MANCHESTER 1824
Manchester University Press

English and French Influences on German Party Theory Before 1848

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Abstract

Was there a general anti-party sentiment in 19th century German political thought? The paper argues for a revision of this long-standing prejudice in favour of a more benign view on the *Vormärz* (*pre-March*) concept of political parties. It shows how the influence of English (and to some extent) French constitutional practices and political thought led German writers to an elaborate theory of political parties as early as at the eve of the 1848 German revolution. The findings are based on a broad analysis of more than 250 text sources originating from 1815 to 1848.

Keywords: Party theory, political thought, English constitution, Edmund Burke, Hegel

Introduction

It was Hannah Arendt who once remarked that Great Britain was the only country in Europe where Parliament was not despised and the party system not hated (cf. Arendt, 1973: 251). Besides France this observation seemed especially true of Germany, where general prohibitions and legal restrictions of the freedom of speech, assembly and association still hindered the emergence and development of party organisation throughout the entire 19th century. Even the word *"Partei"* traditionally had a bad sound. Parties were often equated with egoistic or even harmful sects or factions that threatened the nation's unity.

To make things worse, the absence of supporting constitutional factors hindered the formation of organised parties in *Vormärz* Germany, because the parliamentary system of government as a prerequisite for party competition was not established before the revolution of 1848/49. The parliaments before 1848 were, with certain exceptions, estate diets, with no proper elections, limited status-based suffrage and barely developed forms of parliamentary procedure and debate. This is the main reason why those who spoke about parties and understood their role referred above all to Britain and France.

Only on the level of the constitutionally advanced single states, especially in southern Germany, for example in Baden, Württemberg or Bavaria, could "apocryphal forms of a political party system" (Huber, 1988: II, 319) emerge. Their organisational consolidation was in fact hampered by an absolute party ban, which was issued in 1832 throughout the German Confederation in response to the Hambach Festival (cf. Huber, 1978: I, 134). Before that the Carlsbad Decrees of 1819 had already undermined the groundwork of a free party system due to their numerous restrictions of civil rights. Thus, most of the texts discussed here were written under the conditions of censorship. Even the glorification of foreign parties had been criminalised by this time (cf. Huber 1978: I, 106).

It is therefore unsurprising that those browsing through the handbooks and encyclopaedias of that time will find some urgent warnings against the "forming of parties" (das *Parteimachen*) or the even worse attitudes of *Parteiwuth, Partheisucht* or *Partheigeist,* which could all be translated as extreme and therefore harmful forms of blind and reckless partisanship. For example, under the heading of "Partei" the famous *Brockhaus* encyclopaedia says in its 1846 edition that there is "nothing to be said against the natural development and cohesion of parties formed by those bound together by identical views and aspirations, but a great deal against organised parties which act with conscious calculation" (Partei, 1846: 730). Consciously combining into a party and deliberately organising one were thought to lead to great evils. The article therefore continues: "It is a rightful requirement that the government of a state should stand above parties. It should strive, like everyone, for impartiality […]" (Partei, 1846: 730).

Even today, when the importance of the *Brockhaus* "party ban" is overestimated and some ambiguous passages from the same few antiliberal "classics" are consistently taken out of context, there is a widespread consensus expressed in the relevant academic literature that something like a general anti-party sentiment is to be found in German political thought during the 19th century. Hence the German *Vormärz* writers in general are accused of having interpreted parties first and foremost as loose associations of ideologically like-minded persons (*Gesinnungsgemeinschaften*) being unable or unwilling to tolerate real political groups. "Parties meant to them more or less intellectual constructs

(*Gedankengebilde*), dialectical moments in the process of intellectual history", it is said for example in a frequently cited publication by the historian Theodor Schieder (1974: 117). The concept of "*Partei*" allegedly had "something infamous" (Siemann, 1985: 91). They were not seen as being "natural", for which reason almost everyone had stressed the "low value" (Hörner, 1987: 334) of the parties. "No social or political grouping wanted to call themselves a party" (Hardtwig, 1985: 138). Parties were perceived "as an expression of special interests in conflict with the common good". It was therefore not surprising that "the German constitutional theory only rudimentarily dealt with the problem of political parties in Vormärz." (Botzenhart, 1977: 315 f.) However, these assumptions are wrong.

By this I do not challenge the existence of relevant research having previously stressed that the necessity of parties was pointed out by various *Vormärz* authors (e.g. Backes, 2000: 381 ff.; von Beyme, 1978: 710; Essbach, 1988: 158). Although they were never in the foreground, the theoretical proponents of parties were not completely concealed. But the vast majority of existing conceptual histories of "Partei" have without any doubt emphasised the pejorative semantics and the dismissive use of the word. Given this party prudery Klaus von Beyme aptly spoke of the "history of a discriminatory term" (von Beyme, 1978: 732).

On the contrary, in this paper I wish to show how the influence of English and French constitutional practices and political thought led German writers to a friendlier and more realistic perception of the role of political parties in state and civil society even long before the 1848 German revolution. In detail these influences refer to (1) the benefit of parties for a healthy political system instead of any particular faction, (2) the necessity of opposition and party competition within the legislative assemblies of that time and (3) the justification of political parties in government.

