.). See also: Raack, *The Fall of Stein*, 41.

<sup>716</sup> “Der Begriff der Polizei umfasste damals ausser dem, was wir heute darunter verstehen, die ganze innere Verwaltung: Fürsorge für Handel und Gewerbe, Armen-, Schul-, Kirchen- und Gesundheitswesen, Lebensmittelversorgung, Markttaxen und Marktaufsicht, Reinigung, Pflasterung, Beleuchtung der Strassen, Aufsicht über den Fremdenverkehr, das Innungswesen und dergleichen mehr ...” (Ritter, *Stein; Eine Politische Biographie*, 261.). For more on the (changing) content of police functions see: Gray, “Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808,” 82.; For more on the contemporary use of the term “Polizei“ see: Levinger, *Enlightened Nationalism : The Transformation of Prussian Political Culture, 1806-1848*, 25-6.; Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen Staatsabsolutismus*, 44-5.; Karin Friedrich, “The Development of the Prussian Town, 1720-1815,” in *Rise of Prussia : Rethinking Prussian History, 1700-1830*, ed. Philip Dwyer (New York: Longman, 2000), 149-50.

<sup>717</sup> “...ein für unsere heutigen Begriffe kaum vorstellbares Mass von städtischer Autonomie!” (Ritter, *Stein; Eine Politische Biographie*, 263.)

properly constituted administrative structure in an attempt to bring together the direct and indirect question. Without the Nassau memorandum, it would have “occurred to nobody to undertake such a general reform[s].”<sup>718</sup>

Procedures and the indirect question have their place, but as Stein, despite his cameralist training, points out periodically, adherence to a procedural understanding of the state easily leads to excessive paper-pushing, administrative obstruction, and legal formalism [*Formelkram*].<sup>719</sup> Wilhelm von Humboldt, Stein’s most famous employee, remarked similarly that “in the ministries of justice and internal affairs a bland and pure mechanism is the order of the day.”<sup>720</sup> The direct question of justice is all too easily lost under such conditions. Stein’s plan is a response to the “vapid torpor [and] internal decay” that such formalism engenders.<sup>721</sup> He takes the critics of the cameralist project seriously and seeks to infuse into a procedural system the kind of vibrant, personalized, organic spirit that Novalis, Brentano, Schlegel, Eichendorff, and so many others praised.

Stein attempted a tricky balancing act between opposing poles. Doing so solved some problems and muted some skeptics, but it also created new grounds for concern. Could his proposal tear down onerous social boundaries while resisting the crass egalitarianism of the French Revolution?<sup>722</sup> Many expressed skepticism that Stein achieved this balance, or questioned, like Marwitz, whether it could be achieved at all. Stein’s

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<sup>718</sup> Ibid., 252.

<sup>719</sup> Ibid., 257-8.

<sup>720</sup> “In den Ministerien der Justiz und des Innern sind blosser und reiner Mechanismus und Ertötung alles Geistes an der Tagesordnung.“ (Humboldt, *Werke in Fünf Bänden*, 428.); For more on the relationship between Stein and Humboldt see: Siegfried A. Kaehler, *Wilhelm V. Humboldt Und Der Staat; Ein Beitrag Zur Geschichte Deutscher Lebensgestaltung Um 1800*, 2., ed. (Göttingen,: Vandenhoeck & Ruprecht, 1963), 213-15.; Eberhard Kessel, *Wilhelm V. Humboldt. Idee Und Wirklichkeit* (Stuttgart,: K. F. Koehler, 1967), 59.; Jeismann, *Das Preussische Gymnasium in Staat Und Gesellschaft*, 277.

<sup>721</sup> Ritter, *Stein; Eine Politische Biographie*, 188-9.

<sup>722</sup> “Die innere Staatsverwaltung einheitlicher, einfacher und übersichtlicher zu gestalten (ohne deshalb in die schematische Egalisierung der Französischen Revolution zu verfallen) war ja überhaupt eine der Grundtendenzen des Steinschen Reformwerks.” (Ibid., 256.)

response (which I will explore in the next chapter) was to circumscribe tightly the qualifications and roles of citizens within a bureaucratic procedural framework.<sup>723</sup> Through such innovations, Stein and his reformers became known far beyond the borders of Prussia as the essential rejuvenators of local freedoms.<sup>724</sup> Their ideas had influence throughout Germany, even where they did not have the force of law.<sup>725</sup> Stein's reforms achieved their fame by combining procedural norms with participatory ideals – meaningful participation by citizens within an absolutist state.<sup>726</sup> Stein did not suggest that citizens had a capacity for self-governance beyond monarchical control – he merely suggested that they had a capacity to be a useful check on adherence to procedures run awry. However, the porous nature of the line between these two positions was not lost on his critics. Stein attacked rigid and mindless adherence to protocol within stale institutions as strongly as he attacked reliance on the a-procedural, ad hoc decision making of incapable aristocrats. Stein's reforms strike out in both directions. Both would be “shattered” and replaced by a “vibrant, progressive, creative spirit.”<sup>727</sup>

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<sup>723</sup> See also: Vinke. „Ueber die Organisation der Unterbehörden zunächst für die Polizeiverwaltung.“ Berlin, 4 June 1808, cited in: Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 84.; See also: “Es zeigte sich aber bald, dass ohne eine grössere Zahl von permanenten Stadtbeamten zumal in den Grossstädten nicht auszukommen war. Und alle schverständigen Gutachter warnten dringend davor, diese Beamtenstellen durch Befristung ihrer Amtsdauer für strebsame Köpfe zu entwerten, die Beamten selbst in unwürdige Abhängigkeit von der Gunst der Menge zu bringen” (Ritter, *Stein; Eine Politische Biographie*, 265.); Stein's Idee dass „jeder (Unbescholtene), der in der Stadt domiziliert, auch am städtischen Wesen teilnemen soll” – d.h. das Bürgerrecht erwerben kann.” – he had in mind „'Eximierte' innerhalb der Stadtmauern ohne jeden Anteil am städtischen Gemeinwesen; darüber hinaus waren all wirtschaftlich nicht selbständigen Elemente, Gesellen, Tagelöhner, Gesinde, als blosse Schutzverwandte vom Erwerb des Bürgerrechts geradezu ausgeschlossen, obwohl sie natürlich der Steuerhoheit, Polizei und Gerichtsbarkeit der Stadt unterstanden.” (Ritter, *Stein; Eine Politische Biographie*, 258.).

<sup>724</sup> “...gilt heute Stein weit über Preussens Grenzen hinaus als der eigentliche Erneuerer deutscher stätischer Freiheit.” (Ritter, *Stein; Eine Politische Biographie*, 266.)

<sup>725</sup> Nachahmung throughout Germany: „Indirekt hat der Geist der Steinschen Städteordnung weithin auch da gewirkt, wo sie juristisch keine Geltung hatte.” (Ibid., 266-7.)

<sup>726</sup> Selbstverwaltung in the midst of a „stramme obrigkeitliche Regiment des alten Fürstenstaates.” (Ibid., 270.)

<sup>727</sup> Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/1 – p.394-5.

One of the key advantages the masses held, it seems, was that there were many of them. Incorporating a group taken from the “confusion of practical life” was not a hindrance but an advantage; it entailed a useful wealth of “viewpoints and sentiments.”<sup>728</sup> As such, Stein’s suggestion to emancipate subjects and incorporate them as citizens within the bureaucracy is partially founded on a perceived epistemological advantage of the multitude. His proposal would simply “multiply the sources of perception” and thereby make the bureaucracy more effective and flexible.<sup>729</sup>

Stein makes this judgment based not on abstract ideology, but on his long experience in bureaucracies. The time spent there convinced Stein, in his own words, “truly and vividly of the advantage of properly educated orders.”<sup>730</sup> Instead of fearing the emancipation of the lower orders as the opening of the floodgates that would sweep society into chaos, Stein saw such a move as the harnessing of abundant talent for mutually beneficial consequences. Such a move would tie a perhaps apathetic population to the fate of its state, and the administrative organs thus reconstituted could function as a proper and useful public forum. In Stein’s words, they would become a “well constituted organ of public opinion.”<sup>731</sup>

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<sup>728</sup> “Der Formenkram und Dienst-Mechanismus in den Kollegien wird durch Aufnahme von Menschen aus dem Gewirre des praktischen Lebens zertrümmert, und an seine Stelle tritt ein lebendiger, fortstrebender, schaffender Geist und ein aus der Fülle der Natur genomener Reichtum von Ansichten und Gefühlen.” (Ibid.)

<sup>729</sup> “...vervielfältigt die Quellen ihrer Erkenntnis...” (Ibid., Vol.II/1 – p.395.)

<sup>730</sup> Stein rants repeatedly against mere “empty metaphysical phantasms of the mind” [von leeren Hirngespinnsten der Metaphysik] (Ibid., Vol.II/1 – p.391.)

<sup>731</sup> “Auch meine Diensterfahrung überzeugt mich innig und lebhaft von der Vortrefflichkeit zweckmässig gebildeter Stände, und ich sehe sie als ein kräftiges Mittel an, die Regierung durch die Kenntnisse und das Ansehen aller gebildeten Klassen zu verstärken, sie alle durch Überzeugung, Teilnahme und Mitwirkung bei den National-Angelegenheiten an den Staat zu knüpfen, den Kräften der Nation eine freie Tätigkeit und eine Richtung auf das Gemeinnützigste zu geben, sie vom müßigen sinnlichen Genuss oder von leeren Hirngespinnsten der Metaphysik, oder von Verfolgen bloss eigennütziger Zwecke abzulenken und ein gut gebildetes Organ der öffentlichen Meinung zu erhalten, die man jetzt aus Äusserungen einzelner Männer oder einzelner Gesellschaften vergeblich zu erraten bemüht ist.” (Ibid.; For more on this theme see:

Incorporating the wisdom of the multitude into the administration would help to overcome some of the central limitations of the current system of administration: adherence to rigid rules, “lack of appropriate local knowledge and indifference towards it,” as well as a “fear of change and innovation.”<sup>732</sup> In contrast, appropriately situated citizens (more about that later) do not merely possess local, contextual knowledge but also have the incentives to do something about it when given the chance.<sup>733</sup>

Stein’s administrative reforms would thus lead to superior outcomes and more legitimacy for the state while helping to educate the citizenry. Stein’s bureaucratic reform package mirrors the goals of modern deliberative democratic theory without either the deliberative *or* the democratic aspects! Furthermore, his proposals do not merely seek to emancipate, but also ground such liberation in a protection of liberties: “to refine the nation one has to give the repressed elements of the nation equal freedom, autonomy, property, and protection of the laws.”<sup>734</sup> Doing so would allow them to prevent the “arbitrary

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Münchow-Pohl, *Zwischen Reform Und Krieg : Untersuchungen Zur Bewusstseinslage in Preussen 1809-1812*, 291-2.).

<sup>732</sup> “In die aus besoldeten Beamten bestehenden Landes-Kollegia drängt sich leicht und gewöhnlich ein Mietlingsgeist ein, ein Leben in Formen und Dienst-Mechanismus, eine Unkunde des Bezirks, den man verwaltet, eine Gleichgültigkeit, oft eine lächerliche Abneigung gegen denselben, eine Furcht vor Veränderungen und Neuerungen, die die Arbeit vermehren, womit die bessern Mitglieder überladen sind und der die geringhaltigeren sich entziehen. (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/1 – p.389-90.). I am borrowing the term “wisdom of the multitude” anachronistically from Jeremy Waldron’s insightful article: Jeremy Waldron, “The Wisdom of the Multitude: Some Reflections on Book 3, Chapter 11 of Aristotle's Politics,” *Political Theory* 23, no. 4 (Nov., 1995). Aristotle, perhaps not incidentally, was widely read and analyzed by early cameralists.

<sup>733</sup> “Ist der Eigentümer von aller Teilnahme an der Provinzial-Verwaltung ausgeschlossen, so bleibt das Band, das ihn an sein Vaterland bindet, bleibt unbenutzt; die Kenntnisse, welche ihm seine Verhältnisse zu seinen Gütern und Mitbürgern verschaffen, unfruchtbar; seine Wünsche um Verbesserungen, die er einsieht, um Abstellung von Missbräuchen, die ihn drücken, verhallen oder werden unterdrückt, und seine Musse und Kräfte, die er dem Staat unter gewissen Bestimmungen gern widmen würde, werden auf Genüsse aller Art verwandt oder in Müsiggang aufgerieben.” (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/1 - p.389-90.)

<sup>734</sup> “Soll die Nation veredelt werden, so muss man dem unterdrückten Teil derselben Freiheit, Selbständigkeit und Eigentum geben und ihm den Schutz der Gesetze angedeihen lassen.” Stein makes this comment with respect to Poland but as is clear from the context of this particular sentence, its main thrust is equally applicable (perhaps even more applicable) to the more developed German states. (Ibid., Vol.II/1 – p.397.).

deviance from the established constitution and lawful order” which under the previous system was all too common.<sup>735</sup> Seen from this perspective, one of the greatest protections of freedom and order, in Stein’s view, would be the contained procedural participation that his administrative reforms afforded. Stein, then, fuses a concern over administrative efficiency with the project of increasing the legitimacy of the state and emancipating its subjects. Perhaps Stein took to heart the remark of one of his colleagues that “true liberty is founded far more on the [shape of the] administration than [on] the constitution.”<sup>736</sup>

Stein’s Nassau memorandum aroused trepidation in many. Nonetheless, due to a willingness to try just about anything born of desperation, Stein’s proposals eventually found a range of supporters, including, eventually and briefly, the king himself.<sup>737</sup> Nevertheless, the route from the reform proposal to the reforms themselves was unexpected and serpentine.

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<sup>735</sup> “...verhindern die willkürlichen Abweichungen von der Verfassung und gesetzlicher Ordnung, die sich die Landes-Kollegien bei dem Drang der Geschäfte nicht selten zu schulden kommen lassen.” (“Bericht Steins an das Generaldirektorium” [Münster, 30. Oktober. 1804]. Cited in: Stein, *Freiherr Vom Stein; Ausgewählte Politische Briefe Und Denkschriften*, 60.); Nolte, *Staatsbildung Als Gesellschaftsreform : Politische Reformen in Preussen Und Den Süddeutschen Staaten, 1800-1820*, 57.

<sup>736</sup> “...wahre Freiheit, ungleich mehr auf der Verwaltung als auf der Verfassung beruhe.” (Ritter, *Stein; Eine Politische Biographie*, 275. Vorrede Niebuhrs zu Vinckes Darstellung der inneren Verwaltung Grossbritanniens 1815.)

<sup>737</sup> Various statements of support for the principles of the Nassauer Denkschrift can be found in the following places:

- Letter of Friedrich Wilhelm III. to Stein (Memel, 7. December 1807) p.560-1
- Letter of Friedrich Wilhelm III. to Stein (Memel, 27. December 1807) p.598-9: die „meisterhafter Art verwebte ständische Repräsentation”
- Letter of Hardenberg to Stein (Libau, 13. December 1807) p.572.
- Letter of Reden to Stein (Berlin, 17. May 1808) p.736

(all in: Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/2.)

## ***10. Solutions for Weak States***

On July 10, 1807, one day after Prussia was coerced to sign the peace treaty of Tilsit, Napoleon urged Friedrich Wilhelm III to call Stein back to service.<sup>738</sup> With most of his country occupied by French troops, Friedrich Wilhelm III had no choice but to do as Napoleon commanded. Furthermore, Napoleon stipulated that Prussia surrender large sums of hard cash to France under harsh treaty obligations.<sup>739</sup> Given Stein's reputation in financial affairs, he must have seemed like the man who could get that job done. Stein, for his part, though sick at the time, received the news of his reappointment with zeal and a devout resolve.<sup>740</sup> At the moment of Prussia's greatest existential crisis, a moment shot through with contingency and possibilities, Stein was briefly, and most improbably, swept into a position of tentative but broad power. Though Stein would be in charge of the state for a mere fourteen months, much was about to happen. Stein and his allies throughout the administration now had the opportunity to implement the principles of the Nassau memorandum.<sup>741</sup> Incorporating citizens into Prussia's administrative machinery was high on the list of priorities. Quite literally, this task occupied Stein from the very first day of his

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<sup>738</sup> Napoleon "empfahl Friedrich Wilhelm mündlich in Tilsit die Rückberufung des Reichritters..." (Ritter, *Stein; Eine Politische Biographie*, 203-4.; See also: Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 60, 65.; Hintze and Oestreich, *Regierung Und Verwaltung. Gesammelte Abhandlungen Zur Staats-, Rechts- Und Sozialgeschichte Preussens*, 542.

<sup>739</sup> Ritter, *Stein; Eine Politische Biographie*, 308.

<sup>740</sup> Immediatschreiben Steins (Nassau 9. or 10. August 1807). (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/1, 429-30.

<sup>741</sup> For more on the immediate conditions within the state's administration see: Ritter, *Stein; Eine Politische Biographie*, 92-3.; Christian Jacob Kraus, "Ueber Die Mittel, Das Zur Bezahlung Der Franzoesischen Kriegsschuld Erforderliche Geld Aufzubringen," in *Vermischte Schriften Über Staatswirthschaftliche, Philosophische Und Andere Wissenschaftliche Gegenstände* (Könisberg: F. Nicolovius, 1808).

tenure until his final dismissal from office. His last official act on his very last day in office was the recommendation to the king to approve the final organizational reform.<sup>742</sup>

The crisis that enabled the reforms was also its greatest obstacle. The state Stein took over was barely functioning. It was abysmally low on legitimacy and state capacities.<sup>743</sup> To make things worse, Prussia was also abysmally poor.<sup>744</sup> To save money, the important proclamations regarding Stein's administrative reforms had to be printed as enclosures in newspapers, spread out in four parts over a month, for the government agencies to piece together themselves.<sup>745</sup> A set of golden dishes of Frederick the Great and various royal jewels had to be sold to raise much-needed cash.<sup>746</sup> For the year 1807/8, Prussia's official budget estimated revenues of 15 million taler while the expenses

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<sup>742</sup> "Keine zweite Reformaufgabe hat Stein mit so stürmischem Eifer angepackt wie die Neugestaltung des preussischen Verwaltungsapparates, von der Zentrale bis zu den untersten Staatsorganen in Stadt und Land. Fast vom ersten Tage seines Ministeriums an sieht man ihn damit beschäftigt, und noch die letzte seiner amtlichen Handlungen war die Empfehlung eines Organisationsplanes, den der König am Tage seiner Entlassung vollzog." (Ritter, *Stein; Eine Politische Biographie*, 238.) See also: Raack, *The Fall of Stein*, 128.; Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 80.; Gray, "Government by Property Owners: Prussian Plans for Constitutional Reform on the County, Provincial, and National Levels in 1808," 72.

