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**The Structural Transformation  
of the Public Sphere**

An Inquiry into a Category of  
Bourgeois Society

Jiirgen Habermas

translated by Thomas Burger  
with the assistance of Frederick Lawrence

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To Wolfgang Abendroth in gratitude



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## Introduction

There is no good reason why *Strukturwandel der Öffentlichkeit*, one of Habermas's most influential and widely translated works, should not have appeared in English sooner. That would likely have facilitated the reception of his thought among Anglo-American scholars by showing how the more abstract and theoretical concerns of his later work arose out of the concrete issues raised in this study. *The Structural Transformation of the Public Sphere* is a historical-sociological account of the emergence, transformation, and disintegration of the bourgeois public sphere. It combines materials and methods from sociology and economics, law and political science, and social and cultural history in an effort to grasp the preconditions, structures, functions, and inner tensions of this central domain of modern society. As a sphere between civil society and the state, in which critical public discussion of matters of general interest was institutionally guaranteed, the liberal public sphere took shape in the specific historical circumstances of a developing market economy. In its clash with the arcane and bureaucratic practices of the absolutist state, the emergent bourgeoisie gradually replaced a public sphere in which the ruler's power was merely represented *before* the people with a sphere in which state authority was publicly monitored through informed and critical discourse *by* the people.

Habermas traces the interdependent development of the literary and political self-consciousness of this new class, weaving together accounts of the rise of the novel and of literary

and political journalism and the spread of reading societies, salons, and coffee houses into a *Bildungsroman* of this "child of the eighteenth century." He notes the contradiction between the liberal public sphere's constitutive catalogue of "basic rights of man" and their de facto restriction to a certain class of men. And he traces the tensions this occasioned as, with the further development of capitalism, the public body expanded beyond the bourgeoisie to include groups that were systematically disadvantaged by the workings of the free market and sought state regulation and compensation. The consequent intertwining of state and society in the late nineteenth and the twentieth centuries meant the end of the liberal public sphere. The public sphere of social-welfare-state democracies is rather a field of competition among conflicting interests, in which organizations representing diverse constituencies negotiate and compromise among themselves and with government officials, while excluding the public from their proceedings. Public opinion is, to be sure, taken into account, but not in the form of unrestricted public discussion. Its character and function are indicated rather by the terms in which it is addressed: "public opinion research," "publicity," "public relations work," and so forth. The press and broadcast media serve less as organs of public information and debate than as technologies for managing consensus and promoting consumer culture.

While the historical structures of the liberal public sphere reflected the particular constellation of interests that gave rise to it, the idea it claimed to embody—that of rationalizing public authority under the institutionalized influence of informed discussion and reasoned agreement—remains central to democratic theory. In a post-liberal era, when the classical model of the public sphere is no longer sociopolitically feasible, the question becomes: can the public sphere be effectively reconstituted under radically different socioeconomic, political and cultural conditions? In short, is democracy possible? One could do worse than to view Habermas's work in the twenty-five years since *Strukturwandel* through the lens of this question. That is not, however, the only or the best reason for publishing this English edition now. The contingencies of intellectual history

have placed us in a situation that is particularly well disposed to its appearance:

- Feminist social theorists, having identified institutional divisions between the public and the private as a thread running through the history of the subordination of women will find here a case study in the sociostructural transformation of a classic form of that division.
- Political theorists, having come to feel the lack of both large-scale social analysis and detailed empirical inquiry in the vast discussion centering around Rawls's normative theory of justice, will appreciate this empirical-theoretical account of the network of interdependencies that have defined and limited the democratic practice of justice.
- Literary critics and theorists who have grown dissatisfied with purely textual approaches will be interested in Habermas's cultural-sociological account of the emergence of the literary public sphere and its functioning within the broader society.
- Comparative-historical sociologists will see here an exemplary study that manages to combine a macroanalysis of large-scale structural changes with interpretive access to the shifting meanings by and to which actors are oriented.
- Political sociologists will discover that familiar problems of democratic political participation, the relation of economy to polity, and the meaning of public opinion are cast in a new light by Habermas's theoretical perspective and historical analysis.
- Communications and media researchers will profit not only from Habermas's account of the rise of literary journalism and the subsequent transformation of the press into one of several mass media of a consumer society, but also from the framework for future research that this account suggests.
- Legal theorists will discover here a way of critically analyzing the gaps between claim and reality which avoids the dead end of pure deconstruction.