These findings are based on a broad analysis of more than 250 German text sources originating from 1815 to 1848. Contemporary monographs and pamphlets were also part of the text corpus, as well as magazines, periodicals and lexicon contributions, but also relevant letters, songs and poems (cf. Erbentraut, 2016: 22 ff.). Being part of contemporary bibliographies (cf. von Mohl, 1858: III, 733 ff.; Walther, 1854; Pölitz, 1835) most of these sources from journalism and theories of the state were already known to researchers in this field. In addition, the ongoing digitalisation also favoured the search for new texts. So the vast majority of the sources listed in the bibliography can be easily accessed by a simple search query on Google Books. However, the study did not have to make a fundamental new discovery of the material. The state theory corpus of the *Vormärz* time had already been well developed, but had not yet been examined systematically from the perspective of party theory.

In principle, therefore, all the texts that contain normative statements about political parties could be considered from the investigation period. The requirements of what can be called a party *theory*, however, were to be limited to a minimum of level of abstraction, systematics and consistency. According to the old definition by George Sabine a political theory consists of three elements: a description of the facts, a thesis about causal relations and a hypothesis about what ought to be done (cf. Sabine, 1969: 12). As Klaus von Beyme already put it, this definition has the virtue of not being too narrowly positivistic, thereby avoiding the exclusion of older types of nineteenth-century "theories" in which the normative assessment about what ought to be done plays a greater role than in most contemporary theories of political thought (cf. von Beyme, 1985: 73).

In the light of this definition I argue for a revision of our verdict on the *Vormärz* idea of political parties in favour of a more benign view. Contrary to the long-standing prejudice there is no general anti-party sentiment in 19th century German political thought. Instead, there existed a differentiated theory of political parties already on the eve of the 1848 revolution based on a fundamentally neutral or even positive concept of political parties. This understanding was not confined to some individual authors or only the political left, but rather forms a basic feature of *Vormärz* political theorists across all political camps.

So the vast majority of the texts analysed were in favour of parties. By chance I noticed that a considerable number of them supported political parties and party competition referring explicitly to English and sometimes also French ideas or forms of parliamentary government. These voices will be presented here – most of them probably for the first time – in English.[1]

Factions No More: The Benefit of Parties for a Healthy Political System

In 1972 the Canadian political scientist J. A. W. Gunn published a textbook including extracts from 74 historical writings on political parties. These works, mainly written by either relatively obscure or unidentified authors, revealed a dramatic change in the perception of political parties in early 18th century England. As Gunn explained in the preface of his book he wanted to show his dissatisfaction with the common judgment "that no one before Burke had much of interest to say about political parties" (Gunn, 1972: xi). Since the ignorance of those obscure statements had caused research to underestimate the way in which and extent to which parties and party conflict were defended even early in the century.

Here and today we can determine a very similar development when it comes to the political thought and the linguistic usage in *Vormärz* Germany – 100 years later. With the beginning of the 19th century the word "*Partei*" gradually became common in the German political language and was used now more often in a neutral or even positive connotation throughout all political camps. Disapproval and suspicion that had been deposited on the concept of *Partei* over the past centuries apparently was unloaded to the "faction" (*Faktion*): a word that had been used as a synonym for a long time before, but now became an expression for political groups using unscrupulous methods to pursue their selfish interests ignoring the common good. Political parties on the contrary became more and more appreciated as appropriate instruments for the desired realisation of progress, freedom and the sovereignty of the people, especially in the writings of democratic and liberal authors. The party supporters also argued the open competition of different interests would reliably promote the greatest political talents to power and in this way guarantee overall better policy results. Those who denied this connection were asked by the Young Hegelian publisher Arnold Ruge to answer the question "why England with its harsh party opposites has become the most important state of the present" (Ruge, 1842: 1180). The liberal travel writer Friedrich Murhard also claimed in the *Staatslexikon* that England had climbed "the highest peak of power and national welfare" just at the moment when "the whole nation had been divided the most violently into counterparties" (Murhard, 1846: 357). Marx and Engels in turn commissioned the Communist Party the world-historical mission to overthrow the bourgeoisie and prepare the victory of the proletariat. As a role model for the proletarian parties the well-organised English Chartists are mentioned several times, because "they have seats in Parliament" (MEW 4, 352). At least parties were accepted as a necessary evil even by some conservatives such as the publisher and literature historian Victor Aimé Huber who called for the organisation of a German conservative party as early as 1841 (seven years before the Communist Manifesto!) and thereby for the first time developed the idea of a public financing of political parties (cf. Huber, 1841).

The complexity and elaborateness of those theoretical approaches are particularly noteworthy. The core argument of a generally positive attitude towards parties among German theorists can even be sharpened by a distinction between the onomasiological and semasiological dimension of the authors' findings, because a significant part of this early party discourse was carried by quite different wordings, for example the concepts of "Assoziation", "Klub" or "Verein" (cf. Backes, 2000: 404 f.; Botzenhart, 1977: 319). It is certainly a matter of party theories avant la lettre, which remain hidden to those only taking the word "Partei" into account. Actually, for a long time the concept of "Partei" had been negatively connoted, even among those politicians, scholars,

journalists who argued in favour of parliamentary government and political participation in institutionalised form, and thus, in fact, were pro-parties. It should also be borne in mind that parties were banned by that time and public partisanship was therefore risky. Hence, existing anti-party rhetoric, on its own, cannot be regarded as a proof of a deeper anti-party sentiment. In this context as early as the beginning of the 1830s even the formerly very rare self-description of *Vormärz* contemporaries as members of a "Partei" ("Parteimänner") became common. Especially in opposition circles, the term "Parteimann" was no longer regarded as blame, but as praise. Being a party member: "what else does it mean but to have an opinion, to advertise it and to make it valid", Heinrich von Gagern says in 1834 (1834/1959: 133).