<sup>743</sup> There is widespread agreement amongst historians on this point. For useful accounts that highlight various aspects of Prussia's downfall see: Büsch, Neugebauer, and Historische Kommission zu Berlin., *Handbuch Der Preussischen Geschichte*, 16-8, 32-33, 37-8.; Neugebauer, *Geschichte Preussens*, 91-2.; Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 1, 44-5, 89-90, 122-3.; Johann Jakob Otto August Rühle von Lilienstern, *Bericht Eines Augenzeugen Von Dem Feldzuge Der Während Den Monaten September Und October 1806 Unter Dem Kommando Des Fürsten Zu Hohenlohe-Ingelfingen Gestandenen Königl. Preussischen Und Kurfürstl. Sächsischen Truppen* (Tübingen: J.G. Cotta, 1807).; Levinger, *Enlightened Nationalism : The Transformation of Prussian Political Culture, 1806-1848*, 1-2.; Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 190-1.; Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen Staatsabsolutismus*, 34.; Christof Dipper, Wolfgang Schieder, and Reiner Schulze, *Napoleonische Herrschaft in Deutschland Und Italien : Verwaltung Und Justiz*, Schriften Zur Europäischen Rechtsgeschichte Und Verfassungsgeschichte (Berlin: Duncker & Humblot, 1995).; Simon, "Variations in Nationalism During the Great Reform Period in Prussia," 305-6.; Hubatsch, *Stein-Studien : Die Preussischen Reformen Des Reichsfreiherrn Karl Vom Stein Zwischen Revolution Und Restauration*, 92-4.; Friedrich-Wilhelm Henning, *Handbuch Der Wirtschafts- Und Sozialgeschichte Deutschlands* (Paderborn: F. Schöningh, 1991), 190-3.; Brose, *The Politics of Technological Change in Prussia : Out of the Shadow of Antiquity, 1809-1848*, 26-30.; Hagemann, *Männlicher Muth Und Teutsche Ehre : Nation, Militär Und Geschlecht Zur Zeit Der Antinapoleonischen Kriege Preussens*, 17-28.; Münchow-Pohl, *Zwischen Reform Und Krieg : Untersuchungen Zur Bewusstseinslage in Preussen 1809-1812*, 31-62.

<sup>744</sup> Eckart Kehr, Hanna Schissler, and Hans Ulrich Wehler, *Preussische Finanzpolitik, 1806-1810 : Quellen Zur Verwaltung Der Ministerien Stein Und Altenstein* (Göttingen: Vandenhoeck & Ruprecht, 1984), 13-64.

<sup>745</sup> Ritter, *Stein; Eine Politische Biographie*, 266.

<sup>746</sup> *Ibid.*, 324.

amounted to 28.1 million taler. The much-reduced military alone consumed 16.6 million taler.<sup>747</sup> The simple task of finding a couple of thousand rifles for Prussia's much-diminished army seemed nearly insurmountable.<sup>748</sup> Meanwhile, French troops had plundered much of Berlin, including the Quadriga statue from atop the Brandenburg Gate.<sup>749</sup> Napoleon, leaving no doubt as to his intentions, instructed his officers in Berlin clearly: "We must make money out of everything."<sup>750</sup> The *Grande Armée* still occupied much of Prussia and demanded housing and provisions until Prussia paid all war reparations as specified in the treaty of Tilsit.<sup>751</sup> Fichte, writing to his wife in Berlin, despaired that "I think that the German nation must be preserved; but look, she is already extinguished!"<sup>752</sup> As general von Gneisenau put it in a letter to Marwitz in the fall of 1807:

We are beaten, bent, insulted, robbed, and poor. We sit here in a miserable nest without hope and have, even in the most fortunate case, barely the prospect of saving with our greatest effort the sunken state in some sort of precarious existence.<sup>753</sup>

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<sup>747</sup> Kehr, Schissler, and Wehler, *Preussische Finanzpolitik, 1806-1810 : Quellen Zur Verwaltung Der Ministerien Stein Und Altenstein*.

<sup>748</sup> Dennis E. Showalter, "Manifestation of Reform: The Rearmament of the Prussian Infantry, 1806-13," *The Journal of Modern History* Vol. 44, no. 3 (Sep., 1972).; Scharnhorst et al., *Private Und Dienstliche Schriften*, 572.

<sup>749</sup> Magnus Friedrich von Bassewitz, *Die Kurmark-Brandenburg Im Zusammenhang Mit Den Schicksalen Des Gesamtstaats Preussen Während Der Zeit Vom 22 Oktober 1806 Bis Zum Ende Des Jahres 1808* (Leipzig: 1851-2), 154-56. Cited in: Leggiere, *Napoleon and Berlin : The Franco-Prussian War in North Germany, 1813*, 19.; See also: Friedrich von Cölln, "Über Die Vertheilung Der Von Der Stadt Berlin Zu Tragenden Kriegskontribution Auf Ihre Bürger," in *Neue Feuerbrände* (Amsterdam ; Cölln: P. Hammer, 1807).; Gottfried Schadow, "Entführung Der Kunstschatze," in *Die Franzosenzeit in Deutschen Landen 1806-1815*, in *Wort Und Bild Der Mitlebenden*, ed. Friedrich Schulze (Leipzig.; R. Voigtländer, 1908), 83.; Klessmann, *Deutschland Unter Napoleon in Augenzeugenberichten*, 171-3.

<sup>750</sup> "Il faut faire argent de tous." (as quoted in : Münchow-Pohl, *Zwischen Reform Und Krieg : Untersuchungen Zur Bewusstseinslage in Preussen 1809-1812*, 49.)

<sup>751</sup> Friedrich Buchholz, *Idee Einer Arithmetischen Staatskunst Mit Anwendung Auf Das Königreich Preussen in Seiner Gegenwärtigen Lage* (Berlin: Duncker und Humblot, 1809), 186-7.

<sup>752</sup> Fichte about the peace of Tilsit (29, July 1807) as quoted in: Schulze, *Die Franzosenzeit in Deutschen Landen 1806-1815*, in *Wort Und Bild Der Mitlebenden*, 144.

<sup>753</sup> Gneisenau in a letter to Marwitz (Dec.11, 1807): "Wir sind geschlagen, gebeugt, gedemütigt, beraubt und verarmt, sitzen hier in einem elenden Neste ohne Hoffnung, haben auch in dem günstigsten Fall die Aussicht, nur mit den grössten Anstrengungen einen gesunkenen Staat in einer schwankenden Existenz zu erhalten." (Gneisenau, *Gneisenau; Ein Leben in Briefen*, 86-7.)

In short, Prussia was on the brink of becoming a footnote in European history books.<sup>754</sup> To counter this possibility, Stein's reforms, as actually implemented, combined a concern for legitimacy-enhancing measures with an appreciation of participatory procedures. The key innovation in this attempted fusion is a bringing together of procedural requirements and participatory norms. Stein, in effect, advocated for reconceptualizing popular participation as a well-regulated procedural element. For him, the fairness and legitimacy of a procedure becomes tied to the opportunity of citizens to participate in proceedings. As one of the most famous phrases of the time put it, participatory procedural requirements stipulate "democratic principles in a monarchical regime."<sup>755</sup> This is a double-edged sword for Stein and his allies.

On the one hand, it holds the promise of solving many of Prussia's woes. Participatory procedural requirements could help to alleviate the "vapid torpor" of bureaucratic formalism, while simultaneously enhancing the legitimacy of the state.<sup>756</sup> As the Romantic critics of the last section pointed out, few people felt they had a stake in the fortunes of the state. Stein thought that including a wide pool of people in the administration would entangle their talents, insights, aspirations, and energy with the well-being of the state.

On the other hand, participatory procedures invoked in the minds of many riotous citizens with pitchforks rather than tablet-wielding components of the bureaucratic machinery. With the example of the French Revolution uncomfortably close in time and

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<sup>754</sup> See for example the assesemnt of Gray who concurs forcefully: Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 58.

<sup>755</sup> "Demokratische Grundsätze in einer monarchischen Regierung" (Hardenberg, "Über Die Organisation Des Preussischen Staates," 98.)

<sup>756</sup> "...trug längst die Kennzeichen dumpfer Erstarrung, inneren Verfalls." (Ritter, *Stein; Eine Politische Biographie*, 188-9.)

space, advocating for widespread participation by the masses in affairs of the state was a surefire way to invoke images of popular unrest, hysteria, and uncontrollable violence. Calling Stein a “Jacobin” was a blunt device to underscore this connection.

However, this charge, though not entirely unfounded, overlooks that public participation under Stein’s scheme is tightly regulated within a procedural framework. Stein is not advocating for public sovereignty or self-determination. Stein’s citizens are part of the bureaucratic machinery of the state. They are subject to highly regulated rules and procedures that constrain their agency. Stein attempts to construct a *manageable* model of citizenship that would save the state, not overturn it.<sup>757</sup>

Highly regulated participatory procedures are instrumental to Stein’s attempt to create a new understanding of citizenship and strengthen the ailing Prussian state.<sup>758</sup> I do not have in mind here the historical switch from subjects to citizens. Prussia’s population after Stein’s reforms would not all be equals. In many affairs of their lives, no changes would be noticeable. However, in the narrow realm of citizen-advisor and supervisor, Stein’s reforms aimed at creating an empowered, contributing, procedurally constrained, participatory citizen role. People would move in and out of that role, at one moment guiding the affairs of the state, in the next fixing shoes. The cobblers from this example are not citizens in the way we might understand the term today; they would not vote on the national stage (on candidates or issues), nor have formal rights or liberties.<sup>759</sup> For most of

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<sup>757</sup> For more on Stein’s approach to creating and empowering citizens see: Levinger, “The Prussian Reform Movement and the Rise of Enlightened Nationalism,” 265-6.; See also: Nolte, *Staatsbildung Als Gesellschaftsreform : Politische Reformen in Preussen Und Den Süddeutschen Staaten, 1800-1820*, 13.

<sup>758</sup> For one of the few interpretations that highlights most of the elements of my formulation see: Gray, “Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808,” 14.

<sup>759</sup> However, though little known, Stein had initiated early plans prior to his second dismissal that aimed at founding representative bodies on all levels, including the establishment of a national parliament. Stein left his office pleading that “the life of our state depends upon the enactment of a plan [of national representation].” (Ibid.: 102.) See also: Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*,

the week, they would still be subjects of the crown within a highly structured and discriminating social order. However, at times, they could set down the hats assigned to them by their professions or caste rank and switch into their roles as citizens. Entailed in this hat-switching procedure is a temporary reconfiguration of duties, rights, and expectations that attach to these individuals in their positions within the administration. Administrators carrying out the crown's commands vis-à-vis subjects would in these moments encounter the very same people as empowered citizens from whom they had to accept admonishments, guidance, and perhaps even direct commands.<sup>760</sup>

Ideally, this understanding of citizenship strikes a balance between the cameralists' norms and the concerns of their critics. This attempted balance is illustrated through one of Stein's unlikely temporary allies: the nationalistic "Turnvater" Friedrich Ludwig Jahn. In a piece from 1810 titled "The Even Internal Administration," Jahn argued:

Between head, hand, and foot lies the heart, which must not beat exclusively like a machine – it must be raised by honor. This genial feeling is best induced through citizen-honor, where the governing recognize the governed as capable of partaking in council . . . , and where the governed are not treated as eternal minors in eternal tutelage.<sup>761</sup>

As Stein and his allies argued, establishing such an understanding of citizenship under participatory procedural requirements would have the advantages of creating a

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II/1, 380-98.; Gray, "Government by Property Owners: Prussian Plans for Constitutional Reform on the County, Provincial, and National Levels in 1808," 93-4.

<sup>760</sup> See for example: Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 83-7.

<sup>761</sup> "Zwischen Kopf, Hand und Fuss liegt das Herz; das muss nicht bloss maschinenmässig schlagen, es muss von Ehre gehoben werden. Dies wohltuende Gefühl wird durch eine Bürgerehre am besten eingeflößt, wo die Regierung die Regierten für ratsfähig in eigenen Sachen anerkennt, sie nicht als ewige Unmündige in ewige Vormundschaft nimmt." (Friedrich Ludwig Jahn, "Deutsches Volkstum," in *Stimmen Aus Der Zeit Der Erniedrigung*, ed. Rudolf Vaupel (München: Drei Masken, 1923), 148-9.)

manageable model of citizenship, rendering the government administration more efficient and legitimate, and saving much-needed cash.<sup>762</sup>

### **(i) Problems and Goals**

Stein designed his reforms to address the concerns of a weak state in possession of few resources and little control or legitimacy. However, in trying to rescue the ailing Prussian state, the crown had to make a variety of uncomfortable bargains. Certainly, the reform package entailed moves that would make Prussia's administration more efficient and effective, enhance the standing of the crown in the eyes of many, rely on a broader pool of talent to lower costs, and diminish the encumbrance of entrenched administrative practices. However, the flip side of these achievements was the crown's (temporary) submission to jolting assumptions that were now being built into the very institutions of the state. I will highlight three of them: a suspicion of government and a distaste for lack of governmental accountability, a suspicion of popular excess, and epistemological humility.

First, Stein's reforms are at pains to walk the thin line between empowering the state sufficiently to be effective on the dangerous international scene and empowering it too much, so that it would become threatening domestically. The reorganization of the administration based on a procedural understanding of the state rendered the state more predictable and calculable. As we have seen, it largely replaced lordly fiat and aristocratic

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<sup>762</sup> The monetary dimensions of Stein's reforms have not been lost to historians, see for example: Mueller, *Bureaucracy, Education, and Monopoly : Civil Service Reforms in Prussia and England*, 131-2.

dicta with stable and known rules and procedures.<sup>763</sup> As one historian put it, “by subjecting the crown, in matters of personnel administration, to certain binding rules, [various reforms] curbed the powers of the absolute king, placed him under the law, [and] reduced the personal element in government.”<sup>764</sup> Adherence to a procedural understanding of the state’s administration helped to depersonalize the state and render it less arbitrary. The state, increasingly, was in practice and thought an abstract entity, no longer a person (the king). The face of such a state was a regimented and faceless bureaucracy whose defining distinction vis-à-vis earlier administrative systems was the prevalence of bureaucrats beholden to procedural norms. In the words of one historian, “the establishment of Stein’s ministry was a triumph of bureaucracy over personal absolutism.”<sup>765</sup> It was a “bureaucratic revolution.”<sup>766</sup> The king, then, subjected himself to established and known rules and procedures. In many ways this was as close as Prussia would get for a long time to an often

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<sup>763</sup> The lack of a predictable government bound by procedural rules was certainly not a minor problem as demonstrated by the famous legal case of the “Miller Arnold“ or Frederick William’s habit of insulting and assaulting officials whose judgments he found objectionable on ad hoc grounds (as recounted in: Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 111-15, 32-3.) See also: Sieg, *Staatsdienst, Staatsdenken Und Dienstgesinnung in Brandenburg-Preussen Im 18. Jahrhundert (1713-1806) : Studien Zum Verständnis Des Absolutismus*, 43-7, 109-10.; Johann Erich Biester, “Zedlitz,” *Berlinische Monatsschrift* 21 (1793): 540-41.; Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen Staatsabsolutismus*, 10-11.; Hintze and Oestreich, *Regierung Und Verwaltung. Gesammelte Abhandlungen Zur Staats-, Rechts- Und Sozialgeschichte Preussens*, 120.; Johan van der Zande, “Prussia and the Enlightenment,” in *The Rise of Prussia : Rethinking Prussian History, 1700-1830*, ed. Philip Dwyer (New York: Longman, 2000), 93.

<sup>764</sup> Rosenberg, *Bureaucracy, Aristocracy, and Autocracy : The Prussian Experience, 1660-1815*, 190-1.

<sup>765</sup> Gray, “Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808,” 73, 155.; This view is very widely shared amongst historians. See: Büsch, Neugebauer, and Historische Kommission zu Berlin., *Handbuch Der Preussischen Geschichte*, 20.; Eckart Kehr. “Zur Genesis der preussischen Bürokratie und des Rechtsstaats. Ein Beitrag zum Diktaturproblem” [1932], in: Eckart Kehr and Hans Ulrich Wehler, *Der Primat Der Innenpolitik*, Veröffentlichungen Der Historischen Kommission Zu Berlin Beim Friedrich-Meinecke-Institut Der Freien Universität Berlin ; (Berlin,: de Gruyter, 1965).; Rosenberg, *Bureaucracy, Aristocracy, and Autocracy : The Prussian Experience, 1660-1815*, 191.; For a contrasting view see: Nolte, *Staatsbildung Als Gesellschaftsreform : Politische Reformen in Preussen Und Den Süddeutschen Staaten, 1800-1820*, 27.; For a very different perspective consider: Sieg, *Staatsdienst, Staatsdenken Und Dienstgesinnung in Brandenburg-Preussen Im 18. Jahrhundert (1713-1806) : Studien Zum Verständnis Des Absolutismus*, 34-40.

<sup>766</sup> Barbara Vogel, *Preussische Reformen 1807-1820*, Neue Wissenschaftliche Bibliothek ; (Königstein/Ts.: Verlagsgruppe Athenäum, Hain, Scriptor, Hanstein, 1980), 17.; See also: Silberman, *Cages of Reason : The Rise of the Rational State in France, Japan, the United States, and Great Britain*, 4. (My emphasis)

promised but never delivered paper constitution.<sup>767</sup> Furthermore, the incorporation of people in their citizen role within the local administration simultaneously enabled and constrained the state. While their tasks were myriad, of particular importance was the institutionalized check on governmental spending and taxation.<sup>768</sup> In all these ways, then, Stein's reforms exhibit a suspicion of governmental power at the same time as they seek to enliven the ailing state.

Second, the citizens under Stein's model never turn into a mob even when endowed with unprecedented powers to check governmental overreach and abuse. Stein was deeply beholden to monarchical rule; he distained democrats. Stein sought to find the proper, historically conditioned balance between participation and process, between liberty and coercion, and between suffocating regimentation from above and the overzealous forces from below.<sup>769</sup> The citizen's role is, in Stein's account, consequently just that: a narrowly defined, temporarily held position that provides for some powers, for some people, for some time. As such, Stein's citizen appears markedly different from the French *citoyen* who wore his red hat at all times and within all social contexts.