In all of these areas, to be sure, significant work has been done since Habermas first published this study. But I think it fair to

say that no single work, or body of work, has succeeded in fusing these disparate lines of inquiry into a unified whole of comparable insight and power. In this respect it remains paradigmatic.

Thomas McCarthy  
Northwestern University

## Translator's Note

Habermas's *The Structural Transformation of the Public Sphere* contains a number of terms that present problems to the translator. One of these, *Öffentlichkeit*, which appears in the very title of the book, may be rendered variously as "(the) public," "public sphere," or "publicity." Whenever the context made more than one of these terms sensible, "public sphere" was chosen as the preferred version.

Habermas distinguishes several types of *Öffentlichkeit*:

*politische Öffentlichkeit*: "political public sphere" (or sometimes the more cumbersome "public sphere in the political realm")

*literarische Öffentlichkeit*: "literary public sphere" (or "public sphere in the world of letters")

*repräsentative Öffentlichkeit*: "representative publicness" (i.e., the display of inherent spiritual power or dignity before an audience)

Another troublesome term is *bürgerlich*, an adjective related to the noun *Bürger*, which may be translated as "bourgeois" or "citizen." *Bürgerlich* possesses both connotations. In expressions such as "civil code," "civil society," "civic duty," "bourgeois strata," and "bourgeois family" the German term for "civil," "civic," and "bourgeois" is *bürgerlich*. *Bürgerlich* also means "middle class" in contrast to "noble" or "peasant." *Bürgerliche Öffentlichkeit* thus is difficult to translate adequately. For better or worse, it is rendered here as "bourgeois public sphere."

*Intimsphäre* denotes the core of a person's private sphere which by law, tact, and convention is shielded from intrusion; it is translated here as "intimate sphere."

Thomas Burger

## Author's Preface

This investigation endeavors to analyze the type "bourgeois public sphere" (*bürgerliche Öffentlichkeit*). Its particular approach is required, to begin with, by the difficulties specific to an object whose complexity precludes exclusive reliance on the specialized methods of a single discipline. Rather, the category "public sphere" must be investigated within the broad field formerly reflected in the perspective of the traditional science of "politics."<sup>1</sup> When considered within the boundaries of a particular social-scientific discipline, this object disintegrates. The problems that result from fusing aspects of sociology and economics, of constitutional law and political science, and of social and intellectual history are obvious: given the present state of differentiation and specialization in the social sciences, scarcely anyone will be able to master several, let alone all, of these disciplines.

The other peculiarity of our method results from the necessity of having to proceed at once sociologically and historically. We conceive bourgeois public sphere as a category that is typical of an epoch. It cannot be abstracted from the unique developmental history of that "civil society" (*bürgerliche Gesellschaft*) originating in the European High Middle Ages; nor can it be transferred, idealtypically generalized, to any number of historical situations that represent formally similar constellations. Just as we try to show, for instance, that one can properly speak of public opinion in a precise sense only with regard to late-seventeenth-century Great Britain and eighteenth-century



France, we treat public sphere in general as a historical category. In this respect our procedure is distinguished *a limine* from the approach of formal sociology whose advanced state nowadays is represented by so-called structural-functional theory. The sociological investigation of historical trends proceeds on a level of generality at which unique processes and events can only be cited as examples—that is, as cases that can be interpreted as instances of a more general social development. This sociological procedure differs from the practice of historiography strictly speaking in that it seems less bound to the specifics of the historical material, yet it observes its own equally strict criteria for the structural analysis of the interdependencies at the level of society as a whole.