In this intellectual process the great majority of writers were open to foreign influences of western origins. And obviously it was the British Parliament, with its rich traditions of fruitful party contest between Whigs and Tories, which formed a major point of attraction to many authors. One of the most interesting intellectual characters in this transnational debate was by no doubt Hegel. For the philosopher Georg Wilhelm Friedrich Hegel is usually identified as the main opponent of political parties and opposition in general among contemporary political theorists in 19th century Germany.

But if we take a closer look on how the author used the concept of political parties we will find that Hegel had both a positive idea of intermediate organisations and a negative one. The competition of parties representing a substantial social interest is advocated as beneficial for the common good by Hegel. Where however he warns against the dangerous consequences resulting from groups acting by force for their particular interests he generally uses the term "faction" (*Faktion*). As a historical example of a faction he mentions several times the aggressive behaviour of the Jacobins in the election meetings during the French Revolution that deterred the honest citizens from making use of the their suffrage: "[…] and what should have been the result of a general election indeed was only a product of a faction that did not represent the public opinion but exactly the opposite" (Student lecture notes Griesheim, 1824/25: 717). The English parliamentary parties however were by no means "factions", because "they stand within the same public interest, and so far a change of government has had major consequences for foreign affairs, related to war and peace, rather than to domestic policies" (GW 16, 393).

Hegel explicitly praises the stability of the English constitution based on the highly-developed party system. So even if the Parliament was divided into two competing parties, he argued, the executive power only suffered "superficial fluctuations, […] no essential cleavage on principles; a new ministry belongs to the same class of interests and statesmen as the preceding one" (GW 16, 398). The main reason for this political consistency was to be found in the social homogeneity of the ruling class in England. In spite of the given intensity

of party competition the preservation of the English constitution as a whole was never challenged by the contenders.

At almost the same time we find similar ideas concerning the beneficial characteristics of the English party system in the works of Friedrich Bülau, a conservative professor of philosophy at the University of Leipzig. In an essay published in the journal *Vaterland* in September 1831 Bülau writes about the "game of parties" in England: they "agree on the essential fundamentals of public life […] given a dissent on foreign affairs, solely being at never-resting loggerheads which of them should take over the rudder of the ship of state." And asking for the success of the English constitution he elsewhere remarks: "Isn't the very situation in England based on the nowhere else visible existence of two old and powerful parties, that may well differ in persons, but only few in the principles and on the fact that the rich rule there" (quoted from Klenk, 1932: 22, 33). Hence, Bülau knew that "governing in England is an aristocratic business" (Bülau, 1843: 7). So it was not the case that the House of Lords represented the aristocracy, the House of Commons the democracy, but the "aristocracy is in the House of Commons as well as in the House of Lords and in both of these democracy is nowhere in the government where it does not belong" (Bülau, 1843: 13 f.).

This precise analysis of the English representative system contradicts the opinion as expressed in the older research literature arguing that the overwhelming majority of German *Vormärz* liberals misinterpreted the English constitution in favour of their own political ideals either in the form of an old feudal state led by The King or in terms of a mixed government consisting of democratic (House of Commons), aristocratic (House of Lords) and monarchic (the Crown) elements (cf. Wilhelm, 1928: 193 ff). Rather many early German writers in the first half of 19th century know: England is a Party State with two grand old parties alternating in the roles of government and opposition in its powerful Parliament for the purpose of freedom, progress and democracy.[2]

The view that the homogeneous social structure of the political class was crucial for the "picture of the great representative state life of England" (Mohl, 1846: 455) was also held by one of the leaders of the German *Vormärz* liberalism, the constitutional lawyer Robert von Mohl: "We see at the helm of the state a superior, worldly-wise and proud aristocracy that divides into two parties with different opinions and traditions concerning the measure of individual public liberties and certain governmental fundamentals, which however agree in all main issues of state life" (Mohl, 1846: 455). In this way the government could "instantly and without any shocks and disorder" pass on from the previous holders to leaders already designated in advance as soon as the majority circumstances in parliament changed: "Among these parties we see a close fight for the lead, but never a battle against the principle of authority" (Mohl,

1846: 455). Due to the prudence of its political institutions the English Party State achieved "morally as well as factually mammoth successes", which were gazed at by the other nations with "admiration and jealousy" (Mohl, 1846: 456).

The conceptual distinction between parties and factions, made by many authors during the 1840s, was already indicated in even earlier formulations by Friedrich Ancillon, the tutor of the Prussian crown prince and architect of Prussian foreign policies in the age of Metternich. According to Ancillon in 1828 "there were indeed parties in England which consider the issues from different points of view, although they converge in the principles, but no factions which try to inhibit, lame or destroy the intentions of the government" (Ancillon, 1828: 420).

Concerning the difference between the historically arisen constitution in England and elsewhere in Europe the Hessian and Prussian nobleman Ludwig zu Solms-Lich wrote in 1838 clairvoyantly: "Such a constitution can be applicable with benefit only in such places where historical development itself has formed parties that hold each other in balance and whose alternating victory does not jeopardise the state." Therefore, the representative system in England had borne better fruit than in France, "where the victory of one or the other party does not only cause a change of the administrative staff, but of dynasties" (Solms-Lich, 1838: 43).