As many of Stein's followers as well as opponents were well aware, the example of the French Revolution next door had the potential for spreading seeds of unprecedented

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<sup>767</sup> This theme is of considerable importance to historians. For much more on the numerous promised constitutions see: Neugebauer, *Geschichte Preussens*, 95-6.; Büsch, Neugebauer, and Historische Kommission zu Berlin., *Handbuch Der Preussischen Geschichte*, 26.; Levinger, *Enlightened Nationalism : The Transformation of Prussian Political Culture, 1806-1848*, 12, 54, 92, 146-57.; Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen Staatsabsolutismus*, 59-60.; For a similar thought in a different context see: Hintze and Oestreich, *Regierung Und Verwaltung. Gesammelte Abhandlungen Zur Staats-, Rechts- Und Sozialgeschichte Preussens*, 317.; Berdahl, "The Stande and the Origins of Conservatism in Prussia," 311.; For more on this theme and disenting viewpoints consider: Nolte, *Staatsbildung Als Gesellschaftsreform : Politische Reformen in Preussen Und Den Süddeutschen Staaten, 1800-1820*, 79-85.

<sup>768</sup> See for example Wunder's analysis to this effect: Wunder, *Geschichte Der Bürokratie in Deutschland*, 25-6.

<sup>769</sup> For more on Stein's thought on this point and its origins see: Ritter, *Stein; Eine Politische Biographie*, 193-4.

discontent. Two argumentative strategies respond to this challenge and try to avert the excesses of a bloody revolution. The first, taken by many of Stein's opponents, praises the virtues of the old order and suggests the ultimate dissatisfaction that awaits cobblers who do not stay at their last.<sup>770</sup> The second, advocated by reformers like Stein, does not try to put awakened minds back to sleep, but rather sees this as an opportunity to harness their still slumbering energy if used properly and fruitfully.<sup>771</sup> Stein's proposal was far from either emotional appeals to ancient chivalry or an endorsement of blind equality. Rather, he (like many others) suggested that reform, the "education of the lower classes and the improvement of their conditions seems to be the most secure tool to anticipate and forestall revolution."<sup>772</sup> Stein, then, seeks to carve out an understanding of the concept of 'citizen' that enables the state but does not lead to wild populism.

Third, crucial to the task of creating effective bureaucratic machinery within Stein's reform program is an embedded reliance on epistemological humility. Not only did Stein prepare his reforms circumspectly, but they themselves are built upon an understanding of epistemological limitations. What might be good for Brandenburg might prove disastrous if applied to the people in Königsberg. Local context not only matters but is best known by local individuals who have a stake in the outcome of various governmental initiatives.<sup>773</sup>

Equally important, allowing people to make decisions for their own communities (again,

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<sup>770</sup> For a general introduction to this theme see for example: Hannah More, *Village Politics (1793)*, *Revolution and Romanticism, 1789-1834* (Oxford [England] ; New York: Woodstock Books, 1995).; Given a wave of popular unrest, riots, and outright rebellions throughout the German countryside (mostly of a local nature), many conservatives felt much urgency in advocating this viewpoint (for a collection of studies on this point see: Helmut Berding, *Soziale Unruhen in Deutschland Während Der Französischen Revolution* (Göttingen: Vandenhoeck & Ruprecht, 1988).; See also: Günter Birtsch. "Revolutionsfurcht in Preussen 1789-1794." In Büsch, Neugebauer-Wölk, and Berding, *Preussen Und Die Revolutionäre Herausforderung Seit 1789 : Ergebnisse Einer Konferenz*, 87-101.

<sup>771</sup> Levinger, "The Prussian Reform Movement and the Rise of Enlightened Nationalism," 263-5.

<sup>772</sup> "Bildung der unteren Klassen und Verbesserung ihres Zustandes scheint mir das sicherste Mittel, um Revolution zuvorkommen..." (Stein, *Freiherr Vom Stein; Ausgewählte Politische Briefe Und Denkschriften*, 31.)

<sup>773</sup> Ritter, *Stein; Eine Politische Biographie*, 95.

within certain roles at certain times) encourages a sense of responsibility and agency that, so Rehberg, encourages a “liberal stance.”<sup>774</sup>

**(ii) “For a Nation of Cheaters and Criminals”<sup>775</sup>**

Stein, then, was far from being a lofty ideologue. He had little patience with people who were jumping at the chance to experiment with the latest conceptual innovations. However, he realized that Prussia could not afford the status quo, not fiscally, militarily, politically, or socially. His conceptual innovations and adaptations aimed, simply, to revive an ailing state at the brink of extermination. One of the first steps in creating new foundations for the Prussian state was to erode resistance to all forms of public participation in governmental affairs, procedural or not.

Key to this move was an erosion of the social boundaries that had given shape to the Old Prussian order. As many of Stein’s opponents were very much aware, Stein and like-minded reformers saw little utility in subdividing the state’s population into absolutely separate estates in all affairs of life. Under the old model, a person’s caste [*Kaste*] shaped that person’s rights, responsibilities, legal constraints, and status in all of his or her interactions.<sup>776</sup> Particularly with respect to the offices of the state, it seemed foolish to Stein

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<sup>774</sup> “liberale Gesinnung“ – cited in: Ibid., 116.

<sup>775</sup> “...für eine Nation von Betrügern und Verbrechern” - The quote is from Hardenberg with respect to the general trend of legal and social reforms in Prussia (cited in: Koselleck, *Preussen Zwischen Reform Und Revolution; All-Gemeines Landrecht, Verwaltung Und Soziale Bewegung Von 1791 Bis 1848*, 159.)

<sup>776</sup> For the best treatment of the origin, development, and vituperative use of this term see: Otto Brunner, Werner Conze, and Reinhart Koselleck, *Geschichtliche Grundbegriffe; Historisches Lexikon Zur Politisch-Sozialen Sprache in Deutschland* (Stuttgart,: E. Klett, 1972).

and his allies to let caste restrictions determine bureaucratic rank and influence. Such restrictions made it difficult to incorporate a wide spectrum of citizens into the administration of the country. They also hindered procedural practices from taking shape, since aristocratic norms favor the will of individuals over mechanized decision-making procedures in which *anybody* could, theoretically, make those decisions.

Importantly, Stein never proposed the elimination of aristocratic ranks and titles. Instead, his reforms worked with and around caste roles by containing them within some contexts while excluding them from others. As such, Stein's reforms did not eradicate the Old Prussian social order, but rather tried to reshape it in novel and innovative ways. In fact, far from seeing this question as a revolutionary challenge to the very foundations of the old order, Stein saw reforms of this dimension as the only method of saving the ailing state. Just days before writing the Nassau memorandum, he wrote to a friend that it is imperative to purge the civil administration and the military of "the vile caste spirit [...], since it enfeebles the richer members of the aristocratic caste while it leaves the poorer uneducated and frequently entirely crude."<sup>777</sup> Equally damning in the eyes of Stein, the complicated system of legal and social controls that kept estates contained in tightly circumscribed fields of activity was draining the lower estates of any willingness to contribute to the affairs of the state. As long as "thus underdeveloped estates are not permanently entangled in the administration [...] nothing can be expected from them in extraordinary cases" – such as Napoleonic invasions or occupations.<sup>778</sup> Stein was not

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<sup>777</sup> Letter of Stein to Reden (Nassau 7. June, 1807): "Der elende Kastengeist muss aus den Zivil- und Militärverhältnissen heraus, um so mehr, da in der adligen Kaste die reicheren Individuen verweichlicht, die ärmeren anspruchsvoll und halbgebildet oder oft ganz roh sind." (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/1 - p.378-9.)

<sup>778</sup> Letter of Stein to Reden (Nassau 7. June, 1807): "Nach dem, was ich vernehme, ist das Benehmen des kurmärkischen ständischen Komitees inept, und ich glaube, dass solange unsere Provinzialstände nur aus Landjunkern bestehen, man sie nicht auf die breite Basis der Grundeigentümer setzt, solange man diese so

particularly subtle or caring in his criticism. Neither was Altenstein, who once again agreed with many of the key objections of his fellow administrative reformer:

There remain sharply divided castes or status groups – a condition that became worse in recent years. There remains a nobility with many essential privileges, especially exclusive possession of all that bestows unearned honor, prestige, etc.; a bourgeoisie with municipal rights, guilds, and monopolies that are seemingly beneficial but are actually paralyzing the nation's energy; and a very large part of the nation altogether unable to acquire property and in condition of personal slavery.<sup>779</sup>

In short, many boundaries invisibly, and sometimes all too visibly, constrained behavior and shaped the constitution of the established order. Unfortunately, rather than being primarily enabling, these boundaries seemed to the minds of many to have become suffocating.<sup>780</sup> It was one of Stein's central aims to design and implement novel administrative structures that would not weigh down the state with the inefficiency of aristocratic norms imported into the administration.<sup>781</sup> For example, in good cameralistic fashion Stein vituperated against the quasi-rent extraction that hampered the effective administration of Prussia's domains.<sup>782</sup>

Numerous like-minded commentators focused on the spirit of the administration [*Geist der Verwaltung*] and the need to revive it from its current languid condition.<sup>783</sup> They,

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ungebildeten Stände nicht wirklich mit in die Landesverwaltung permanent verwickelt, ihnen eine gewisse Menge auf das Interesse der Provinz sich beziehender Verwaltungszweige überträgt, dass so lange von ihnen in ausserordentlichen Fällen nichts zu erwarten ist." (Ibid.)

<sup>779</sup> Altenstein: "Über die Leitung des preussischen Staats an Seine des Herrn Staatsministers Freiherrn von Hardenberg Exzellenz" (in Georg Winter and Rudolf Vaupel, *Die Reorganisation Des Preussischen Staates Unter Stein Und Hardenberg*, 2 vols., vol. 1 (Leipzig,: Hirzel, 1931), 392.; Mueller, *Bureaucracy, Education, and Monopoly : Civil Service Reforms in Prussia and England*, 130.)

<sup>780</sup> Mueller, *Bureaucracy, Education, and Monopoly : Civil Service Reforms in Prussia and England*, 130.

<sup>781</sup> Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/2. p.501-2.

<sup>782</sup> Kurt Utermann, *Der Kampf Um Die Preussische Selbstverwaltung Im Jahre 1848* (Berlin,: Verlag Emil Ebering, 1937), 180.; Gray, "Government by Property Owners: Prussian Plans for Constitutional Reform on the County, Provincial, and National Levels in 1808," 75-6.

<sup>783</sup> Ritter, *Stein; Eine Politische Biographie*, 94-5.

like Stein, hated red tape and the mechanistic grind within administrative offices.<sup>784</sup> As Stein outlined in one of his reports, the effectiveness of many administrative branches was severely hindered by a “lack of knowledge about the administrated district, an indifference and frequently absurd dislike of it, as well as a fear of change and innovation.”<sup>785</sup> Stein’s letters expressed remarkable abhorrence for the administrative offices in which he had served. A professional life spent in the Prussian administration had taught him the deficiencies of an administrative cadre lacking sufficient skill, professionalism, and commitment to procedural norms. Prussia’s military had been defeated on the battlefield, but as Stein saw it, Prussia’s administration had contributed much to this defeat. Stein subsequently longed to do away with outmoded administrative practices and inefficient aristocratic norms:

I saw a machine, of the military kind, fall on the 14<sup>th</sup> of October 1806 [at the battle of Jena and Auerstedt]; perhaps the administration will have its 14<sup>th</sup> October as well one day.<sup>786</sup>

Stein’s arguments about the bracketing of old status privileges and monopolies and the participation of the masses scared many within the established order. Critics often could not picture anything but an undifferentiated, ugly mob when confronted with the specter of public participation in governmental affairs. Adherence to caste distinctions was the

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<sup>784</sup> Mueller, *Bureaucracy, Education, and Monopoly : Civil Service Reforms in Prussia and England*, 133.; Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*, 110.

<sup>785</sup> Immediatbericht Steins, Memel, 23. Nov. 1807 (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/2. p.504-5.); See also: Immediatbericht Steins, Memel, 23. Nov. 1807 (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/2. p.505.)

<sup>786</sup> “Eine Machinerie, die militärische, sah ich fallen in 1806, den 14. Oktober, vielleicht wird auch die Schreibmaschinerie ihren 14. Oktober haben.“ (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Bd.6, p.381.)

foremost roadblock to the participatory/procedural administrative institutions Stein envisioned.

The widely circulated term ‘caste’ [*Kaste, Kastengeist*] itself conveys part of the dislike for the static nature of such restrictions placed on individuals of all estates. Far from simply constraining some while freeing others, the caste system placed limitations on all individuals in virtually all domains of their lives (though of course they were not equally burdensome).<sup>787</sup> As Friedrich Schleiermacher, the later nemesis of Hegel at the University of Berlin, explained in a sermon in 1808:

Our previous constitution was marked by a great inequality of the separate parts of the members of the state. Unjustly we thought thereby only of the difference between the higher and lower estates: however, it was more so the case in all estates where one was freed from encumbrances and authority that another (much like him) had to carry, while somebody else was provided with freedoms and advantages that were lacking in the order of the life of another.<sup>788</sup>

As applied to the administration, Schleiermacher continued, these “imbalances and prerogatives are the greatest hindrance to a complete and beneficial rebirth,”<sup>789</sup> partially because of the resentment inspired by a lack of meaningful professional and social

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<sup>787</sup> Holmsten, *Freiherr Vom Stein in Selbstzeugnissen Und Bilddokumenten*, 66-7. See also: Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 16.; Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen Staatsabsolutismus*, 43-5.

<sup>788</sup> “Unser bisheriger Zustand zeichnet sich aus durch eine grosse Ungleichheit der einzelnen Theile und Mitglieder des Staates. Mit Unrecht dachten wir dabei nur an den Unterschied der höheren Stände von den niederen; es war vielmehr so in allen Ständen, von Lasten und Obrigkeiten war der Eine befreit die ein Anderer ihm ganz ähnlicher zu tragen hatte, mit Freiheiten und Begünstigungen der Eine versehen, welche Andern aus seiner Ordnung fehlten.” (from a sermon of Friedrich Schleiermachers. “Ueber die rechte Verehrung gegen das einheimische Grosse aus einer früheren Zeit” (Halle, 24. January, 1808). Cited in: Spies, *Die Erhebung Gegen Napoleon : 1806-1814/15.*) See also: Hintze and Oestreich, *Regierung Und Verwaltung. Gesammelte Abhandlungen Zur Staats-, Rechts- Und Sozialgeschichte Preussens*, 494-5.

<sup>789</sup> “...sondern auch der Verstand der an der Spitze der Verwaltung steht auf diese Ungleichheiten und Vorrechte als auf das grösste Hinderniss einer vollständigen und gedeihlichen Wiedergeburt hinweist.” For more on the urgency of the times that drive Schleiermacher’s argument see: “...so lasst uns auch ja nicht eben durch jene verfehlt Anhänglichkeit an das Vergangenen zurückgehalten werden dasjenige nicht gern und willig zu thun, was der gegenwärtige Zustand der Dinge von uns fordert.” (both quotations from a sermon of Friedrich Schleiermachers. “Ueber die rechte Verehrung gegen das einheimische Grosse aus einer früheren Zeit” (Halle, 24. January, 1808). Cited in: Spies, *Die Erhebung Gegen Napoleon : 1806-1814/15.*)

mobility. In an essay from 1809, an anonymous pamphleteer sketched his “political dream” that would lead the country out of its predicament towards better times. One of the central pillars of the presented vision holds that in a recovered Germany “no privileges, no caste-spirit incite the jealousy and resentment of fellow citizens. The path to honor and public service up to the highest levels are open to each man of talent.”<sup>790</sup>

Similarly, what troubled Stein and the people around him the most (as in this case the aforementioned Rehberg) was the “crossing out of the regulations of service to the state through insistence on preferred treatment for members of the aristocratic estate.”<sup>791</sup> Rehberg, for example, argued strongly that aristocrats should not be treated differently than anybody else while occupying positions in the administration or the military.

Preferential treatment in the army and administrative organs of the state, universally applicable status distinctions, and a nonfragmented understanding of a person’s rank and worth were all-important pillars of the old social order. Many anticipated that opening the state’s administrative machinery to talent irrespective of class background would be an important (hailed or lamented) step towards ending the feudal organization of society and opening the door to widespread participation.<sup>792</sup> An important goal of the reforms was consequently the dismantling of absolute estate barriers [*Standesschranken*] in favor of

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<sup>790</sup> “Keine Privilegien, kein Kastengeist erregten mehr den Neid und den Unwillen der Mitbürger. Jedem Manne von Talent stand die Bahn der Ehre und der öffentlichen Würksamkeit bis zur höchsten Stufe offen.” (“Ein Politischer Traum Vom Jahre 1806,” *Minerva* (January 1809).

<sup>791</sup> “Was Rehberg persönlich am stärksten erbittert, ist die Durchkreuzung der staatlichen Dienstordnung durch adlige Standesansprüche. Innerhalb der Staatsdienerschaft darf es seiner Meinung keinerlei Vorzugsstellung adliger Elemente vor nichtadligen geben. Ebenso wenig im Militärdienst.” (Ritter, *Stein; Eine Politische Biographie*, 109.)

<sup>792</sup> Raack, *The Fall of Stein*, 28.

creating participatory institutions.<sup>793</sup> In the words of one historian, this would entail the freeing of “administrative institutions from the constraints of ‘caste’.”<sup>794</sup>

The reformers attached high hopes to the desired transformation of the state through participatory procedural measures. By freeing individuals, as one historian puts it, from “the fetters of castes,” a newly liberated but “politically integrated society” was to be created – perhaps one day even with a proper legal constitution.<sup>795</sup>

Such a progressive drive towards reregulating the social order was based, in part, upon Kantian thought.<sup>796</sup> For example, Heinrich Theodor von Schön, one of Stein’s closest allies and most outspoken proponents, had studied under Kant in Königsberg and remained vocally proud of that fact for the rest of his life.<sup>797</sup> Similarly, Johann Gottfried von Frey was a student and later an acquaintance of Kant who was instrumental in Stein’s city

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<sup>793</sup> “Ein Ziel der Reform war, die Standesschranken niederzureissen, um eine „vernünftige Rangordnung“ herzustellen, die – mit Hardenbergs Worten – „nicht einen Stand vor dem anderen begünstigte, sondern den Staatsbürgern aller Stände ihre Stellen nach gewissen Klassen nebeneinander anwies“ (as cited in: Koselleck, *Preussen Zwischen Reform Und Revolution; All-Gemeines Landrecht, Verwaltung Und Soziale Bewegung Von 1791 Bis 1848*, 158.)

<sup>794</sup> Mueller, *Bureaucracy, Education, and Monopoly: Civil Service Reforms in Prussia and England*, 127.