After these two methodological preliminaries, we would also like to record a reservation pertaining to the subject matter itself. Our investigation is limited to the structure and function of the *liberal* model of the bourgeois public sphere, to its emergence and transformation. Thus it refers to those features of a historical constellation that attained dominance and leaves aside the *plebeian* public sphere as a variant that in a sense was suppressed in the historical process. In the stage of the French Revolution associated with Robespierre, for just one moment, a public sphere stripped of its literary garb began to function—its subject was no longer the "educated strata" but the uneducated "people." Yet even this plebeian public sphere, whose continued but submerged existence manifested itself in the Chartist Movement and especially in the anarchist traditions of the workers' movement on the continent, remains oriented toward the intentions of the bourgeois public sphere. In the perspective of intellectual history it was, like the latter, a child of the eighteenth century. Precisely for this reason it must be strictly distinguished from the plebiscitary-acclamatory form of regimented public sphere characterizing dictatorships in highly developed industrial societies. Formally they have certain traits in common; but each differs in its own way from the literary character of a public sphere constituted by private people putting reason to use—one is illiterate, the other, after a fashion, post-literary. The similarity with certain aspects of plebiscitary form cannot conceal the fact that these two variants

#### **Author's Préface**

of the public sphere of bourgeois society (which in the context of the present investigation will be equally neglected) have also been charged with different political functions, each at a distinct stage of social development.

Our investigation presents a stylized picture of the liberal elements of the bourgeois public sphere and of their transformation in the social-welfare state.

I am grateful to the Deutsche Forschungsgemeinschaft for generous support. This work, with the exception of sections 13 and 14, was presented to the Philosophical Faculty at Marburg as my *Habilitationsschrift*.

**j. H.**

Frankfurt, Autumn 1961

# **The Structural Transformation of the Public Sphere**



## **VI**

### **The Transformation of the Public Sphere's Political Function**

#### **20 From the Journalism of Private Men of Letters to the Public Consumer Services of the Mass Media: The Public Sphere as a Platform for Advertising**

The shift in function of the principle of publicity is based on a shift in function of the public sphere as a special realm. This shift can be clearly documented with regard to the transformation of the public sphere's preeminent institution, the press. On the one hand, to the extent that the press became commercialized, the threshold between the circulation of a commodity and the exchange of communications among the members of a public was leveled; within the private domain the clear line separating the public sphere from the private became blurred. On the other hand, however, to the extent that only certain political guarantees could safeguard the continued independence of its institutions, the public sphere ceased altogether to be exclusively a part of the private domain.<sup>1</sup>

Developed out of the system of private correspondences and for a long time overshadowed by them the newspaper trade was initially organized in the form of small handicraft business. In this beginning phase its calculations were made in accord with the principle of a modest maximization of profit that did not overstep the traditional bounds of early capitalism. The publisher was interested in his enterprise purely as a business. His activity was confined essentially to the organization of the

flow of news and the collating of the news itself. As soon as the press developed from a business in pure news reporting to one involving ideologies and viewpoints, however, and the compiling of items of information encountered the competition of literary journalism, a new element—political in the broader sense—was joined to the economic one. Biicher captures the trend succinctly: "From mere institutions for the publication of news, the papers became also carriers and leaders of public opinion, and instruments in the arsenal of party politics. For the internal organization of the newspaper enterprise this had the consequence that a new function was inserted between the gathering and the publication of news: the editorial function. For the newspaper's publisher, however, this meant that he changed from being a merchant of news to being a dealer in public opinion."<sup>2</sup>

The crucial turnabout, of course, had already occurred before the introduction of a special editorial function; it had begun with the "scholarly journals" on the continent and moral weeklies and political journals in Great Britain, as soon as individual authors availed themselves of the new instrument of the periodical press providing a hearing for their critical-rational reflections, pursued with pedagogical intent, by getting them into print. This second phase has been characterized as one of literary journalism.<sup>3</sup> At this point the commercial purpose of such enterprises receded almost entirely into the background; indeed, violating all the rules of profitability, they often were money losers from the start. The pedagogical and later increasingly political impulse could be financed, so to speak, by bankruptcy. In Great Britain newspapers and journals of this sort frequently were the "hobbyhorses of the money-aristocracy";<sup>1</sup> on the continent they arose more often from the initiative of individual scholars and men of letters.