In England the necessary and beneficial dispute between opposition and government was by no means "always a life-or-death struggle", as the liberal canon lawyer Sebald Brendel from Würzburg remarked, in which the adversaries individually are at war with each other, but "an honourable, even though sometimes passionate competition between two parties" on the basis of a fundamental political consensus on the preservation of the English constitution as a whole. It is not an issue of parties as factions here. On the contrary: "The members of the opposition even under the keenest competition do not lose track of England with its dignified constitution, the hallowed institutions and its community spirit and public virtues. It is their ambition never to stop being British." (Brendel, 1817: I, 94.)

Such a state-supporting understanding of the "party" was common to the English political philosophy as early as the emergence of Whigs and Tories as prototypes of modern parties from the second half of the 17th century (cf. Leonhard, 2002). In Edmund Burke's famous party definition in 1770 even the pursuit of power was called a legitimate concern: "Party is a body of men united, for promoting by their joint endeavours the national interest, upon some particular principle in which they are all agreed" (Burke, 1770/1981: II, 317). Partisanship now became the first duty of the patriot, since: "When bad men combine, the good must associate…" (Burke, 1770/ 1981: II, 315). Around 75 years later, it is said in apparent reference to Burke by the liberal Heinrich

von Gagern, the later President of the Frankfurt Parliament: "To take sides and act for one's conviction, that is to follow party purposes, is a patriotic and hence a moral duty" (von Gagern, 1845/ 1959: 299).

The politically divided Germany of the early 19th century on the other hand obviously had a lack of exactly this common public sense which Burke and his followers called essential for the political interaction of the whole and its parts. This lack of a common public sphere was even seen as the real reason for the political impotence of *Vormärz* Germany by contemporary observers. It revealed implicitly the superiority of the English Party State model in which the transformation of formerly private rights into a political community order had been successfully completed. The sometimes harsh criticism of German political conditions culminated in Hegel's dictum, "Germany is not a state any more" (GW 5, 6). But if not even the principal witness for the alleged anti-party sentiment in the political thought of the *Vormärz* was a staunch enemy of the party, what still remains of this prejudice?

The Necessity of Opposition and Party Competition Within Any Legislative Assembly

Although among keen observers it was widely accepted that political parties played an important role for English parliamentarianism, the constitutional theory promoted by early German liberals, such as Carl von Rotteck, still seemed to leave little room for the acceptance of political parties in Germany. For Rotteck interpreted Parliament as a deliberative body for the identification of the general will (cf. Gall, 1973: 193). From this point of view the Parliament had to represent the society – the whole of society – against the state, embodied in the ruler. A Parliament that divided itself into competing groups would otherwise lose its right to exist. To this end the voters were supposed to give a free mandate to the deputies allowing them to decide all political questions without instructions and solely to the best of their knowledge (cf. Rotteck, 1819: 98 f.).

Indeed soon after the German Federal Act (*Deutsche Bundesakte*) promised in vague wordings the constitutional introduction of a popular representation by the estates of the country (*Landstände*) in 1815 the first writers started to criticise the early liberal view of a dualism between the government seen as a *pouvoir neutre* standing above all parties on the one hand and a self-contained parliamentary opposition representing the *Volk* on the other hand.

Referring to the constitutional practice in England and France the Baden statesman and later Foreign Minister Alexander von Dusch for example clearly turned against the old representation theory by Rotteck. In an anonymous

published article in 1823 Dusch called the idea naïve that given a modern and complex society any deputy would be able to answer every single question solely based on his best knowledge (cf. Dusch, 1823: 10).

Note in contrast the astonishing misinterpretation of the English constitution by the well-known German historian and politician Friedrich Christoph Dahlmann, initiator of the protest of the seven professors of Göttingen (Göttingen Seven) against the abolition of the constitution of the Kingdom of Hanover by Ernest Augustus in 1837. In his main work *Politik* Dahlmann wrote in 1835: "Every assemblyman has the right to state his blatant opposition; he may prove his loyalty by Nay as well as Yes. But precisely because truth is his end he rejects systematic opposition (which they are also beginning to refrain from in England, as it is the sign of an unrefined constitution which is still partisan-biased), does not support forming a party of yes or nay, but votes every time to the best of his knowledge – *measures, not men*[3], as long as somehow feasible" (Dahlmann, 1835: 152).

Dahlmann's party enmity and appeal to the conscience and best knowledge of the individual delegate seems even more obsolete, when it is contrasted with the sharp critique that Hegel practised against the old liberal dualistic conceptions nearly two decades before. In his lecture on "*Naturrecht und Staatswissenschaft*" which he held at the university of Heidelberg during winter semester 1817/18 this idea is rejected as unreal and absurd, because: "If the assembly is essentially unanimous against the government, the government must either break or dissolve, because this leads to disorganisation of the state, so the government as the authority must disperse the estates. If the assembly was unanimously in favour of the government it would not have achieved its objective" (Student lecture notes Wannemann, 1817/18: 205). Additionally Hegel noticed a little later in the *Philosophy of Law* it belonged to the "highly dangerous prejudices" to interpret the estates as an "opposition against the government, as if this was its significant position" (GW 14,1, § 302).