<sup>795</sup> “Durch Befreiung aller Individuen aus den Fesseln der Kasten, wie die alten Stände von den Reformern genannt wurden, sollte eine wirtschaftlich freie, aber politisch in den Staat eingebundene Gesellschaft entstehen, deren neuständische Rechte, auch der Repräsentation, nach Abschluss des Reformwerks in einer Verfassungsurkunde niederzulegen waren.” (Koselleck, *Preussen Zwischen Reform Und Revolution; All-Gemeines Landrecht, Verwaltung Und Soziale Bewegung Von 1791 Bis 1848*, 153.); For more on the debates around a proper legal constitution see: Neugebauer, *Geschichte Preussens*, 95-6.; Berdahl, *The Politics of the Prussian Nobility: The Development of a Conservative Ideology, 1770-1848*, 182-98.; Levinger, "The Prussian Reform Movement and the Rise of Enlightened Nationalism," 273-5.; Büsch, Neugebauer, and Historische Kommission zu Berlin., *Handbuch Der Preussischen Geschichte*, 26.; Levinger, *Enlightened Nationalism: The Transformation of Prussian Political Culture, 1806-1848*, 12, 54, 92, 146-57.; Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen Staatsabsolutismus*, 55.; Dwyer, *The Rise of Prussia: Rethinking Prussian History, 1700-1830*, 26.; Nolte, *Staatsbildung Als Gesellschaftsreform: Politische Reformen in Preussen Und Den Süddeutschen Staaten, 1800-1820*, 79-85.

<sup>796</sup> Matthew Levinger, "Kant and the Origins of Prussian Constitutionalism," *History of Political Thought* 19 (1998).; Lindenfeld, *The Practical Imagination: The German Sciences of State in the Nineteenth Century*.; Sieg, *Staatsdienst, Staatsdenken Und Dienstgesinnung in Brandenburg-Preussen Im 18. Jahrhundert (1713-1806): Studien Zum Verständnis Des Absolutismus*, 80, 357-61.; Hubatsch, *Stein-Studien: Die Preussischen Reformen Des Reichsfreiherrn Karl Vom Stein Zwischen Revolution Und Restauration*, 43-4, 48-63, 76-7, 103-5.

<sup>797</sup> Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 52.; Kurt Raumer, "Schrötter Und Schön," *Altpreussische Forschungen* 18 (1941): 124-5.; Hubatsch, *Stein-Studien: Die Preussischen Reformen Des Reichsfreiherrn Karl Vom Stein Zwischen Revolution Und Restauration*, 56-7.; Ritter, *Stein; Eine Politische Biographie*, 11.

reform programs.<sup>798</sup> Kant’s categorical imperative, as Stein and his allies understood and used it, suggests equivalent treatment of all under common laws in a well-regulated society. It is completely oblivious to the virtues of caste systems. Kant recommended in the *Metaphysik der Sitten* “such a civic [*staatsbürgerliche*] constitution, which reason (through the categorical imperative) commands us to pursue.”<sup>799</sup> Few politicians and officials at the time had read Kant closely, but the general thrust of Kant’s philosophy could easily be mobilized by advocates like Schön to rail against caste separation and to argue for Stein’s participatory notion of citizenship. As Altenstein argued, the emancipatory program embedded in the reforms aimed at “removing the old constitution in which the individual was not respected as such, but was considered the object of other people in the state.” The replacement of “all manners of paternalism [*Vormundschaft*] with a proper and lawful administration was the ideal goal of the reformers.”<sup>800</sup>

The reformers’ aim of helping the ailing Prussian administration implied concerns with proper social boundaries, and vice versa. In their view, the country had to be rendered strong again through the removal of long-standing legal and social impediments that restricted the functions a person could exercise in the administration of the state. For the reformers, the old order was unable to deliver the administrative efficiency and social

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<sup>798</sup> Ford, *Stein and the Era of Reform in Prussia, 1807-1815*, 245.

<sup>799</sup> See Immanuel Kant: *Metaphysik der Sitten*, Teil 1, §49. See also Kosselleck from which the quote used above originates: “Kant entwarf in seiner *Metaphysik der Sitten* jene staatsbürgerliche Verfassung, nach der zu streben uns die Vernunft durch einen kategorischen Imperativ verbindlich macht’. [...] . Erst wenn die Gleichordnung aller ‚Gesellen’ unter gemeinsame Gesetze erricht sei, lautet der wortgetreue Schluss, könne von einer Gesellschaft die Rede sein.” (Kosselleck, *Preussen Zwischen Reform Und Revolution; All-Gemeines Landrecht, Verwaltung Und Soziale Bewegung Von 1791 Bis 1848*, 153-4.)

<sup>800</sup> “Ziel der Reform sei, definiert Altenstein, die alte Verfassung zu beseitigen, in der ‘der Mensch nicht als solcher geachtet, sondern als Sache anderer Menschen im Staat betrachtet’ ... werde.“ (Winter and Vaupel, *Die Reorganisation Des Preussischen Staates Unter Stein Und Hardenberg*, 391.; Ritter, *Stein; Eine Politische Biographie*, 227.); “Die Beseitigung der Herrschaft von Mensch über Mensch, die Ablösung jeder Art von Vormundschaft durch eine sachgerechte und gesetzmässige Verwaltung war das ideale Ziel der Reformen.” (Kosselleck, *Preussen Zwischen Reform Und Revolution; All-Gemeines Landrecht, Verwaltung Und Soziale Bewegung Von 1791 Bis 1848*, 154.)

stability needed by a weak state at the edge of dissolution. Summing it up, Stein's successor Hardenberg, while being proud of his own aristocratic title and defending the nobility as an institution, suggested that

every position of the state, without exception, shall be open not to this or that caste only, but to deserving, talented, and able men of all status groups. Every position shall be the object of general competition, and no man, however lowly, shall have his ambition stifled by the thought that he will not be able to achieve a goal for which he has eagerly and actively prepared himself.<sup>801</sup>

Not surprisingly, such an idea was cause for considerable alarm. Consider Hardenberg's specific phrasing: was truly *every* position to be open to people of talent? Even the king's position? The reformers denied that their program was incompatible with absolutist rule, but it was also in keeping with the cameralist project we encountered above. As one historian put it, the participatory procedural administration Stein sought to implement

[led to] the imposition of codes of conduct, rules of procedure, and all the other regulations of behavior we associate with bureaucratization [that] were also part of a social-cultural effort at harnessing a heterogeneous officialdom into a cohesive and servile instrument of dynastic policy.<sup>802</sup>

While the reforms nominally supported the crown, their implications were largely in keeping with the cameralist project: the crown's sovereignty would be bolstered, but tied to constrictive procedural, participatory limitations. Stein advanced the cameralist project but with an important twist: his procedures implicated the participation of the masses. Under such a plan allegiance shifts, glacially, from obedience to the king's will towards

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<sup>801</sup> Cited in: Mueller, *Bureaucracy, Education, and Monopoly : Civil Service Reforms in Prussia and England*, 128, 314.

<sup>802</sup> *Ibid.*, 57.

adherence to rules and procedures. The king, as some historians suggest, might have thought of the institutional innovations happening around him purely in terms of the endless chess game between the crown, the aristocracy, and foreign crowns.<sup>803</sup> However, that was merely one level of the reforms. Far more important was the possibility that Stein's reforms would replace "the rule of old absolutism" with "the rule of a pure ministerial bureaucracy."<sup>804</sup> It is only a slight exaggeration to say that, Stein's reforms, intentionally or not, "replaced the old absolute monarchy with a system of absolute bureaucracy."<sup>805</sup>

While the institutional changes themselves were highly political questions, the functioning of the newly constituted bureaucracy was to be marked by an absence of politics in favor of questions concerning the efficient implementation of various urgently needed programs. Minimizing the predominance of aristocrats in the administrative system was meant to bracket such contested political questions in favor of administrative efficiency. As Stein was well aware, at the most fundamental level his reforms prioritized processes over goals and procedures over the will of individuals.<sup>806</sup> Public participation was subject to this prioritization. Stein was a bureaucrat, certainly not a proto-democrat.<sup>807</sup>

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<sup>803</sup> "Auch ohne parlamentarische Einrichtungen fühlen diese Minister sich verantwortlich vor der „Nation“ – einstweilen einem rein idealisch-fiktiven Begriff – mehr als vor dem Monarchen; denn sie wissen, dass aller politische Fortschritt in diesem Lande allein in ihren Händen ruht." (Ritter, *Stein; Eine Politische Biographie*, 154-5.)

<sup>804</sup> "Sollte also die Herrschaft des alten Absolutismus förmlich abgelöst werden durch eine Herrschaft der reinen Ministerialbürokratie – oder sollte sie nur gemildert werden durch einen verstärkten und unmittelbaren Einfluss der die Verwaltung leitenden Männern auf den königlichen Willen." (Ibid., 169.) See also: Herbert von Borch, *Obrigkeits Und Widerstand; Zur Politischen Soziologie Des Beamtentums* (Tübingen: Mohr, 1954), 98-100.; Beck, "The Social Policies of Prussian Officials: The Bureaucracy in a New Light," 264-5.

<sup>805</sup> Der „Kampf um die Kabinettsregierung ging [...] nicht um eine Frage der blossen Zweckmässigkeit: es war eine Verfassungskrisis allerersten Ranges, ein hochpolitisches Problem. Will man, die Gegensätze zuspitzend, ein wenig übertreiben, so könnte man sagen: es ging um die Verdrängung der alten absoluten Monarchie durch ein System der absoluten Bürokratie..." (Ritter, *Stein; Eine Politische Biographie*, 141.)

<sup>806</sup> Holmsten, *Freiherr Vom Stein in Selbstzeugnissen Und Bilddokumenten*, 31.

<sup>807</sup> Schoeps and Bildarchiv Preussischer Kulturbesitz., *Preussen : Geschichte Eines Mythos*, 96.

The reforms he penned marked neither an end to monarchical rule nor the straightforward political empowerment of the masses. Rather, they reshaped key assumptions underpinning the relationship between the indirect and direct question of justice, between subjects and citizens, the crown and the aristocracy, participation and procedures.

The reformulation of procedures in the administration replaced an administrative structure staffed by inept but independent-willed aristocrats with an efficient bureaucracy that was primarily loyal to rules and procedures. Including citizens in such a procedural administrative framework was an innovative (yet perhaps fatally flawed) attempt to reshape citizenship from its totalistic and threatening role in the French context into a procedural requirement within a well-functioning bureaucracy. Doing so tied individuals to the state and gave them a stake in its success while, importantly, containing populist tendencies. Citizens could contribute to the state without being able to claim sovereignty. It would be, in Hardenberg's words, a "revolution in the good sense, directly realizing the purpose of perfection of mankind by means of a wise government rather than a violent impetus from within or without."<sup>808</sup> Even commentators skeptical of innovation like Adam Müller seemed to concur, reluctantly. In a letter addressed to the king at the nadir of Prussia's political fortunes, Müller lamented that now "every single subject wants to be asked about rules and regulations; everyone believes they can help the government with their individual opinions and experiences."<sup>809</sup> Unenthusiastically, he continued that "the government cannot disdain the public political opinion; it cannot completely refuse the dialogue with its

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<sup>808</sup> Cited in: Mueller, *Bureaucracy, Education, and Monopoly : Civil Service Reforms in Prussia and England*, 128, 306. See also: Hintze and Oestreich, *Regierung Und Verwaltung. Gesammelte Abhandlungen Zur Staats-, Rechts- Und Sozialgeschichte Preussens*, 506.; Winter and Vaupel, *Die Reorganisation Des Preussischen Staates Unter Stein Und Hardenberg*, 305.

<sup>809</sup> "...jeder einzelne Untertan möchte über die Massregel der Regierungen befragt werden; jeder glaubt, der Regierung mit seinen individuellen Ansichten und Erfahrungen dienen zu können." (Scheel and Schmidt, *Von Stein Zu Hardenberg : Dokumente Aus Dem Interimsministerium Altenstein/Dohna*, 409-10.)

subjects over laws and commandments.”<sup>810</sup> The crown, long worried about the “race of rambunctious individuals” that attempt to “spread the spirit of revolution,” agreed, for a while, with this assessment and allowed the reforms to move forward.<sup>811</sup> With the crown behind the reforms and many critics temporarily silenced, prospects looked bright for Stein’s program. His experiment of bridging the indirect and the direct question was poised for real-life testing. The final obstacle for participatory procedures came from an unlikely source: the reluctant participants themselves.

### **(iii) The Problems of the Created Citizen**

In the minds of the reformers, the newly created bureaucracy could only function effectively if it was integrated into the right kind of polity – one composed of properly situated citizens. The old administrative system was filled primarily with aristocrats who administered a feudal order in which the direct question reigned large. The new bureaucratic system was to be built on the indirect question of procedural requirements that were supervised and enlivened by citizens and citizen administrators.<sup>812</sup> In Stein’s words, it was imperative to grant “the nation [...] the Estates [...] and their representatives an

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<sup>810</sup> “Die Regierung kann also diese öffentliche politische Meinung nicht verachten; sie kann das Gespräch mit ihren Untertanen über die Gesetze und Beschlüsse nicht ganz zurückweisen; sie muss sich mit den bessern verständigen.” (Ibid.)

<sup>811</sup> “...gegen diese Rasse turbulenter Menschen [...] um ihnen die Mittel zu nehmen, den Geist des Aufruhrs in Deutschland zu verbreiten.” (Cited in: Günter Birtsch. “Revolutionsfurcht in Preussen 1789-1794.” In Büsch, Neugebauer-Wölk, and Berding, *Preussen Und Die Revolutionäre Herausforderung Seit 1789 : Ergebnisse Einer Konferenz*, 92.)

<sup>812</sup> Gray, “Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808,” 12.

appropriate participation in and influence upon administration.”<sup>813</sup> First, however, such legendary citizens had to be found – forged, actually, often against their will.

As we have seen, many voices of Stein’s time lamented that their contemporaries lived impoverished, passionless lives. Seemingly oblivious to the world around them, except perhaps with regard to narrow material enrichment, such dull individuals seemed to care little about the military upheavals around them.<sup>814</sup> The peasants, in a familiar chorus among historians, were still very much “parochial in their interests, ignorant and apathetic.”<sup>815</sup> Given their large percentage in the army, this was quite troubling. Similarly, the middle class (with the exception of a few families) was completely lacking in “any political ambitions.”<sup>816</sup> Such apathy is a serious roadblock to any significant reforms that seek to build upon popular participation, and Stein consequently found himself in the same boat as many of his opponents. Both sides tried to move a population to action, but they employed very different strategies for doing so. Stein takes the analysis of his critics seriously while analyzing the same situation from a conceptually foreign perspective.

At the heart of his reform is an attempt to move citizens to care for their community, help administer it, and take an active part in shaping its fortunes; many of his critics, by contrast, seemed to have worried mostly about the ‘caring’ part, but were deeply

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<sup>813</sup> Stein, *Immediatbericht*, Memel, 23 Nov. 1807, Scheel, *Reformministerium* 1: 94-99 (no. 44). Cited in: *Ibid.*: 79. See also: Ernst Zeeden, "Hardenberg Und Der Gedanke Einer Volksvertretung in Preussen 1807-1812," *Historische Studien* 365 (1940): 23-27.

<sup>814</sup> Dwyer, *The Rise of Prussia : Rethinking Prussian History, 1700-1830*, 24.; See also: Eckart Klessmann, *Die Befreiungskriege in Augenzeugenberichten* (Düsseldorf: K. Rauch, 1966), 17-19.; Jolles, *Das Deutsche Nationalbewusstsein Im Zeitalter Napoleons*, 86-110.

<sup>815</sup> Raack, *The Fall of Stein*, 5-6.

<sup>816</sup> “Das handel- und gewerbetreibende Bürgertum der preussischen Städte hatte sich noch nirgends – wenn man absieht von ein paar wohlhabenden Familien der grossen Städte, meist jüdischer Herkunft – über ein enges, gedrücktes Spiessertum erhoben [...] ohne jeden politischen Ehrgeiz.” (Ritter, *Stein; Eine Politische Biographie*, 125.)

suspicious of the ‘active’ and thus potentially destructive element.<sup>817</sup> Stein wavered about the ease with which people could be brought out of their seeming apathy. He argued at times that merely providing people with the opportunity for meaningful participation would be enough to encourage a new civic-spiritedness:

Experience proves that [...] schoolchildren, who are shown trust, develop autonomy and one can consequently save an army of schoolmasters. Similarly, when we are shown the same trust and left to take care of our own business, then one can compare us to such schoolchildren and save an army of administrators!<sup>818</sup>

At other times, Stein evidently believed that strong nudging or outright pushes were needed to force people to embrace their role as citizens: “concerning the quiet Germans, who, as one of our poets says, love of all times the time for consideration the best, one has to apply stimulants, rather than opiates.”<sup>819</sup>

In either case, Stein’s reforms were not in the realm of abstract administrative theory, but had the very real potential to change many lives, since the reforms entailed the (forced or not) “blossoming of a new civic consciousness.”<sup>820</sup> However, large portions of the population seemed to have simply no interest in such a project. They “remained completely and respectfully in subjection to the old-inherited glamour of the courtly-

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<sup>817</sup> “Grundgedanke der Steinschen Städtereform: Erweckung von Gemeinsinn des Bürgers durch Tätigkeit für das Wohl seiner Stadt und innere Belebung der städtischen Verwaltung durch Teilnahme der Bürger an ihr...” (Ibid., 270.)

<sup>818</sup> From a letter Stein sent to Vincke: “So wie die Erfahrung bewiesen, dass nach der Lancasterschen und Bellschen Methode man die Schulknaben selbst, indem man ihnen Vertrauen zeigt, ihre Selbständigkeit anspricht, zum Unterricht in den Schulen brauchen und ein Schulmeister-Heer ersparen kann, so zeige man uns gleiches Vertrauen, überlasse uns unsere eigenen Angelegenheiten, setze uns denen Schulknaben gleich und erspare ein Beamtenheer!” (See: Ibid., 199.)

<sup>819</sup> “...man muss bei den ruhigen Deutschen, die, wie einer unserer Schriftsteller sagt, unter allen Zeiten am meisten die Bedenkzeit lieben, eher Reizmittel anwenden als Opiate” (cited in: Ibid., 286.; See also: Heinrich Friedrich Karl Stein and Erich Botzenhart, *Ausgewählte Politische Briefe Und Denkschriften* (Aalen: Kohlhammer, 1955), 56.)