Instead Hegel localised the opposition within the national assembly itself. The main line of confrontation should therefore no longer pass between the chamber as a whole and an inviolable government but between different parliamentary groups within the House. As Hegel puts it: "There must be 3 parties in the assembly, 2 which almost face each other, one party of the people and another one, which always goes with the government, and then a significant 3rd party that is usually on the side of the ministry, but on the whole seems to be impartial" (Student lecture notes Wannemann, 1817/18: 205).

Following Dusch and Hegel finally it was the liberal German law professor and politician Carl Theodor Welcker who contradicted the dualistic theses by Dahlmann and his co-editor Rotteck in the *Rotteck-Welckersches Staatslexikon*, the bible of early German liberalism before 1848. The author saw intra-parliamentary groupings as normal and harmless and described them frequently

as "inevitable", "healthy" or just lying in the "nature of things". He therefore writes in an article of the *Staatslexikon* in 1836: "As is known, the members of the representative assemblies usually divide themselves into different parties, called the ministerial and oppositional party in England. They also usually take seats next to each other in the chamber" (Welcker, 1836: 389). In France however the situation was a little different: "During the Restoration the so-called royalists sat to the right and the members of the opposition to the left." In the middle between both extremes soon a third party appeared which was called the "Centrum", which again consisted of a right and left wing. From Welcker's point of view the French multiparty system, even more than the English two-party system, especially contained "a very natural shading of the unavoidable different views and directions" (Welcker, 1836: 390) within the assembly and also society as a whole. Similarly in an anonymously published pamphlet from the revolutionary year of 1848, France (not England!) was called the magnificent "playground of the political parties" because the French people were "Europe's most educated" (Anonymous, 1848: 1). To close one's eyes to these political facts seemed unwise and futile to the author.

Finally, it was Robert von Mohl who claimed in an essay published in 1846, "On the different conception of the representative system in England, France and Germany", there was no antagonism between the executive and legislative power in England, but the principle that the government was the political expression of the parliamentary majorities: "The ministry is only a joint committee from both Houses, consisting of the most excellent and influential members of the majority, but never an opposite or even hostile power to the parliament, sprouted from the ruler's personal will and views" (Mohl, 1846: 453). Under this "downright party rule" (Mohl, 1846: 455) the influence of the monarch was limited, the more so as he "even for a long time can be surrounded by ministers who do not agree with his own political opinion" (Mohl, 1846: 453).

Especially in France and Germany the design of the representative system was entirely different in this respect. So the introduction of popular representation in France was not based on mature historical foundations but rather on legal philosophy doctrines demanding a "sharp distinction and essential opposition between government and the elected representatives" (Mohl, 1846: 456).[4]

In fact the ministries in France usually obtained a majority as well. However this implied only the "necessity of subsequently gaining a specific number of members" (Mohl, 1846: 458). This difference, however, in Mohl's opinion completely changed the character of the elections. In England the nomination of candidates was an exclusive "party matter" and apart from few exceptions only "convinced party men" came into consideration for a seat whereas in France more flexible characters were in demand who regardless of any political

change always were on the authority's side: "In England the ministerial majority is the victorious, proudly ruling party with its leaders at the top […] Being ministerial here only means that one belongs to the winning army at that moment, not that one has sold himself or is willing to support any given ruler" (Mohl, 1846: 458 f.). In France being in the opposition meant "a system or a character trait". In England it was only the "evidence of a suffered defeat" (Mohl, 1846: 459). In Germany at least the ministers were rarely leaders of a parliamentary group, but usually higher officials from the public administration and hence dependent on the ruler's personal will, which often resulted in a lack of political and programmatic homogeneity of the government. Or as Robert Mohl put it: "In Germany there are ministers, but no ministries" (Mohl, 1846: 466).

Mohl admitted that the allocation of the highest public offices being in the hands of the party leaders in Parliament implied a loss in the ruler's influence on the forming of the government. However, he denied that this was an act of humiliation for the Crown. On the contrary, the ruler's position "above all parties" granted him a "much higher and purer position" from which the idea could be maintained that "the ruler personally always wants the good and the bad and wrong took place against his wishes and without his participation". In such an unchanging "bright and inaccessible rest and highness" (Mohl, 1846: 481) ruled the kings of England.

The Justification of Political Parties in Government

In fact the constitutional reform that Mohl and others supported for Germany would have meant a clear subordination of the monarch under the political parties. In just that way the number of authors who called for a factual takeover of the authority by the political parties rose dramatically in *Vormärz* Germany. As early as 1817 Sebald Brendel, a fairly unknown canon lawyer from Würzburg, had published a brilliant tract in two volumes named *Die Geschichte, das Wesen und der Werth der National-Repräsentation*.

Herein the author revealed himself as a secret admirer of the English party system. Brendel argued that even before the 1832 Reform Act the House of Commons with its competing political parties inside was the nation's centre of power "that sets the House of Lords in motion" (Brendel, 1817: II, 301). He starts his remarks with a critical assessment of the "limits of royal authority" (Brendel, 1817: I, 70) referring to the Crown's political and legal as well as financial dependence on the Parliament. The King might have had the formal right to wage war, but the additional costs had to be granted by the House of Commons. The King's prerogatives might have included the right to appoint

the ministers, but they had to assume political responsibility to the House of Commons. So from Brendel's point of view the actual right to appoint the ministers belonged to the House of Commons, or even more precisely to the dominant party in Parliament.

This embarrassing verdict was put in polite words: "The ministers generally are taken from the House of Commons, making proposals on behalf of the King, but he relies on their acumen to obtain the majority of votes" (Brendel, 1817: I, 90). In fact, holding the majority does not only seem to be an act of political acumen for the ministers, but much more a question of political survival. For: "If the regent chose ministers who failed to win the Parliament's confidence, so that almost none of their bills would go through, the king would to some extent be obliged to dismiss them" (Brendel, 1817: I, 90). The ministers' dependency on the parliamentary majority became evident. It speaks in his favour that Brendel, as a liberal thinker, at this point of his argumentation also pays attention to the role of the parliamentary minority. To him the existence of a powerful *Oppositions-Parthei* (Brendel, 1817: I, 93) was the best safeguard of civil freedom. He even calls opposition the "guiding principle of the parliament" (Brendel, 1817: I, 94) or the nation's "public conscience" (Brendel, 1817: II, 332), which was "identical to the real goal of any constitution". Without such a "real oppositional spirit" any legislative assembly was in danger of becoming "a Roman or French senate" (Brendel, 1817: I, 94).

The benefit of a "true, noble and genuine opposition", the Hegelian Eduard Gans agreed, was appreciated in constitutional England in such a way that "Pitt, when he once became aware of the misfortune of having no opposition in Parliament, held Old England for lost, and sought to purchase an opposition out of his own funds" (Gans, 1841: 92). It was not by chance that the term "His Majesty's Opposition" was also used, in recognition of the indispensable role of the oppositional party in the British system of government.

The practical constitutional function of the opposition, which Brendel mentions, is no longer the traditional supervision of the government, but their intentions were targeted at the "resignation of the ministers". So in case of serious political mistakes or just unlucky administration the ministers would be under the gun soon and could not "hesitate to resign from the ministry" (Brendel, 1817: I, 93). This was seen as the starting point for a constant alternation between majority and minority, because "the resigning ministers normally convert to the oppositional party and reinforce it anew in case it has been weakened before by the election of the new ministers" (Brendel, 1817: I, 91). As an attentive observer of the English parliamentarianism Brendel also does not forget to mention that the supporters of the opposition "are seated side by side in parliament, and so are those of the ministerial party" (Brendel, 1817: I, 93). Finally the author argues – similar to Hegel and Bülau – against the verdict of the English constitution as a form of mixed

government according to which all the ministerial supporters are seated in the aristocratic House of Lords whereas the opposition on the whole was in the democratic House of Commons: "The opposition is in both Houses" and counted among its supporters "very often blue-blooded princes" (Brendel, 1817: I, 93).

Brendel's analysis reveals deep insights into the real functioning of a representative system. Nevertheless similar observations had already been made as early as in 1816 when the Rhenish liberal Johann Friedrich Benzenberg wrote in his work "On constitution": "In England there are always two parties in the assemblies, of which one holds the ministry and the other one wants to take over. The latter now criticises almost everything that the ministers do and accuses them all the time of inability and ignorance. If it manages to bring the ministers into a minority, they resign and a new government is formed. Now the old ministry goes into opposition. Among this competition of two ministries, one of which holds the office and the other of which wants to bring it down, the tree of civil liberty thrives and prospers, never oppressed by any ministerial despotism" (Benzenberg, 1816: 250).

Like Brendel, Benzenberg also identifies the opposition as the "public conscience of the government" (Benzenberg, 1816: 249). So in England nobody found it discreditable that "one changes allegiance from the opposition to the ministerial party. Indeed, when the ministry resigns it counts as a point of honour that none of its members stays" (Benzenberg, 1816: 251). The same mechanism is described in Ancillon's remarks on the English constitution in 1825: "Among the representatives of the people there are always men who would like to enter the ministry themselves. The real means to that end is to overthrow the existing ministry by removing its majority" (Ancillon, 1825: 155).

Thus with reference to England it was again Hegel who criticised the German constitutional practice of suspending the ministers from the legislative assemblies. On the contrary the ministers should be Members of Parliament. For "the ministry and state council essentially have to compete within the assembly of estates" (Student lecture notes Wannemann, 1817/18: 193), because otherwise unnecessary dissent emerged between the legislature and the government. In this matter Hegel had a well-defined position. Hence in his work published in 1817 on the Württemberg estates (*Landständeschrift*) he already rejected the perception of the English opposition as "a party against the government or against the ministry" as the "opinion of uninformed [persons]". So even if the opposition challenged the ministry not only in a single issue, but fundamentally, the challenge did not apply to the principle of government at all: "What is often seen as something bad, namely that the opposition only wants to assume the ministry in fact is its most important justification" (GW 15, 40). It was in other words the legitimate task of the opposition to obtain a majority in order to overturn the government becoming the governing party itself. In this

sense, one may well understand a remark by Hegel from the winter semester 1824/25 which his student Griesheim wrote down as follows: "The opposition of the assembly is of the right kind, if it is merely partisanship [*Partheisucht*]. In England, the main interest of the opposition is against the ministry, such is the right way of opposition and it shows that the opposition, as well as the other parts of the assembly, respects state principles" (Student lecture notes Griesheim, 1824/25: 707).