<sup>820</sup> “[Selbstverwaltung] bezeichnet eigentlich nur das Mittel zum Zweck, denn hier geht es nicht um irgendeine Art von Verwaltungsreform, sondern um die Entfaltung einer neuen staatsbürgerlichen Gesinnung.” (Stein, *Freiherr Vom Stein; Ausgewählte Politische Briefe Und Denkschriften*, 96.)

aristocratic society.”<sup>821</sup> Stein finds himself here in the midst of one of the most vexing paradoxes that bedeviled the reformers: he seeks to end the paternalism that constrains many of the people around him without being paternalistic himself. However, what should one do with people who do not want to be emancipated?<sup>822</sup> According to one historian, there is no proof of “a single voice from bourgeois circles” that asked or demanded anything like the local liberties and initiatives of Stein’s reform.<sup>823</sup> Stein seemed to care little about stepping on the toes of the very people he needed for his reforms to succeed. Given the pressing needs around him and the perceived urgency of restoring the state, Stein showed no concern for niceties in his formal writings, private letters, or policies. The participation of the masses was required under his administrative scheme and their disinclination to partake in the procedural machinery of the state was of little concern to him and his allies. Not surprisingly, this caused widespread resentment. As one renowned historian summarized the mood at the time:

The reform of the local administration in 1808 originated exclusively through the initiative of the higher bureaucracy. Its introduction was met everywhere in the state with astonishment, misgivings, and complaints of the most varied nature – almost nowhere was it met with joyous consent.<sup>824</sup>

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<sup>821</sup> “Es verharrte durchaus in Unterwürfigkeit und Respekt vor dem altererbten Glanz der höfisch-adligen Gesellschaft...” (Ritter, *Stein; Eine Politische Biographie*, 125.)

<sup>822</sup> See for example: Mika LaVaque-Manty, "Kant's Children," *Social Theory and Practice* 32, no. 3 (July 2006): 366.

<sup>823</sup> “Man hat bisher nicht eine einzige Stimme aus bürgerlichen Kreisen nachweisen können, die nach Erneuerung altdeutscher städtischer Freiheit und Selbstverwaltung verlangt hätte.” (Ritter, *Stein; Eine Politische Biographie*, 125.)

<sup>824</sup> “Die Städteordnung von 1808 ist ausschliesslich der Initiative des höheren Beamtentums entsprungen, und ihre Einführung stiess überall im Lande auf Verwunderung, Kopfschütteln, Bedenken und Beschwereden der verschiedensten Art – so gut wie nirgends auf freudige Zustimmung.” (Ibid.). However, others disagree with this view. Consider the following description of Guy Stanton Ford: The proclamation of the reforms governing local administration were met with joy by many who marked the occasion by “elaborate ceremonials – religious services, singing the Te Deum, the ringing of bells and, in the evening, balls and the illumination of the city.” (Ford, *Stein and the Era of Reform in Prussia, 1807-1815*, 254.)

Ironically, one of the first things many freshly minted citizens did with the new rights imposed on them was to undermine Stein's reforms and supporters. In Königsberg, Berlin, and a host of smaller cities, the citizenry overwhelmingly supported outspoken critics of the Stein ministry.<sup>825</sup> Undeterred, Stein and his allies pushed for more reforms to be imposed on the reluctant population.

Does this mean that Stein took his study of Rousseau a bit too seriously?<sup>826</sup> Did his reforms in the end aim at a frightful reconfiguration of the fallen and corrupted? The answer is clearly no.<sup>827</sup> In the minds of Stein and his associates, it was not the fate of humanity that was on the line but, rather more humbly, simply the ability of a nation to rebound from a devastating war and occupation. Stein's thinking led him to appreciate the value of properly situated citizens to that project. He walked the thin line between giving the government sufficient power to exercise its narrow functions properly and giving it enough power to become a nuisance itself (Stein harbored a lifelong suspicion of government, even while he was part of it). Incorporating citizens into the administrative framework would both make the administration more attuned to local needs and desires and simultaneously contain the excesses of a languid mechanical bureaucracy. Notice how Stein achieves both without appeals to either emotional excesses or a denial of autonomy. In fact, Stein's model relies on both cold rationality and a surprising faith in the capacities of citizens to contribute to the aforementioned balance, if properly prepared and situated in the right kind of procedural framework.

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<sup>825</sup> Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen Staatsabsolutismus*, 45.; Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 109.

<sup>826</sup> Holmsten, *Freiherr Vom Stein in Selbstzeugnissen Und Bilddokumenten*, 112.

<sup>827</sup> Letter of Stein to Frau von Berg (9.9.1792): "...der Ausdruck seiner [Rousseau's] überspannten Reizbarkeit enthält nicht Wahrheit und darf nicht zum Grundsatz erhoben werden." (Stein, *Freiherr Vom Stein; Ausgewählte Politische Briefe Und Denkschriften*, 29.)

Such preparation has very few of the frightening overtones of Rousseauian projects. Instead, it embodies “Stein’s political and pedagogical central idea: to educate the subject to be a free individual and an active and responsible participant in the civic life [*Staatsleben*].”<sup>828</sup> The reforms are meant primarily as enabling, not reconfiguring. As Stein argues, people have to get used to taking responsibility by “escaping the condition of childhood in which a steadily anxious, steadily bustling government tries to keep them.”<sup>829</sup>

Stein is sometimes referred to as the “political Pestalozzi” precisely because his reforms rely on the permanent self-education presupposed and entailed in watching over the internal functioning of the government.<sup>830</sup> As Johann Gottfried von Frey, one of Stein’s lieutenants, put it: “Participation in public affairs fosters political [growth], and the more this increases [the more] the interest grows in the common good.”<sup>831</sup> The problems of local administration, of peasant rights, and of feudal caste limitations had of course existed before Stein’s tenure, yet the task of creating “political citizens,” in the words of one commentator, was an “education task” that was intimately tied to the peculiar historical and conceptual forces at work in Stein’s age.<sup>832</sup> Yet insofar as Stein was a “psychologist and

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<sup>828</sup> “Stein’s politische und pädagogische Leitidee: den Bürger vom Untertanen zum freien Individuum, zum aktiven, verantwortlichen Teilnehmer am Staatsleben zu erziehen.” (Holmsten, *Freiherr Vom Stein in Selbstzeugnissen Und Bilddokumenten*.)

<sup>829</sup> Letter from Stein to Hardenberg (8.12.1807): „Man muss die Nation daran gewöhnen, ihre Geschäfte selbst zu führen und aus diesem Zustand der Kindheit herauszukommen, in dem eine ewig unruhige, ewig geschäftige Regierung die Menschen halten möchte.” (Ritter, *Stein; Eine Politische Biographie*, 275.)

<sup>830</sup> “...politischer Pestalozzi...” - “Selbstverwaltung in seinem [Stein’s] Sinne ist permanente Selbsterziehung durch tätige Mitarbeit an gemeinsamen Interessen und Aufgaben.” (Stein, *Freiherr Vom Stein; Ausgewählte Politische Briefe Und Denkschriften*, 97.). See also: Levinger, *Enlightened Nationalism: The Transformation of Prussian Political Culture, 1806-1848*, 201-5.; Paret, *Yorck and the Era of the Prussian Reform, 1807-1815*, 118-9.; Carla R. Thomas, “Philosophical Anthropology and Educational Change: Wilhelm Von Humboldt and the Prussian Reforms,” *History of Education Quarterly* 13, no. 3 (Autumn, 1973): 221-2.

<sup>831</sup> Frey, “Vorschläge zur Organisierung der Munizipalverfassungen.” Cited in Heinrich Scheel, Karl Stein, and Doris Schmidt, *Das Reformministerium Stein. Akten Zur Verfassungs- Und Verwaltungsgeschichte Aus Den Jahren 1807/08* (Berlin,: Akademie-Verlag, 1966).

<sup>832</sup> Theodor Heuss, “Forces and Elements Forming a Political Style,” *The Journal of Politics* 15, no. 4 (Nov., 1953).

educator,”<sup>833</sup> he was not overly paternalistic in the sense of imposing ends, but merely sought to enable means by the “freeing of forces through self-governance.” Indeed, that was the meaning he assigned to the ominous-sounding term *Nationalerziehung* [education/upbringing of the nation],<sup>834</sup> a meaning completely at odds with more philosophically inclined thinkers such as, famously, Fichte.<sup>835</sup> One exemplary site of Stein’s educative stance is his practical reform proposal concerning the separation of the ecclesiastical department from educational matters. The two, in his mind, simply stand in no “natural connection.” Their separation was much lamented by a wide range of critics, who took this as another indication of an undue focus on efficient means rather than on wholesome moral ends.<sup>836</sup>

Why did Stein bother with such a contentious reform program that sought to educate the reluctant to citizenship? On the one hand, the involvement of citizens in regulatory and supervising functions serves to contain government. However, such a goal entails a paradoxical move: in order for the government to become less of a nuisance and run more smoothly, citizens have to put up with the burdensome role of citizen – a nuisance itself in the eyes of many. On the other hand, the payoff of having properly situated citizens is now available and quite significant. It consists of a perceived epistemological advantage on the part of the citizenry over administrators. One of the guiding principles of the reforms was the belief that people are, generally, the best judges of their own interests and needs.<sup>837</sup>

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<sup>833</sup> Ibid.

<sup>834</sup> Ritter, *Stein; Eine Politische Biographie*, 198.

<sup>835</sup> Fichte and Lauth, *Reden an Die Deutsche Nation.*; For more on this theme see: Ritter, *Stein; Eine Politische Biographie*, 199.; Concerning Fichte’s influence and reception consider: Ritter, *Das Deutsche Problem; Grundfragen Deutschen Staatslebens, Gestern Und Heute*, 60-61.

<sup>836</sup> Holmsten, *Freiherr Vom Stein in Selbstzeugnissen Und Bilddokumenten*, 55.; See also: Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, 384.

<sup>837</sup> Consider for example Mill on this theme: “He is the person most interested in his own well-being: the interest which any other person, except in cases of strong personal attachment, can have in it is trifling

Thus Stein considered it important to infuse the bureaucracy with people who not only possessed local knowledge, but were motivated to act upon it.

Career administrators, in contrast, might be caught up in “torpid forms and mechanical processes.” It would be much better, so Stein’s thinking goes, to underwrite bureaucratic regularity with “specific knowledge of individual local [...] conditions” as well as “a wealth of views and sentiments that reflect the abundance of nature.”<sup>838</sup> Stein’s reform might have implied a reduction of the static, legally imposed and maintained diversification of society, but his proposals betrayed at their heart an understanding of society that values pluralism of perspectives as an antidote to the twin dangers of bureaucratic formalism and disdain for procedure.<sup>839</sup> While many of Stein’s opponents praised static diversity in order to preserve the old hierarchy, the reformers around Stein made practical use of diversity, implicitly praised it, and used it to justify their program of undermining the old feudal hierarchy in order to strengthen the state.

However, Stein’s appreciation of pluralism is not boundless. This is not a story of unqualified praise of diversity. For Stein and many of his contemporaries, only individuals

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compared with that which he himself has, [...] with respect to his own feelings and circumstances the most ordinary man or woman has means of knowledge immeasurably surpassing those that can be possessed by anyone else.” (John Stuart Mill and Elizabeth Rapaport, *On Liberty* (Indianapolis: Hackett Pub. Co., 1978), 74.)

<sup>838</sup> Die „aus dem Gewirr des praktischen Lebens genommenen Repräsentanten“ have „genauere Kenntnis individueller Lokal-, Sach- und Personal-Verhältnisse“ and a „lebendigen feststrebenden Geist, einen aus der Fülle der Natur genommenen Reichtum von Ansichten und Gefühlen“ that fights the „Formenkram und Dienstmechanismus“ of the rest of the administration. (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/2 - p.505.) See also: “Der Formelkram und Dienstmechanismus in den Kollegien wird durch Aufnahme von Menschen aus dem Gewinne des praktischen Lebens zertrümmert, und an seinen Stelle tritt ein lebendiger, fortstrebender Geist, und ein aus der Fülle der Natur genomener Reichtum von Ansichten und Gefühlen.“ (Stein, *Freiherr Vom Stein; Ausgewählte Politische Briefe Und Denkschriften*, 120.)

<sup>839</sup> “Nicht Uniformierung und Zentralisierung des politisch-gesellschaftlichen Lebens im altpreuussischen oder bonapartistischen Sinne, sondern Achtung vor seiner Eigenständigkeit und Mannigfaltigkeit – das ist das politische Ideal Steins, und sein Staat traute es sich zu, die Vielfalt der verschiedenen Kräfte in Einklang zu bringen und zu dirigieren.” (Stein, *Freiherr Vom Stein; Ausgewählte Politische Briefe Und Denkschriften*, 94.)

who held a good amount of property could be called properly situated citizens.<sup>840</sup> Stein's thinking sharply limited the domain of individuals who would be the carriers of new rights. Far from switching from a system that preferred aristocrats to one that spread freedoms evenly, Stein's reforms simply replaced the principles upon which access to or exclusion from certain freedoms, rights, and responsibilities would be based. As some historians put it, the reforms might have "undermined the patriarchal position of the aristocracy" and "robbed them of their privileged treatment in the army and administration," but that did not imply a crass egalitarianism on the part of Stein, as his contemporary critics alleged.<sup>841</sup> Instead of basing important political rights on birth, Stein preconditioned their enjoyment on property ownership.<sup>842</sup> His original plans envisioned restriction of voting and holding office to those with significant income or property.<sup>843</sup> Stein, like many, advocated for a

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<sup>840</sup> Consider for example: Habermas, *The Structural Transformation of the Public Sphere : An Inquiry into a Category of Bourgeois Society*, 55-6, 83, 85-8.; See also Gray, "Government by Property Owners: Prussian Plans for Constitutional Reform on the County, Provincial, and National Levels in 1808."

<sup>841</sup> "Die Reformgesetzgebung seit dem Oktoberedikt hatte alles getan, um die alte Herrenstellung des Adels auf dem Lande auszuhöhlen, gleichzeitig ihn seiner Vorrechte in Armee und Verwaltung zu berauben, die scharfe soziale Abgrenzung zwischen Adel und Bürgertum immer mehr zu verwischen. Vinke zog in einer Verfassungsdenkschrift, die er Stein am 20. September einsandte, daraus die Folgerung, den Adel ebenso wie die Geistlichkeit als besonderen Stand überhaupt nicht mehr gelten zu lassen und alle politischen Rechte nur noch, auf die ursprüngliche germanische Form' des Eigentums, also vorzugsweise (aber nicht ausschliesslich!) auf Bodenbesitz zu gründen." (Ritter, *Stein; Eine Politische Biographie*, 283.; See also: G. H. Pertz, August Wilhelm Anton Gneisenau, and Hans Delbrück, *Das Leben Des Feldmarschalls Grafen Neithardt*, 5 vols., vol. 1 (Berlin, : G. Reimer, 1864), 412.)

<sup>842</sup> Gray, "Government by Property Owners: Prussian Plans for Constitutional Reform on the County, Provincial, and National Levels in 1808," 77-8. For Stein, „'Eigentum', nicht edle Geburt [ist] die erste und natürlichste Voraussetzung politischer Freiheit." (Ritter, Gerhard. *Stein; eine politische Biographie*. Stuttgart, Deutsche Verlags-Anstalt (1958). 3rd edition. p.110) See also: Ritter, Gerhard. *Stein; eine politische Biographie*. Stuttgart, Deutsche Verlags-Anstalt (1958). 3rd edition. p.191: "Wie also ist der Steinsche Reformvorschlag zu erklären? Überhaupt nicht aus bestimmten Vorbildern – den es gab keine -, sondern aus folgerechter Anwendung seiner ständischen Ideale auf das Städtewesen. Die „mit Häusern und Eigentum angesessenen" Bürger der Nassauer Denkschrift sind gewissermassen die Inhaber der Möerschen Land- und Geldaktien auf städtischem Grund und Boden: natürliche Vertreter des Gemeinwohls, vollberechtigte Mitglieder der alten freien Volksgemeinde."

<sup>843</sup> Ford, Guy Stanton. *Stein and the era of reform in Prussia, 1807-1815*. Gloucester, Mass., P. Smith, 1965 [c1922]. p.227, 251; Ritter, Gerhard. *Stein; eine politische Biographie*. Stuttgart, Deutsche Verlags-Anstalt (1958). 3rd edition. p.258; See also: Vinke. „Ueber die Organisation der Unterbehörden zunächst für die Polizeiverwaltung.“ Berlin, 4 June 1808, cited in: Marion Gray. "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808." *Transactions of the American Philosophical Society*. New Ser.,

variety of possessive individualism long familiar from British political thought.<sup>844</sup>

Immanuel Kant spelled out the details of this seemingly arbitrary standard that was widely supported at the time:

The person who has the right to vote under [a representative system] is called a citizen [...] as distinguished from a resident. [...] The qualification for this [...] is solely that the person be his own master. [...]. [He must] possess property that supports him, under which may be reckoned any art, craft, fine art or science.<sup>845</sup>

One of Stein's allies, Morgenbesser, made the related point that income qualifications were necessary to prevent the "great mass of [...] unreliable people" from flooding and corrupting citizenship.<sup>846</sup> Similarly, Schön argued that without property qualifications "it is to be feared that deputies without interest [in the state]" attain undue influence.<sup>847</sup> Vinke, another of Stein's lieutenants, argued in the same vein for what he understood as "the original Germanic practice of basing representation on property ownership." He continued that "he who is most established, he who has the most to lose, he who must pay the greatest taxes [...] can be assumed [to have] the greatest interest in public affairs."<sup>848</sup> Just as in the "Metaphysics of Morals,"<sup>849</sup> Stein and various reformers around him distinguished between active citizens (who are economically independent and

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Vol. 76, No. 1. (1986), p.84, 99.; Consider also: K.F. Häberlin, "Über Die Güte Der Staatsverfassung," *Deutsche Montasschrift* 1 (1793).

<sup>844</sup> I borrow this term, of course, from: C. B. Macpherson, *The Political Theory of Possessive Individualism : Hobbes to Locke*, Oxford Paperbacks ; (Oxford: Clarendon Press, 1964).

<sup>845</sup> Immanuel Kant. "Ueber den Gemeinspruch: Das mag in der Theorie richtig sein, taugt aber nicht für die Praxis." (1793).

<sup>846</sup> Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 107.

<sup>847</sup> Cited in: Ibid.: 113.

<sup>848</sup> Vincke. "Organisation der ständischen Representation," 20 Sept. 1808, cited in: Karl Stein and G. H. Pertz, *Denkschriften Des Ministers Freiherrn Vom Stein Über Deutsche Verfassungen* (Berlin: G. Reimer, 1848), 2-13.

<sup>849</sup> Immanuel Kant. „Die Metaphysik der Sitten.“ (1797) §43-49).

govern their own affairs) and mere passive residents.<sup>850</sup> In many cities, including Königsberg, Stein's reforms were built upon two official classes of people: citizens [*Bürger*] and residents [*Schutzverwandte*].<sup>851</sup> However, citizenship was easily obtained and had, significantly, nothing to do with guildmembership. As the City Government Act ordered (commonly referred to as the 'Preussische Städteordnung'):

Citizenship may not be denied to anyone of reputable character who has taken up residence in the city [and who] wishes this privilege. [...] Also, unmarried persons of the female gender may, when they possess these qualifications, receive citizenship.<sup>852</sup>

Though not spelled out in the law itself, it was understood that economic and social dependents (wives, children, servants, apprentices, vagabonds, paupers) would not qualify as citizens. Just to make sure, the act required a small application fee prior to attaining citizenship. In short, Stein designated that only "property owners, and indeed all classes" could "participate in provincial and municipal governments."<sup>853</sup>

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<sup>850</sup> However, a few of the reformers around Stein (e.g. Auerswald and Rehdiger) argued for significantly lower barriers. See, for example: Auerswald, "Generallandtag" (20 May 1808), cited in: Scheel, Stein, and Schmidt, *Das Reformministerium Stein. Akten Zur Verfassungs - Und Verwaltungsgeschichte Aus Den Jahren 1807/08*. (No.174). Rehdiger, arguing against the already radical thinking of his cohorts, that "nothing is more false, than the conception that the state consists of shares of property and wealth." (cited in: Ritter, *Stein; Eine Politische Biographie*, 279-82.); See also: Levinger, "The Prussian Reform Movement and the Rise of Enlightened Nationalism," 267-8.

<sup>851</sup> Technically, there was a third category of the "Eximierten" which I will not discuss here for reasons of time and relevance. For more on these categories see: Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 15-6.; Levinger, *Enlightened Nationalism : The Transformation of Prussian Political Culture, 1806-1848*, 57.; Nolte, *Staatsbildung Als Gesellschaftsreform : Politische Reformen in Preussen Und Den Süddeutschen Staaten, 1800-1820*, 58.; Bassewitz, *Die Kurmark Brandenburg, Ihr Zustand Und Ihre Verwaltung Unmittelbar Vor Dem Ausbruche Des Französischen Krieges Im Oktober 1806*, 30-31.

<sup>852</sup> Cited in: Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 105. It is noteworthy that women (no matter their situation) were excluded from certain elections. See also: Levinger, *Enlightened Nationalism : The Transformation of Prussian Political Culture, 1806-1848*, 57-8.

<sup>853</sup> Stein. *Nassauer Denkschrift*. (e.g. Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, 2/1: 390, 94.); See also: Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen Staatsabsolutismus*, 44-5.; For an elaboration on the range of thresholds various reforms had in mind with respect to property qualifications see: Gray, "Government by Property Owners: Prussian Plans for Constitutional Reform on the County, Provincial, and National Levels in 1808," 86-92.

Limiting citizenship to property owners is important in Stein's thinking because it ensures that the carriers of such positions would be bound tightly to the interests of the country through their ownership of a chunk of it.<sup>854</sup> In Stein's thinking there is simply little to fear (certainly not of the revolutionary variety) from property owners who have an active stake in the well-being of the nation. In contrast, Stein is skeptical of regular low-level bureaucrats precisely because they tend to lack significant property ownership, merely follow procedural guidelines, and often care little for the affairs of the land.<sup>855</sup> In short, Stein understood his reforms as replacing a system in which attachments, privileges, and responsibilities were founded upon one's birth with a system based on contracting and the choices of the market. In Stein's words:

[After the reforms] all attachments would be dissolved which do not originate from the ownership of property or from a contract, through which a free person obtains attachments to another free person.<sup>856</sup>

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<sup>854</sup> "Stände sind durch das Eigentum und Anhänglichkeit an das Vaterland fest an das Interesse eines Landes gekettet, das dem fremden öffentlichen Beamten gewöhnlich unbekannt, oft gleichgültig und bisweilen selbst verächtlich und verhasst wird." (Ritter, *Stein; Eine Politische Biographie*, 93.); See also a letter from Stein to Reden (August 1st. 1790): "In dem Mass als die Gehälter sich erhöhen, sinkt man in die Gewöhnlichkeit der Klasse der Angestellten herab, und man verliert damit das Recht zu sagen, dass die reinste Belohnung das Zeugnis unseres Gewissens und die Achtung unserer Mitbürger ist." (Stein and Botzenhart, *Ausgewählte Politische Briefe Und Denkschriften*, 42-3.; Gray, "Government by Property Owners: Prussian Plans for Constitutional Reform on the County, Provincial, and National Levels in 1808," 96.

<sup>855</sup> "Die Regenten haben von Ständen, die aus Eigentümer bestehen, nichts zu fürchten, mehr von der Neuerungssucht jüngerer, der Lauigkeit und dem Mietlings-Geist älteren öffentlichen Beamten und von der alle Sittlichkeit verschlingenden Weichlichkeit und dem Egoismus, der alle Stände ergreift." This thought is repeated frequently in Stein's writings, for example in the Nassauer manifesto (Stein and Botzenhart, *Ausgewählte Politische Briefe Und Denkschriften*, 60.)

<sup>856</sup> Letter of Stein to Sulzowsky (Memel 29. Dez 1807): "Hiernach fallen alle Verbindlichkeiten, welche nicht aus dem Besitz eines Grundstücks oder aus einem Vertrag oder sonstigen Titel folgen, wodurch der freie Mann Verbindlichkeiten gegen einen freien Mann erhält, durchaus weg." (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, Vol.II/2 – 604-5.) See also: Hintze and Oestreich, *Regierung Und Verwaltung. Gesammelte Abhandlungen Zur Staats-, Rechts- Und Sozialgeschichte Preussens*, 510.

Allowing for some degree of choice and flexibility in contracting for rights and obligations vis-à-vis the state seems fairly attractive to modern minds. In the words of one historian:

The status order of fixed rights and duties had to be swept away before the new market order of distributing life chances could predominate. This method of distributing life chances knows no personal distinctions, only naked property and mere technical-functional skills.<sup>857</sup>

Contemporaries found much to like in this monumental shift, but they also found much to deride. For one, the criterion of holding significant property as a precondition for certain rights seemed somewhat arbitrary (how much is enough?). Second, some charged that Stein had chosen the wrong principle for exclusion. Third, Stein's property qualifications entailed a change to the much-ridiculed atomistic society many despised. Liberation, after all, cuts both ways. Stein's reforms did not merely free nonaristocrats from duties they had towards their superiors, but also curtailed aristocrats' duties towards 'their' inferiors.<sup>858</sup> Opponents of the reforms were quick to cite excellent cases of paternal interest and care for ignorant, thriftless, and dependent peasants.<sup>859</sup> As Marwitz argues:

They thought they had done a great benefaction towards the peasant, when they removed him from the protection and care of the landlord and handed him over to far stricter lords, his creditors, who have [now] the right and exercise it relentlessly

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<sup>857</sup> Mueller, *Bureaucracy, Education, and Monopoly : Civil Service Reforms in Prussia and England*, 29.

<sup>858</sup> Ford, *Stein and the Era of Reform in Prussia, 1807-1815*, 195.; Ritter, *Stein; Eine Politische Biographie*, 220, 25, 27-8.; Spring, *European Landed Elites in the Nineteenth Century*, 48.; Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 10.; Otto Büsch and Historische Kommission zu Berlin., *Das Preussenbild in Der Geschichte : Protokoll Eines Symposions* (Berlin ; New York: de Gruyter, 1981), 148-9.; Berdahl, "The Stande and the Origins of Conservatism in Prussia," 313-6.; Kadel, Preis, and Institut marksizma-leninizma (Moscow Russia), *Marx and Engels on Reactionary Prussianism*, 21-23.; Beck, "The Social Policies of Prussian Officials: The Bureaucracy in a New Light," 274-6.; Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*, 144-57.; For an interesting account from a different historical context see: Thompson, "Patrician Society, Plebeian Culture."

<sup>859</sup> Ford, *Stein and the Era of Reform in Prussia, 1807-1815*, 196.; See also: Gentz, *Fragmente Aus Der Neusten Geschichte Des Politischen Gleichgewichts in Europa*, 13.

to take away his harvest, drive him from his house and farm, and set themselves in his place.<sup>860</sup>

Even those sympathetic to Stein's reforms were deeply worried about the negative effects of liberation on peasants. For example, the high-ranking bureaucrat and widely read publicist Friedrich von Cölln emphasized the unfair advantages landowners attain when liberated from the burden of maintaining and caring for 'their' peasants, to the detriment of the peasants' well-being.<sup>861</sup>

Coming from very different ideological backgrounds, both Cölln and Marwitz charge that Stein's program sounds good in a theoretical position paper laced with high-flying abstractions like emancipation, equality, and autonomy. However, if implemented, it would lead to a most uncaring universe, one lacking the glue that makes societies possible and bearable. What Stein proposes is a "*Kaufmannsgesetzgebung*"<sup>862</sup> – a system of laws by and for businessmen. A society built upon such laws, Stein's opponents allege, would be governed by mere economic self-interest rather than by duty and honor. Such a society would not imply the creation of free people beyond legal technicality, but rather a kind of "slavery or serfdom" of the debtor at the hands of the creditors.<sup>863</sup> Surely, they say, the

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<sup>860</sup> "... da vermeinte man allerdings dem Bauern eine grosse Wohltat erzeugt zu haben, wie man ihn dem Schutz und der Vorsorge des Gutsherrn entzog und ihn wehrlos den weit strengeren Herren, seinen Gläubigern, überlieferte, welche das Recht haben und auch schonungslos üben, ihm seine Ernte zu nehmen, in von Haus und Hof zu treiben, und sich selbst an seine Stelle zu setzen." (Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 60.)

<sup>861</sup> Cölln, "Welche Veränderungen Sind in Der Preussischen Staatsverfassung Und Verwaltung Nothwendig?," 16-18.

<sup>862</sup> "Eine Kaufmannsgesetzgebung, so lange sich die Welt noch nicht umgekehrt hat, wuerde auf Eigennutz gebaut, und bloss auf die Einnahme des Gesetzgebers berechnet sein." (Fischer, "Friedrich Und Friedrich Wilhelm, Die Gesetzgeber," 9.) I take this concise term from Fischer who writes well before Stein's reforms. His description, analysis, and fears are reflective, however, of thinking that was widespread before, during, and after Stein's reform.

<sup>863</sup> "Sklaverei oder Leibeigenschaft" (Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 187.); See also: Levinger, *Enlightened Nationalism : The Transformation of Prussian Political Culture, 1806-1848*, 56-57.; Sieg, *Staatsdienst, Staatsdenken Und*

caring, sympathetic, ordered universe upheld by many of Stein's opponents is preferable.<sup>864</sup>

A dictum of the time held that "it would be better to have three more Auerstedts than one [Stein] edict."<sup>865</sup>

#### (iv) "Political Irreligiosity"

In the eyes of Marwitz, Wartenburg, Stein, and other contemporary intellectuals, the very vitality and sustainability of Prussia was at stake in the debates surrounding Stein's reforms. Yet while Stein saw his reforms as tapping into neglected resources being wasted by overblown concerns with archaic boundaries, others saw a crass egalitarianism that was quite unacceptable to the partisans of the older society and their conception of dignity, honor, and justice.<sup>866</sup> In a widely published letter to the king, Marwitz and numerous other distinguished members of renowned aristocratic families wrote in response to Stein's reforms:

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*Dienstgesinnung in Brandenburg-Preussen Im 18. Jahrhundert (1713-1806) : Studien Zum Verständnis Des Absolutismus*, 280-83.

<sup>864</sup> Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 187.; Spring, *European Landed Elites in the Nineteenth Century*, 50.; There are surprisingly strong echoes of this line of thought in Carl Schmitt's thought. Schmitt, perhaps not incidentally, was very much aware of the discursive struggles in Stein's era, see: Carl Schmitt, *Political Romanticism* (Cambridge, Mass.: MIT Press, 1986).; Carl Schmitt, *Politische Theologie – Vier Kapitel Zur Lehre Von Der Souveränität* (Berlin: Duncker & Humblot, 2004), 7.; Carl Schmitt, *The Crisis of Parliamentary Democracy*, 1st MIT Press paperback ed., Studies in Contemporary German Social Thought (Cambridge, Mass.: MIT Press, 1988), 18, 24.; For more see: Chantal Mouffe, *The Return of the Political* (London ; New York: Verso, 1993), 11.

<sup>865</sup> "Lieber noch drei Auerstedts als ein Oktoberedikt." - Beck, "The Social Policies of Prussian Officials: The Bureaucracy in a New Light," 271.; See also: Friedrich Buchholz, *Freimüthige Betrachtungen Über Die Verordnung Vom 27. October in Betreff Des Finanz-Wesens* (Berlin: Buchhandlung des Kommerzien-Raths Matzdorff, 1810).

<sup>866</sup> Raack, *The Fall of Stein*, 28.

The equalization of all estates turns the lower, uneducated orders defiant as they see only the worth of their own person and nobody above them [...]. Furthermore the switch of systems of administrations [...] necessarily creates a sense of civil egoism, a *political irreligiosity*, which sees the state as merely an institution of force. The first occasion will be taken to tear themselves away, in order to impose violence rather than endure it. – We have experienced the horrifying example of such a vision in our own time!<sup>867</sup>

In the words of one historian: seen “through conservative eyes, domestic forces, not the French, were destroying the nation, and this in the name of saving it.”<sup>868</sup>

Of course, the French had had a hand in this after all. Not only did they contribute to the conditions that facilitated Stein’s push for reforms, but they had also contributed some of the key conceptual weaponry. Marwitz posited that Stein was influenced by the “theories of Rousseau and Montesquieu,” whose dangers had been well known since the French Revolution.<sup>869</sup> Some, as we have seen, accused Stein of “Jacobinism.” A pamphlet written in 1809 described Stein and his allies in its title simply as “The new Jacobins in Prussia.”<sup>870</sup>

For such critics, Stein was a bureaucratic reformer of the absolutist state who had become corrupted by the spirit of the Revolution.<sup>871</sup> How else could one explain Stein’s ostensible hatred of the aristocracy when he replaced the “old absolute monarchy with a

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<sup>867</sup> “Die Gleichmachung aller Stände macht die unteren, ungebildeten trotzig, sie sehen nur sich und den Wert ihrer Person, niemand über sich, denn der König steht ihnen zu fern; dazu das notwendige Wechseln der Systeme in der Administration, da keines mehr durch Grundgesetze festgehalten und das entgegengesetzte nicht ausgeschlossen wird; alles dieses muss notwenig einen solchen bürgerlichen Egoismus, eine solche *politische Irreligiosität* erzeugen, die den Staat wie eine blosse Zwanganstalt betrachtet und den ersten Anlass ergreift, sich von ihm loszureisen, um lieber die Gewalt selbst zu üben, als sie zu erdulden. - Wir haben das schreckhafte Beispiel solcher Zeit in unseren Tagen erlebt!” (Marwitz, “Lebuser Denkschrift (9. Mai. 1811)”, 247. Emphasis added); Craig, *The End of Prussia*, 23.

<sup>868</sup> Raack, *The Fall of Stein*, 28.

<sup>869</sup> Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 184-5.)

<sup>870</sup> “Die Neuen Jacobiner in den Preussischen Staaten” (Münchow-Pohl, *Zwischen Reform Und Krieg : Untersuchungen Zur Bewusstseinslage in Preussen 1809-1812*, 302.)

<sup>871</sup> Raack, *The Fall of Stein*, 27.; Görlitz, *Die Junker: Adel Und Bauer Im Deutschen Osten; Geschichtliche Bilanz Von 7 Jahrhunderten*, 187.); Simon, “Variations in Nationalism During the Great Reform Period in Prussia,” 305.

system of absolute bureaucracy”<sup>872</sup> Stein brought the “revolution into this land,” a revolution whose result would be more costly “than the extortions of Napoleon.”<sup>873</sup> Marwitz, who had praised Stein as “the last pillar of the state in civil affairs” upon his first discharge, now called him a “traitor.”<sup>874</sup> After all, Berlin had “been occupied in old Fritz’s time after similar military defeats, [yet] no one then had thought that a domestic revolution was necessary.”<sup>875</sup>

Marwitz argued that through Stein’s reforms “every city of the monarchy would be turned into a little republic,”<sup>876</sup> and the people within it would lose more and more faith in the crucial social boundaries that hitherto had given shape to the old Prussia. In its stead, the country would follow the path of France “towards leveling, the turning of the people into one undifferentiated mass.”<sup>877</sup> Stein’s alleged revolution, in the eyes of some of his key opponents, would unleash

a war of the poor [*Besitzlosen*] against those with property, of industry against agriculture, the changeable against the stable, crass materialism against the order led by God, imagined use against right, the moment against the past and future, the individual against the family, speculation [...] against acres and trades, the bureau

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<sup>872</sup> Der „Kampf um die Kabinettsregierung ging [...] nicht um eine Frage der blossen Zweckmässigkeit: es war eine Verfassungskrisis allerersten Ranges, ein hochpolitisches Problem. Will man, die Gegensätze zuspitzend, ein wenig übertreiben, so könnte man sagen: es ging um die Verdrängung der alten absoluten Monarchie durch ein System der absoluten Bürokratie...” (Ritter, *Stein; Eine Politische Biographie*, 141.; Holmsten, *Freiherr Vom Stein in Selbstzeugnissen Und Bilddokumenten*, 68.)

<sup>873</sup> Stein brachte „uns die Revolution ins Land, deren Resultate dem Lande so viel gekostet haben, dass die Erpressungen Napoleons dagegen verschwinden wie ein Gaukelspiel vor einer schreckenvollen Wirklichkeit.” (Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 182.)

<sup>874</sup> “Verräter” (Ibid., 184.)

<sup>875</sup> Raack, *The Fall of Stein*, 75.

<sup>876</sup> Die Städteordnung “durch welche jede Stadt der Monarchie in eine kleine Republik verwandelt wurde.” (Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 187.)