Further confirmation of this picture of Hegel as a "critical friend" of political parties can be added if we take into account his article on the British Reform Act 1832 (*Über die englische Reformbill*) written near to his death in 1831 including a very concise analysis of the English political system. This law changed the constituencies for the election of the British Parliament for the first time in almost 150 years. The reform removed some gross injustices from the completely outdated English electoral system. Previously, the existence of the notorious "rotten boroughs" had provoked criticism. These were electoral districts in which sometimes only a handful of oligarchs had the right to send a deputy to the Parliament because of the census suffrage, while at the same time large densely populated industrial districts were not allowed to elect even a single representative. Together with the French July revolution of 1830 introducing a greater degree of parliamentary government in France, this Westminster watershed of 1832 remarkably sharpened the understanding of parliaments, elections and parties in Britain from the point of view of German observers.

For example Hegel begins his argumentation here with the statement that the "effective executive power" in England was established in the Parliament (GW 16, 398). As the main reason for its superiority he mentions the Parliament's unrestricted budget law, which led to a situation in which the "so-called purely legislative power" "gained the victory" every time (GW 16, 384): "As now the parliament is entitled to the sovereign budget law (even including the sum for the sustenance of the person of the King and his family) – i.e. the total of the amounts for waging war and making peace, an army, ambassadors and so on, and hence a ministry may only remain in power, i.e. survive, inasmuch as it subscribes to the parliament's views and will, the monarch's share in the executive power is more illusory than real, and the essence [of power] resides in the parliament" (GW 16, 382 f). The monarchical principle in England had "not much left to lose".

As a historical example Hegel mentions the "downfall of the Wellington ministry" that was solely "caused by its minority concerning the upcoming regulation of the king's civil list". In general the Parliament only had to deal with a "dependent and incorporated ministry and actually only with its own members, because only the ministers may submit a legislative proposal in this role" (GW 16, 393). According to Hegel the former constitutional theory

overestimated the rights of the Crown (which only existed on paper), ignoring the fact that "the appointment of the ministers and other officials of the executive branch on its own is something formal and powerless and factually is determined by the effective governmental power. In England we consider this power in Parliament" (GW 16, 384). So surely it was more of a proof of the actual balance of power than only a question of "etiquette", as Hegel seems to guess, that "the monarch only appoints the Prime Minister directly and the latter forms the remaining part of the cabinet" (GW 16, 382).

It fits into the picture that Hegel immediately ironises against the political left in France, astonished that the "individuals who went over from the opposition to the ministry now nearly act upon the same maxims as the displaced predecessors" (GW 16, 400). These were "naive complaints". It took more to rule than remaining true to one's principles.[5] In a different way from the French the English here had a "more pragmatic concept of the state and a notion of what it means to have a government and to rule" (GW 16, 402). The English nation had a lucid mind recognising that "there has to be a government, providing confidence to a body of men who are adept at ruling, because the mind of particularity also acknowledges the general particularity of knowledge, experience and practice which the aristocracy has that solely addresses itself to such interest" (TWA 12, 538). And in his *Lectures on the Philosophy of History* published in 1837 by the editor Eduard Gans Hegel mentions: "It is solely based on this state of particularity that England has a government which France does not have" (Hegel, 1837: 445).

Indeed Hegel at the same time criticises the bribery scandals on the occasion of the English parliamentary elections as "foulness of a Republican nation" (TWA 12, 537). Nevertheless this "absolutely inconsequent and corrupt circumstance" had the advantage that "it constitutes the chances for a government, i.e. a majority of men in Parliament who are statesmen who have attended to the affairs of state since their adolescence" (TWA 12, 538). Hegel no doubt exaggerates in asserting that experts were "unanimous that the English constitution was maintained by its misuses, namely the rather unequal and hence unjust, sometimes completely useless privileges in matters of the suffrage" (GW 15, 40). On the other hand there was no denying that in the vanguard of the English aristocracy there were "a number of talented men who solely attended to the political profession and the public interest" (GW 16, 387). This "political class" and the "party" arising from it had to be joined by all those who wanted to make politics their profession. Compared to this relatively large number of capable English career politicians there were much fewer politicians in Germany who had "significant insight and experience in public affairs" and even fewer "who could be called statesmen" (GW 15, 38).

Conclusion

The Basic Law for the Federal Republic of Germany ("Grundgesetz") with its article on political parties dates from 1949. This first-time constitutional anchorage had already been preceded by an intensive discussion on parties, and even the "Party State", during the Weimar period. The partisan character of the political disputes in the Imperial Empire after 1871 (and before in Prussia) as well as the strongly increased affirmative use of the word "Partei" since the Revolution of 1848/49 are also well known. But parties, even party theory in the German *Vormärz*? This is surprising, because it was widely believed that there were no parties at that time in Germany, at least not in the current sense of organised political groups, but at most as loose associations of ideologically like-minded persons (*Gesinnungsgemeinschaften*).

Accordingly, there had been no party theory, at best hostility towards political parties. On the contrary the paper aims to show how the influence of international, especially English constitutional practices and political thought led German writers to a complex and elaborate theory of political parties as early as at the eve of the 1848 German revolution. This characterisation clearly contradicts the prevailing opinion as expressed in the vast majority of the relevant academic literature, which identifies a general anti-party sentiment as an ideological paradigm of 19th century German political thought. Against this long-standing prejudice I argue for a revision of our verdict on the *Vormärz* concept of political parties in favour of a more benign view.