<sup>877</sup> “Der französische Staat war bereits auf dem Wege der Nivellierung, der Vereinheitlichung des Volkstums, der Verarmung an Kräften, also nicht auf dem Wege zur Modernität.” (from the introduction to: Ibid., 18.). See also: Craig, *The End of Prussia*, 23.; Anderson, *Nationalism and the Cultural Crisis in Prussia, 1806-1815*, 236-8.

against the relations grown out of the history of the land, knowledge and imagined talent against virtue and honorable character.<sup>878</sup>

An assembly of notables from Priegnitz complained loudly to the king that the new laws had been invented by “novices” and “pixilated brains.” Meanwhile delegations from Lebus and Beeskow-Storkow asked aggressively “why one allowed the young foreigners (who influence the royal majesty) to experiment with *precisely our* mother country to test their newly fashionable theories.”<sup>879</sup>

Apart from connecting Stein and his reforms to French thinkers and the French Revolution, Stein’s opponents ascribe his conceptual schemes to another source. Wartenburg, for example, argues that Stein’s ideas originate in a “poorly digested Adam Smith,” dreamed up by businessmen and professors who sputtered out dangerous and senseless “philosophical blather.”<sup>880</sup> Abolishing the “so-called enslavement” of the peasantry, as Stein proposed, was “an attack on the foundation of the social order.”<sup>881</sup> Its conceptual roots lay with the disciples of Adam Smith and Kant.<sup>882</sup> Friedrich Marwitz’s brother, Alexander von der Marwitz, provocatively declared in 1811 that it is crucial to

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<sup>878</sup> Stein began the “Revolutionierung des Vaterlandes,” “den Krieg der Besitzlosen gegen das Eigentum, der Industrie gegen den Ackerbau, des Beweglichen gegen das Stabile, des krassen Materialismus gegen die von Gott eingeführte Ordnung, des (eingebildeten) Nutzens gegen das Recht, des Augenblicks gegen die Vergangenheit und Zukunft, des Individuums gegen die Familie, der Spekulation und Comtoire gegen die Felder und Gewerbe, des Bureaus gegen aus der Geschichte des Landes hervorgegangenen Verhältnisse, des Wissens und eingebildeten Talents gegen Tugend und ehrenwerten Charakter.” (Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 184.). See also: Friedrich August Ludwig von der Marwitz, *Ein Märkischer Edelmann Im Zeitalter Der Befreiungskriege* (Berlin: E. S. Mittler, 1908), 492-3.

<sup>879</sup> Münchow-Pohl, *Zwischen Reform Und Krieg : Untersuchungen Zur Bewusstseinslage in Preussen 1809-1812*, 300-1.

<sup>880</sup> Raack, *The Fall of Stein*, 75. See also: Koselleck, *Preussen Zwischen Reform Und Revolution; All-Gemeines Landrecht, Verwaltung Und Soziale Bewegung Von 1791 Bis 1848*, 168.; Wilhelm Treue, “Adam Smith in Deutschland, Zum Problem Des ‘Politischen Professors’ Zwischen 1776 Und 1810,” in *Deutschland Und Europa; Historische Studien Zur Völkerund Staatenordnung Des Abendlandes*, ed. Werner Conze (Düsseldorf,: Droste-Verlag, 1951).

<sup>881</sup> Raack, *The Fall of Stein*, 75.

<sup>882</sup> *Ibid.*, 165.

study the teachings of Adam Smith since “next to Napoleon he is now the most powerful monarch in Europe.”<sup>883</sup> In Friedrich Marwitz’s words:

The spirit of Stein’s edicts rests on the [...] view of equality and leveling. Its guiding concepts were taken entirely from Adam Smith, [they are] therefore necessarily materialistic...<sup>884</sup>

Marwitz charged that such principles, applied to Germany, would lead to massive instability and destroy the very state Stein sought to protect.<sup>885</sup> Renewal of the state had to be founded on moral principles [*Sittlichkeit*] rather than on appeals to the demands of efficient administration and the removal of social boundaries thereby entailed.<sup>886</sup> Desubstantiating the administration of the state eroded crucial pillars of Prussia’s old social order. Marwitz and his allies charged that the results would be a “widespread loss of coherence.”<sup>887</sup> Without a strong moral core, the administration Stein proposed would be built on vapid principles that do not pay sufficient heed to crucial elements of the existing social conditions. Consider, for example, the following comments by Theodor von Schön, one of Stein’s staunchest allies within the reform administration, that contributed to the anxieties of people like Marwitz:

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<sup>883</sup> Rahel Varnhagen et al., *Briefwechsel Mit Alexander Von Der Marwitz*, Lebensläufe ; (München,: Kösel, 1966), 93.

<sup>884</sup> “Der Geist der Edikte [Stein's] ruhte auf der schon sattsam geschilderten Gleichheits- und Flachheits-Ansicht. Die darin herrschenden Begriffe waren ganz aus Adam Smith geschöpft, also durchaus materiell...“ (Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 281.)

<sup>885</sup> *Ibid.*, 224-5.

<sup>886</sup> *Ibid.*, 249. See also: Berdahl, "The Stande and the Origins of Conservatism in Prussia," 312-5.

<sup>887</sup> “...hierauf entstand notwenigerweise ein Mangel an Übereinstimmung und Einklang in der Administration des Staates, der die allgemeine Auflösung herbeiführte.” (Marwitz, "Von Den Ursachen Des Verfalls Des Preussischen Staates (1811)," 272-3.) For more on disintegration, particularly of a moral kind see: Leo, *Lehrbuch Der Universalgeschichte Zum Gebrauche in Höheren Unterrichtsanstalten*, 782.

The nobility as it exists must decline. [...]. If it is tied to other classes, it will unconsciously, gradually dissolve and disappear.<sup>888</sup>

To Stein's opponents, such statements made it clear that the adoption of the reform proposals would not just have dire consequences for the integrity of the state, but would also affect society adversely. The radical unbalancing of the body politic was thus the anticipated effect of Stein's reforms in the minds of their skeptics.<sup>889</sup> For these critics, true freedom hinges on the old distinction between liberty [*Freiheit*] and mere license [*Zügellosigkeit*].<sup>890</sup> However, as they understood these terms, true liberty was a function of one's role within the castes.<sup>891</sup> A different set of liberties consequently attaches to people in different estates. Gestures towards switching to a system where rights and responsibilities are based on property qualifications are dangerous and misguided from this perspective. Such a switch contributes to a world without a stable moral core that is susceptible to a slide into pure procedural thinking.

From the vantage point of Marwitz and his allies, the reforms were not simply adapting myopically to the short-term needs of the state. Instead, the reforms entailed a vision for society in which individuals from all estates would act based on short-term interests rather than duty and principle. Everything was to be "bought and sold" and enter the world of "exchange and change" [*Handel und Wandel*].<sup>892</sup> All social interactions, some

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<sup>888</sup> Schön, "Gutachten." (1808) cited in: Pertz, Gneisenau, and Delbrück, *Das Leben Des Feldmarschalls Grafen Neithardt*, 412-15.

<sup>889</sup> Raack, *The Fall of Stein*, 42.

<sup>890</sup> For more on this frequently drawn distinction see for example: Neuendorf, "Kurze Belehrung Für Nachdenkende Über Bürgerliche Freyheit Und Gleichheit."

<sup>891</sup> Marwitz, "Von Den Ursachen Des Verfalls Des Preussischen Staates (1811)," 254.

<sup>892</sup> "... Mobilisierung des Grundeigentums. Alles soll gekauft und verkauft werden und in den Handel und Wandel kommen. Und dennoch ist es grade Grundbesitz, der am festesten an den Staat kettet, der Kaufmann aber ist der, der sich in allen Staaten gleich wohlbefindet." (———, "Lebuser Denkschrift (9. Mai. 1811) ", 246.) For more on Marwitz and this point see: Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 187-8.

charged, would be reduced to brute competition, in the fields, the cities, and crucially, the “organs of public administration.”<sup>893</sup> A collection of aristocrats from the East Prussian district of Morungen complained in 1809 about the vapid core of Stein’s unduly procedural reforms. In their view, the reforms destroyed any sense of “vocation” and attachment to land and people. Instead, “no other calling remains but to consume revenue.”<sup>894</sup> Rather than seeing land as the ground from which noble lines of ancestors sprang, it is now a mere commodity, prey to speculation and the ephemeral whims of impersonal, unseen, unheroic market forces. Crucial ties would be dissolved, and all that would be left in their place after the reforms of Stein would be a society of masterless men; unbound, adrift, legions of “the poor, vagabonds, and criminals.”<sup>895</sup>

How could it be otherwise when the foundations for drawing distinctions were being eroded away in all fields of life? When “nobody knows anymore that an aristocrat is more than a land-owning man?”<sup>896</sup> The causes of this danger are the “newly fashionable theories” that harp upon the importance of acquiring money and the aspiration of raising

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<sup>893</sup> “in Konkurrenz [...] sowohl als Gutsbesitzer wie im Staatsdienst.” (Scheel, Stein, and Schmidt, *Das Reformministerium Stein. Akten Zur Verfassungs- Und Verwaltungsgeschichte Aus Den Jahren 1807/08*, 1138.; Otto Richard Sigismund Tschirch, *Geschichte Der Öffentlichen Meinung in Preussen Vom Baseler Frieden Bis Zum Zusammenbruch Des Staates (1795-1806) Mit Dem Rubenowpreise Der Universität Greifswald Gekrönte Arbeit*, 2 vols., vol. 2 (Weimar,: H. Böhlau nachf., 1933), 450-52.)

<sup>894</sup> “Wer konnte noch den geringsten Beruf in sich fühlen, auf Gütern zu leben, in denen ihm keine andere Bestimmung mehr verbleibt, als seine Revenüen zu verzehren.” (Ernst von Meier, *Die Reform Der Verwaltungs-Organisation Unter Stein Und Hardenberg* (Leipzig,: Duncker & Humblot, 1881), 330.; As cited in Münchow-Pohl, *Zwischen Reform Und Krieg : Untersuchungen Zur Bewusstseinslage in Preussen 1809-1812*, 289.)

<sup>895</sup> “...Armen, Vagabunden und Verbrecher...” (Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 186.); See also: Bendavid, "Ist Fortschreiten Nur Mittel Zur Glückseligkeit Oder Höchster Zweck Der Menschheit?," 29-42.; For more on “masterless” men in the British context see: Don Herzog, *Happy Slaves : A Critique of Consent Theory* (Chicago: University of Chicago Press, 1989).

<sup>896</sup> “Niemand wusste mehr, dass ein Adeliger nichts anderes sei, als ein grundbesitzender Herr [...] - sondern man glaubte ganz treuherzig: Ein Adeliger sei ein Mensch wie andre, von dem die Gewohnheit wolle, dass man ihn ‘Herr von’ nenne.” (Marwitz, "Von Den Ursachen Des Verfalls Des Preussischen Staates (1811)," 264.)

one's own person through talent and effort.<sup>897</sup> In this context, the proposal of Rehdiger in 1808 to abolish all preferred treatment of the aristocracy in the army, politics, or administration, and instead to create mountains of bland honorary certificates [*Ehrenausszeichnungen*] for the members of aristocratic families, was plainly of a mocking nature.<sup>898</sup> Similarly, Vinke, one of Rehdiger's allies, hoped that the nobility would become an "empty class" with only "title and shield."<sup>899</sup> Divested of real clout, such outward distinctions would be vapid at best.

Wartenburg exclaimed that Stein's reforms would "lead the peasants to Eldorado."<sup>900</sup> The senseless "equalizing of the estates"<sup>901</sup> would undermine the "position of the nobility, founded on property and privilege," and thus overturn the "old Prussia [...] domestically."<sup>902</sup> In a pamphlet titled "Concerning the Causes of the Dilapidation of the Prussian State," Marwitz charges that the various reforms were influenced by the fashionable "philanthropic ideas of equality and leveling."<sup>903</sup> Like many, Marwitz viewed Basedow's philanthropic teachings as absurd and dangerous. They failed, like Stein's reforms, to draw and defend distinctions crucial to society. For example, many could not understand the suggestion that the aristocracy be taxed on a par with peasants and city

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<sup>897</sup> "Fremdlingen" ... "mit ihren neumodischen Theorien" ... welche "nur allein auf den Erwerb des Geldes und auf die Emporbringung ihrer eigenen Personen gestellt sind" (———, "Lebuser Denkschrift (9. Mai. 1811) ", 245.)

<sup>898</sup> "Ideen über eine Adelskonstitution" Rehdiger-Nachlass, cited in: Ritter, *Stein; Eine Politische Biographie*, 283-4. For more on Karl Nikolaus von Rehdiger see: Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 113-4.; Ritter, *Stein; Eine Politische Biographie*, 279-82.

<sup>899</sup> Vincke: "Ueber die Organisation der ständischen Representation." Bollendorf, 20 Sept., 1808, in Stein and Pertz, *Denkschriften Des Ministers Freiherrn Vom Stein Über Deutsche Verfassungen*. See also: Gray, "Government by Property Owners: Prussian Plans for Constitutional Reform on the County, Provincial, and National Levels in 1808," 84.

<sup>900</sup> Raack, *The Fall of Stein*, 155-6.

<sup>901</sup> "Gleichmachung aller Stände." (Marwitz, "Lebuser Denkschrift (9. Mai. 1811) ", 246.)

<sup>902</sup> Raack, *The Fall of Stein*, 28.

<sup>903</sup> "...den grade damals herrschenden philanthropischen Gleichheits- und Flachheits-Ideen" (Marwitz, "Von Den Ursachen Des Verfalls Des Preussischen Staates (1811)," 264-5, 71.

dwellers. Some thought this absurd, as the peasants were already taxed, and most of them belonged to aristocrats anyway. Aristocrats were thus (indirectly) already taxed!<sup>904</sup>

Liberating peasants, opening the offices of the state to all people of talent, allowing citizens to help administrate their own communities were all taken as signs of the all-pervading and indiscriminating “principle of equality” that would “completely equate aristocrats with peasants” and “unleash subjects and blackguards” [*Gesinde*] into a most unstable and murky future.<sup>905</sup>

Marwitz caught a concrete glimpse of such a future at the dawn of the procedural state. He had been proudly in charge of various police functions in his native district. Marwitz had executed these functions in a nonprocedural, idiosyncratic, unsystematic manner. It offended his aristocratic sensibilities to think of his office along procedural lines. In his estimation, *anybody* can be a cog in a machine but it takes a strong, passionate, willful, aristocratic character to lead a population properly. One of the police functions Marwitz managed in this manner (the *Landarmenkasse*, or poor-relief) was forcefully taken away from him because of “disorder,” incompetence, and a general reluctance to relinquish his nonprocedural, aristocratic manner. The low point of his career came in 1811, when he repeatedly offended the crown over opposition to the reforms and was imprisoned for five weeks without a trial in the Spandau fortress. Ironically, and perhaps inconsistently, he decried this nonprocedural act as following the “tyranny of Richelieu.”<sup>906</sup> For the rest of his

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<sup>904</sup> K.F. Häberlin, "Etwas Über Die Steuerfreyheit Des Adels in Deutschland," *Deutsche Montasschrift* 1 (1793): 257-67. See also: Behrens, *Society, Government and the Enlightenment : The Experiences of Eighteenth-Century France and Prussia*, 21-22.

<sup>905</sup> “das Prinzip der Gleichheit allenthalben vorherrschte” ... “Edelmann und Bauer sollten vollkommen gleichgestellt werden” ... “Untertanen und Gesinde wurden losgelassen.” (Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 277.)

<sup>906</sup> Münchow-Pohl, *Zwischen Reform Und Krieg : Untersuchungen Zur Bewusstseinslage in Preussen 1809-1812*, 299-301.

life, until 1837, Marwitz staunchly and on principle refused any involvement with the civilian administration of Prussia.

### **(v) The Nest of Vipers Dissolved**

Meanwhile, Stein was in charge of Prussia's newly constituted bureaucracy and was at the apex of the most productive and influential period in his life. Unexpectedly, his plans were cut short by the vagaries of history. Before Stein could complete his reforms, the king expelled him a second time from his official duties. Stein had foolishly handed a sensitive letter to an incompetent courier who was caught by a French patrol.<sup>907</sup> Napoleon in Spain, hearing about Stein's call for a German insurrection against his occupying troops, declared Stein an enemy of the French state and instructed his army to execute Stein with dispatch if caught.<sup>908</sup> The Prussian Queen Luise commented frankly that the intercepted letter was "the low end of [Stein]! So small, so miserable, so human indeed."<sup>909</sup> Her husband, Friedrich Wilhelm III, this time unwillingly, had to let go of Stein. He first went into hiding and then escaped to Russia, where he would form an influential relationship

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<sup>907</sup> Guy Stanton Ford's describes this episode as "a great blunder," that shows "Stein's imprudence and essential incapacity to play the diplomatic game in the Napoleonic era" (Ford, *Stein and the Era of Reform in Prussia, 1807-1815*, 150-4.). For other assessments of this great monument to the contingencies of history see: Ritter, *Stein; Eine Politische Biographie*, 346.; As well as: R.C. Raack, "When Plans Fail: Small Group Behavior and Decision-Making in the Conspiracy of 1808 in Germany," *The Journal of Conflict Resolution* 14, no. 1 (Mar., 1970).; For key passages from the actual letter see: Spies, *Die Erhebung Gegen Napoleon : 1806-1814/15*, 52.; Stein's letter was eventually published in the *Journal de l'Empire* "with an appropriately derisive commentary." (Raack, *The Fall of Stein*, 22-3, 66.); For more see: Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 144-5.; Büsch, Neugebauer, and Historische Kommission zu Berlin., *Handbuch Der Preussischen Geschichte*, 34.; Craig, *The End of Prussia*, 19.; Mast, *Die Hohenzollern in Lebensbildern*, 181-2.

<sup>908</sup> Raack, *The Fall of Stein*, 105.; Ritter, *Stein; Eine Politische Biographie*, 361.: Napoleon's Ächtungsdecret of Stein (16. Dez.); Simon, "Prince Hardenberg," 96.; Craig, *The End of Prussia*, 19.

<sup>909</sup> Cited in: Schorn-Schütte, *Königin Luise : Leben Und Legende*, 77.

with the Russian Czar. Even though Stein himself could do little for his initiated reforms from that position, they were nevertheless soon carried forward by Hardenberg (they are thus sometimes referred to as the Stein/Hardenberg reforms).<sup>910</sup>

News of Stein's fall was greeted with delight by many. As we have seen, Stein's program had faced mounting opposition from various influential opposition groups who thought, first and foremost, that Stein's program desubstantiated the moral core of individuals and society. Under Stein's participatory/procedural framework, it became increasingly difficult to sustain boundaries that had served for long to discriminate between people in inhomogeneous societies.<sup>911</sup> York von Wartenburg, the "archetypical Junker" and famous military officer, was, like many, delighted by Stein's clumsy fall and dismissal.<sup>912</sup> Wartenburg proclaimed gleefully that "one mad head [*unsinniger Kopf*] is now crushed; the rest of the nest of vipers [*Natterngeschmeiss*] will dissolve in its own poison."<sup>913</sup>

Stein's relationship with the Prussian Queen Luise illustrates nicely the arc of his rise and fall. After the treaty of Tilsit she indicated in letters that she was glad that Stein had been recalled to office. She even claimed to have been instrumental in reinstating him.<sup>914</sup> In the initial phases of Stein's tenure, he received sporadic aid and panicked letters

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<sup>910</sup> For more on Hardenberg see: Berdahl, *The Politics of the Prussian Nobility : The Development of a Conservative Ideology, 1770-1848*, 123-34, 42-44.; Nolte, *Staatsbildung Als Gesellschaftsreform : Politische Reformen in Preussen Und Den Süddeutschen Staaten, 1800-1820*, 32-9, 93-104.; Raack, *The Fall of Stein*, 126, 64-5, 73.; Marwitz, *Preussischer Adel, Aus Den Nachgelassenen Schriften Friedrich August Ludwigs Von Der Marwitz*, 224.; For more on Stein's important (temporary) secretary Ernst Moritz Arndt see: Jolles, *Das Deutsche Nationalbewusstsein Im Zeitalter Napoleons*, 204-19.