Thereby the problems faced by contemporary observers at the first appearance of political parties are, in a fascinating way, similar to those of modern political parties. The answers found at that time may provide some eye-openers by anticipating certain ideas and concepts of the present. In the future debate, however, it could be even more important to make these diverse historical stimulus potentials visible and thus available for current questions of party research. In this way the argumentative arsenal in the current debates on parties and the Party State could be profoundly expanded by recourse to the archives of the history of political ideas.

In fact, many writers of that time advocate the existence of intermediate organisations as competing brokers between civil society and the state. Furthermore, they highlight the necessity of opposition and party competition within any legislative assembly and acknowledge that the ministry depends on the majority party's support. Hence, special attention should be paid to praise of the highly developed political parties in England. Representing the national interest instead of any particular faction, Whigs and Tories are described as legitimate keepers of governmental power and as guarantors of the stability of the English constitution.

Given such clear ideas of parties as real political groups instead of loose associations of only like-minded persons (*Gesinnungsgemeinschaften*), the accusation can no longer be maintained that German Party Theory was mentally backward before 1848. Against this background, the praise of political parties, which I have reported here, must be taken seriously. Groups of people coming together to contest elections and hold power in government were not a mystery to German *Vormärz* writers. As a result of the paper we can confirm an unfortunately often unappreciated finding by Gunther Eyck, who stated as early as 60 years ago: "The opinion which has occasionally been heard that English and French forms of representative institutions and liberal concepts of government remained without lasting effect in Germany does not hold true of Vormärz liberalism" (Eyck, 1957: 340).

From author to author, from source to source, it becomes increasingly clear how important the reception of English parliamentarism was and is for the German party theory. Attention should be paid to this, because in fact "all German discussions about England in the *Vormärz* period are covert discourses about Germany" (Jamme, 1995: 9). Some of these ideas would, on closer inspection, probably prove to be an import and re-import of ideas.

Within this pan-European laboratory of political and social reform, the analysts observed each other carefully at all times, studying curiously the experiments of their neighbours, and searched for new formulas and models which they could accept or reject for their own prospective research. Not least the sources presented may prove in that sense that party theories can be read as a strand of an early transnational discourse about the future of state and society on the eve of the fateful year 1848 in Europe.[6]

Endnotes

1 All translations are mine. I thank Michael Kelly for his support.

2 The term "Party State" may seem a rather questionable or even anachronistic description of the 19th century state of affairs both in England and especially semi-feudal Germany. Its first use is usually attributed to Otto Koellreutter (1926: 86 ff.), who polemically denounces the constitutional reality of the Weimar Republic as a *Parteienstaat*. Later, the concept was made acceptable by Gerhard Leibholz's influential "Party State theory" in the Federal Republic (cf. Leibholz, 1966). In fact, the term already appears in a neutral though somewhat nonspecific sense in writing by the Swiss cultural historian Otto Henne am Rhyn from 1890 (cf. Henne am Rhyn, 1890: 128 f.). For the *Vormärz* time itself the existence of the concept cannot yet be proven. Heinrich von Gagern (1837/1959: 183) and Robert Mohl (1846: 455), however, are already in favour of "party rule" (*Parteiherrschaft*). In the contemporary sources the statement is also sometimes found that the character of the ruling parties is reflected in different state constitutions. This

is what Rohmer says: "Radicalism creates the idol state, liberalism the individual state; conservatism the racial state (*Raçestaat*), absolutism the form state (*Formenstaat*)" (Rohmer, 1844: 326). And the Young Hegelian Edgar Bauer hold that every party wanted to model the state from a certain point of view. The liberals propagated the "state of healthy common sense", the legitimists a "state of individuality" and the radicals claimed the "state of principles and theory" (Bauer, 1843: 7). He also states that "these forms of government are closely related to the political consciousness of the citizens, they are expressions of it" (ibid., 10).

3 English in the original.

4 Also the *Conversations-Lexikon* criticised that France, where the constitutional monarchy at least since the July Revolution of 1830 was "increasingly attracted to the parliamentary government [Parlamentarregierung]" and that since then "probably no country has experienced a faster and more frequent change of ministers." (Parlamentarregierung, 1840: 44). This is why especially France could not apply as a role model to the political institutions of Germany, as another anonymous author claimed in 1841, cause France was "truly not lucky with its state institutions, which only ever bring a fight of one party against the other, and where ministers, who come at the helm for ten times, and as often cede again, and do not have enough time and energy to provide for the public good" (Anonymous, 1841: 79).

5 In precisely the idealistic attitude criticised by Hegel, the Young Hegelian Eduard Meyen declared in 1844 that unlike in England and France the parties in Germany would arise not for the achievement of certain interests, but out of principles and ideas. The German party struggles therefore differed fundamentally from the English and French. The German was therefore "not as much a party man as a principle man", but his "party struggles are principle struggles" (Meyen, 1844: 222). He "follows the idea which animates him, and comes by the principle to the party, not by the party to the principle" (Meyen, 1844: 223 f.).

6 In particular, the question of the English influences on German party theory in the long nineteenth century is the subject of a new research project sponsored by the German Research Foundation (DFG), which was launched at the Goethe University Frankfurt am Main in the spring of 2017 under the direction of the author. A detailed description of the project can be found on the Internet at: www.fb03.uni-frankfurt.de/politikwissenschaft/erbentraut.

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