<sup>911</sup> Raack, *The Fall of Stein*, 27.

<sup>912</sup> *Ibid.*, 74-5.

<sup>913</sup> Johann Gustav Droysen, *Das Leben Des Feldmarschalls Grafen York Von Wartenburg* (Leipzig,: Im Insel, 1913), 162-3.; Raack, *The Fall of Stein*, 74-5.; See also: Paret, *Yorck and the Era of the Prussian Reform, 1807-1815*, 4-5.; Brose, *The Politics of Technological Change in Prussia : Out of the Shadow of Antiquity, 1809-1848*, 33.

<sup>914</sup> Ritter, *Stein; Eine Politische Biographie*, 208-9.

from the queen.<sup>915</sup> For a while he seems to have had the “complete confidence of the queen,” and could count on her to inform him of the plots of aristocrats who opposed to his plans.<sup>916</sup> However, her support quickly waned and, as one historian characterized it, she “gained a sudden violent dislike for the minister whom she had once so completely idolized.”<sup>917</sup> By December of 1808, Queen Luise took personal credit for Stein’s dismissal during a meeting with a French consul (Clérembault) in Königsberg, and asked him to convey this message to Paris.<sup>918</sup> As it did to many in the circle around her, Stein’s agenda seemed to her far too radical and far too experimental to merit continued support once dire political urgency had passed.<sup>919</sup>

From an institutional perspective, Stein’s reforms present a mixed legacy.<sup>920</sup> In command for a mere difficult fourteen months,<sup>921</sup> Stein never fully realized his aspirations,

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<sup>915</sup> For a typical example, see the letter of Queen Luise to Stein from the 29th Oct, 1807 (Stein, Botzenhart, and Hubatsch, *Briefe Und Amtliche Schriften*, 479.

<sup>916</sup> Schorn-Schütte, *Königin Luise : Leben Und Legende*, 35-6, 46-8, 57-8, 70-77.; Raack, *The Fall of Stein*, 37, 42-3.

<sup>917</sup> Raack, *The Fall of Stein*, 138-9.

<sup>918</sup> Ritter, *Stein; Eine Politische Biographie*, 358.; See also: Raack, *The Fall of Stein*, 138-9.; Luise and William Frederick, *Briefwechsel Der Königin Luise Mit Ihrem Gemahl Friedrich Wilhelm Iii., 1793-1810*, ed. Karl Griewank (Leipzig: K. F. Koehler, 1929), 38. The influence of the Queen on politics is much disputed and remains unclear. One small indication comes from a letter to Talleyrand, instructing him to make sure to charm the queen (Laforeft to Tallyrand, 26 Jan 1806, in: Hardenberg and Ranke, *Denkwürdigkeiten Des Staatskanzlers Fürsten Von Hardenberg*, 439-47.

<sup>919</sup> Görnitz, *Die Junker: Adel Und Bauer Im Deutschen Osten; Geschichtliche Bilanz Von 7 Jahrhunderten*, 180, 91-2.; See also: Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 144-50.

<sup>920</sup> Consider for example Epstein’s summery judgement that Stein’s tenure is in important ways a “record of overall-failure indeed!” (Epstein, "Stein in German Historiography," 269.) For an endless variety of assessment from the abysmal to the jubilant see: Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 1, 87-98, 144-50, 57.; Bernd Söseman, *Gemeingeist Und Bürgersinn : Die Preussischen Reformen*, Forschungen Zur Brandenburgischen Und Preussischen Geschichte (Berlin: Duncker & Humblot, 1993).; Walter Michael Simon, *The Failure of the Prussian Reform Movement, 1807-1819* (Ithaca, N.Y.: Cornell University Press, 1955).; Büsch, Neugebauer, and Historische Kommission zu Berlin., *Handbuch Der Preussischen Geschichte*, 27-31.; Simon, "Prince Hardenberg," 96-7.; Hans Ulrich Wehler, *Deutsche Gesellschaftsgeschichte*, 2 vols., vol. 1 (München: Beck, 1987), 397-485.; Craig, *The End of Prussia*, 19-20.; Levinger, "The Prussian Reform Movement and the Rise of Enlightened Nationalism," 271-2.; Mast, *Die Hohenzollern in Lebensbildern*, 182-3.; For an alternative perspective see: Werner Conze and Theodor Schieder, *Staat Und Gesellschaft Im Deutschen Vormärz, 1815-1848* (Stuttgart: E. Klett, 1962).; Paul Nolte, "Reformen in Preussen," in *Preussische Stile : Ein Staat Als Kunststück*, ed. Patrick Bahners and Gerd Roellecke (Stuttgart: Klett-Cotta, 2001), 59-61.; Rudolf Ibbeken,

and they were diluted by later administrations and the changing whims of the king (no longer directly threatened by Napoleon). Historically, the reforms had limited effects on Prussia but were widely admired and partially emulated throughout Germany.<sup>922</sup> They prepared, as some historians have put it, the “foundations for a better, more humane status of the peasants and city dwellers in the spirit of the Enlightenment and the early liberal conception of the state.”<sup>923</sup> They also provide a genealogical link, though conceptually complex and perhaps inconsistent, of how procedural and participatory elements can be combined.

It is for these reasons, then, that some historians have long characterized Stein’s reforms as the birthplace of a short-lived early German liberalism. Gerhard Ritter, for example, describes the reforms as a “historically unique version of German liberalism” that was nurtured by “Kant and Wilhelm von Humboldt” and to which “Stein contributed in an original manner.”<sup>924</sup> This “early Prussian liberalism,”<sup>925</sup> a “bureaucratic liberalism,”<sup>926</sup> is

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*Preussen 1807-1813; Staat Und Volk Als Idee Und in Wirklichkeit*, Veröffentlichungen Aus Den Archiven Preussischer Kulturbesitz ([Köln]: Grote, 1970).; L. Brentano, "Agrarian Reform in Prussia," *The Economic Journal* 7, no. 25 (Mar., 1897): 3-4.; Münchow-Pohl, *Zwischen Reform Und Krieg : Untersuchungen Zur Bewusstseinslage in Preussen 1809-1812*, 89-312.; Nolte, *Staatsbildung Als Gesellschaftsreform : Politische Reformen in Preussen Und Den Süddeutschen Staaten, 1800-1820*, 48-77.;

<sup>921</sup> For more on the difficult context of the reforms see: Ritter, *Stein; Eine Politische Biographie*, 203-4, 12.

<sup>922</sup> See for example: “In den Abschnitten unserer Denkschrift, die von den Zentralbehörden des Staates handeln, entdeckten wir nichts eigentlich Neues. Unvergleichlich bedeutsamer sind die Reformvorschläge für Provinz und Kommunen: sie stellen das erste Programm moderner Selbstverwaltung dar. Wesentlich dadurch hat die Nassauer Denkschrift ihren Ruhm bis heute: als erster Anstoss zu einer Gesetzgebung von unabsehbar wichtigen Folgewirkungen.” (Ibid., 186.). See also Gray (1986) who argues that “the rhetoric of 1808 was echoed later in the revolutionary assemblies of 1848 and in the liberal party platforms of the 1860s.” (Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 120.)

<sup>923</sup> “Fest steht, dass die Reformen des Ministeriums Stein trotz ihrer zeitbedingten Mängel die gesetzmässigen Grundlagen für einen besseren, menschenwürdigeren Status der Bauern und Stadtbürger im Sinne der Aufklärung und der frühliberalen [still accepting of different Stände] Staatsgesinnung schufen.” (Stein, *Freiherr Vom Stein; Ausgewählte Politische Briefe Und Denkschriften*, 70.)

<sup>924</sup> Ritter, *Stein; Eine Politische Biographie*, 11-12.

<sup>925</sup> Gray, "Prussia in Transition: Society and Politics under the Stein Reform Ministry of 1808," 11, 142.; Hans Hausscherr and Karl Erich Born, *Hardenberg; Eine Politische Biographie*, Kölner Historische Abhandlungen ; (Köln.: Böhlau Verlag, 1963), 297-8. See also Ritter on this point who describes Stein’s thought as an “old version of German liberalism“ [“älteren deutschen Liberalismus“] (Ritter, *Stein; Eine Politische Biographie*, 10-11, 100-1, 98.; Demel, *Vom Aufgeklärten Reformstaat Zum Bürokratischen*

built upon a fusion of the direct and indirect question of justice. It combines a concern with procedural requirements and participatory norms in an effort to strengthen a failing state.

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*Staatsabsolutismus*, 100-1.; R. Vierhaus, "Liberalismus, Beamtenstand Und Konstituionelles System," in *Liberalismus in Der Gesellschaft Des Vormärz*, ed. W. Schieder (Göttingen: 1983).; Gray, "Government by Property Owners: Prussian Plans for Constitutional Reform on the County, Provincial, and National Levels in 1808," 73.; Craig, *The End of Prussia*, 25.

<sup>926</sup> "Beamtenliberalismus" (Wunder, *Geschichte Der Bürokratie in Deutschland*, 60-64.)

## **Chapter V.**

### **Conclusion**

Each of the sections above teaches us an important lesson about bureaucracies. Section 1 showed us how and why cameralists desubstantiated bureaucracies in the interest of simultaneously strengthening and containing the state. An emphasis on procedures avoids the arbitrariness, inefficiency, and inconsistency of relying on the will of individuals. It replaces the moody biases of individuals with consistent, passionless, regularized procedures that apply mechanically to a domain of cases. Modern bureaucracies are hardly thinkable without these innovations. Much was gained by this move.

However, much was also lost. Section 2 illustrated some of the pitfalls of such an approach. People came to be treated by the bureaucracy as a dead, administered mass without voice and agency. For the critics of the cameralist project, the state and society are and have to be centered around the passionate will of individuals. The specter of a mechanized, depersonalized understanding of the social order fills such individuals with horror. The Romantics' objection to the cameralist project still rings familiar to many opponents of bureaucracies.

I suggest we take both sides seriously. Not only did both contribute important insights to our understanding of bureaucracies, but both recommended important improvements that could be made. Perplexingly for the would-be reformer, however, their proposals are in opposition to each other for much of the time. Section 3 suggested a manner in which these two sides could be reconciled. The proper term here is the German *aufheben*. It is notoriously difficult to translate. The term has been popularized, not accidentally, by Hegel. He uses the term to encapsulate the process whereby a thesis is combined with an antithesis into a synthesis that supersedes its conflicting conceptual parents. It is at once a lifting up and a negation.

Stein is doing something very similar. He and his allies suggested and sought to implement a way in which we can reconcile the differences between the cameralists and the Romantics. This could be achieved by reconstituting bureaucracies and the social order they administer along novel lines.

Such a proposal is hard to imagine now. The experiment of Stein and his allies did not succeed. We live in a world inherited from this failure. Modern struggles over social order and the shape of the modern state reveal a hard separation between the administrative sphere of the state and the deliberative sphere of the political community. Attempts to bring them together have largely failed, and we consequently struggle with relating the two, either through hopes of “translating” the commands of one into the output of the other, or by resigning ourselves to a future of desperate resistance to endless encroachments on the lifeworld.

We have become accustomed to a certain way of understanding bureaucracies and their relation to society. Our theories of state and society are built on the old clash between

the cameralists and the Romantics. Perhaps our thinking has become fossilized in the mold of this clash. Most of us accept as axiomatic that society and administration are two irreconcilably separate and foreign domains. Later thinkers, including Habermas and Foucault, have also largely accepted this division as given. Returning to its point of origin has allowed us to reexamine the wisdom of accepting such a division.

Fortunately, history is not only the roadblock to improvement; but also its enabler. Before a division between the public and the administrative sphere was taken for granted and blessed by a patina of custom and acceptance, people struggled against this unfortunate division. The reformers we encountered in section 3 suggest a way to retain some of the benefits of *both* the cameralists' *and* the Romantics' visions of state and society.

The narrative arc of this dissertation is consequently not tragic in nature. Stein's proposal failed not due to intrinsic flaws, but due to the vagaries of history. Prussia's history, and perhaps the history of bureaucracies, might have been very different if pressures on the Prussian state had not eased suddenly or if Stein had not fallen out of favor.

The attempted fusion by Stein and his allies of the administrative and deliberative spheres could work. The episode suggests that the two spheres are not separated by logical necessity. The genealogy on offer here shows the process through which the administrative sphere and the deliberative sphere became separated. This process was not inevitable or predetermined. Instead, it was the outcome of a history driven by accident and contingency. The separation of the administrative and deliberative spheres is the outcome of a complex historical process.

That is not to say that it is easy to change, but hopefully unlocking the connection between competing notions of social order, political community, and the state provides raw material for reimagining, once again, what modern politics could look like beyond the grasp of Creon's secretaries. The genealogy on offer here suggests a way forward in a manner commonly not thought of: a careful reconnecting of the public sphere and the administrative sphere in which citizens are empowered *within the state, against the state*. This entails a recreating of the political public sphere within the state, not outside and in conceptual opposition to it.

This is in keeping with the metaphor of Creon's secretaries and the three interpretations of that phrase that we have encountered in the three sections of this dissertation. Perhaps the most intuitive way to read Dürrenmatt's warning about Creon's secretaries is that bureaucrats are omnipresent and stifle the very lifeblood of humanity. Romantics could sympathize with this interpretation. Cameralists might reply that there is a second way to read the same quotation. They might argue that it is a terribly good thing that the secretaries handle Antigone's case. Unlike Creon, these secretaries are not given to arbitrariness, outbursts of personal sentiment, and the vagaries of changing sympathies. Instead, the secretaries actually manage to contain Creon's misguided wrath and let procedures standardize and regularize the relation between the state and the political community.

But there is a third understanding of social order entailed in Dürrenmatt's phrase: perhaps we can avoid the dangers that both the Romantics and the cameralists highlight, if we dare to become Creon's secretaries ourselves.

With Stein's experiments in mind, we can imagine, once again, what this would entail. It would mean that citizens are incorporated into the administrative machinery. But these citizens have to be *in* the bureaucracy but not *of* the bureaucracy. We have to integrate citizens into the bureaucratic structure without turning them into bureaucrats. Perhaps the most familiar model of such integration is the jury system in civil and criminal lawsuits. Stein's proposal is not that different, and it offers a novel perspective on the interaction between the bureaucracy and the citizens it administrates. Instead of being a dead, resentful, administrated mass, such citizens could guide and check administrative decisions on a micro level.

As with juries, some people might not like to be forced into these duties (Stein certainly encountered much resistance). This is an enduring paradox for those interested in keeping state abuse in check: to make and keep people free, they might have to do things they do not want to do. This is not, strictly speaking, a contradiction. It is an appreciation of the fact that some things do not come for free.

The benefits of this proposal outweigh the costs. It would result in superior outcomes and more legitimacy for the state, and would help to educate the citizenry. Local knowledge is often crucial in translating broad policy goals into concrete programs that produce successful results. At least since the time of the cameralists, a science of administration has tried to approximate local knowledge with complex information-gathering and information-analyzing tools. Though they used the term slightly differently, "statistics" is a term that often crops up in cameralistic textbooks. However, the social world is a messy place. Often it is difficult to gather information, or the information is not reliable, or explanatory variables are unobservable or too costly to obtain, or explanatory

models might lack crucial elements. In short, having an institutionalized process in place to solicit localized knowledge could contribute to a superior translation of policy into outcomes.

This, in itself, might increase the legitimacy of the state and its institutions. In addition, legitimacy is enhanced by simply allowing for participation. People perceive decisions as more legitimate if they were rendered under procedural rules that allowed for (meaningful) participation. People will be more likely to support, or at least adhere to, administrative decisions. They are also far less likely to feel alienated from the political process and the state that administers a range of important functions in their lives. As with a jury system, this would not imply that all people affected by any given administrative decision would participate in making it. However, representatives of the community would have the time and institutional position to gather information, contribute to decisions, and report back to the community.

Apart from superior outcomes and increased legitimacy, the scheme of integrating citizens into administrative institutions also serves to educate citizens. It would expose citizens to the internal workings of the state, the constraints and possibilities inherent in public administration, and a range of professional and nonprofessional viewpoints about concrete problems.

As Stein suggested, citizens integrated into the bureaucracy possess local knowledge, can explain decisions to their neighbors, check governmental abuse, and are motivated to instigate action where bureaucrats might not be. In the process, they contribute to the health of the state, make its decisions better, and educate themselves.

A responsive and legitimate bureaucracy might, then, only be attainable if we supplant traditional models of state legitimacy with a model that allows for citizen participation. Under the traditional model, the legitimacy of state action is ascertained by its proximity to the declared will of the sovereign. This model works well when states are simple and when the relationship between “author” and “actor” is straightforward. However, as states grow in complexity, these relationships quickly become unwieldy. Citizens are principals in relation to representatives who appoint department heads who control mid-level careerists who are in charge of an army of bureaucrats. Citizens might feel, legitimately, that their intention and authorship is lost somewhere between their act of voting and final administrative determinations somewhere down the bureaucratic chain. Notice that this conclusion holds true even if there is considerable deliberative activity. As Habermas points out, the process of “translating” deliberation in the public sphere into output in the administrative sphere is crucial to the health and legitimacy of democratic states and can be extremely tenuous. Under a traditional model of the state, legitimacy is supposed to flow from one end of the chain (the citizens) through all the links towards the other end: outcomes “authored” by the sovereign. Often, this is not the case. Even when it is, citizens might think that it is not.

I consequently suggest we supplement the traditional model of legitimacy with one that allows for citizen input and control at both ends of the chain. This would be a kind of *bureaucratic legitimacy* that supplements other forms of legitimacy. It does not enhance the legitimacy of the bureaucracy, but rather provides for legitimacy *through* the bureaucracy. This form of legitimacy generation could act at one end of the chain while other forms uphold the other end. Stein provides the inspiration for this model. The cameralists spell

out what aspects of bureaucratic structure and procedure provide efficiency and dispassion and need to be retained. Romantics suggest why inviting living citizens into this structure might strengthen a sense of community, fight feelings of alienation, and enliven the human spirit.

These are grand themes, mixed with the boring details of administrative practices. Perhaps that is as it should be. Either in isolation fails to persuade. Together, they suggest new and fruitful ways of thinking about Creon's secretaries.

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