At first the latter bore the economic risk themselves. They procured material as they saw fit, paid their collaborators, and owned the journals whose issues represented for their publishers a continuous series of individual projects. Only gradually did the editors yield their entrepreneurial functions to publishers. This development explains the preeminent position of the editors who continued to be "editor" and "author" in one.

At that time (around the turn of the nineteenth century) the relationship between publisher and editor was not simply one of employer to employee; frequently the latter still shared in the profits. To be sure, the traditional type of newspaper entrepreneur survived right down to the nineteenth century, especially among old style dailies that stayed away from literary and political reflection and debate. Markus Dumont when he took over the *Kölnische Zeitung* in 1805 was still author, editor, publisher, and printer all in one. But the competing periodical press of journalistically active men of letters led, wherever such enterprises were consolidated, to the establishment of specialized and independent editorships. In Germany Cotta led the way by good example. He appointed Posselt as the editor responsible for the *Neueste Weltkunde*; the publicist and economic functions were now divided between "editor" and publisher. In connection with this editorial autonomy, the institution of the lead article came to prevail during the first half of the nineteenth century even in the daily press. Yet Cotta's example shows again how little, with the new form of editorial journalism, the profitability of the enterprise got the upper hand over its publicist intention, how little business outweighed conviction. His *Allgemeine Zeitung* remained a subsidized undertaking for decades, regardless of its significant influence. In the phase of the ascendancy of the public sphere as one with a political function, even the newspaper enterprises consolidated in the hands of publishers continued to give their editors the kind of freedom that in general characterized the communication of private people functioning as a public.

The publishers procured for the press a commercial basis without, however, commercializing it as such. A press that had evolved out of the public's use of its reason and that had merely been an extension of its debate remained thoroughly an institution of this very public: effective in the mode of a transmitter and amplifier, no longer a mere vehicle for the transportation of information but not yet a medium for culture as an object of consumption. Prototypically this type of press can be observed in times of revolution, when the journals of the tiniest political groupings and associations mushroom—in Paris in the year 1789 every marginally prominent politician formed his

club, and every other founded his journal; between February and May alone 450 clubs and over 200 journals sprang up.<sup>5</sup> As long as the mere existence of a press that critically-rationally debates political matters remained problematic, it was compelled to engage in continuous self-thematization: before the permanent legalization of the political public sphere, the appearance of a political journal and its survival was equivalent to involvement in the struggle over the range of freedom to be granted to public opinion and over publicity as a principle. To be sure, even the journals in the old style had been rigorously subject to censorship; but the resistance against these restrictions could never be carried on in their own columns as long as the journals exclusively provided news. The regulations of an authoritarian state degraded the press into a mere trade, subject like all other trades to police instructions and prohibitions. In contrast, the editorializing press as the institution of a discussing public was primarily concerned with asserting the latter's critical function; therefore the capital for running the enterprise was only secondarily invested for the sake of a profitable return, if such a consideration played a role at all.

Only with the establishment of the bourgeois constitutional state and the legalization of a political public sphere was the press as a forum of rational-critical debate released from the pressure to take sides ideologically; now it could abandon its polemical stance and concentrate on the profit opportunities for a commercial business. In Great Britain, France, and the United States at about the same time (the 1830s) the way was paved for this sort of transition from a press that took ideological sides to one that was primarily a business. The advertising business put financial calculation on a whole new basis. In a situation of greatly lowered price per copy and a multiplied number of buyers, the publisher could count on selling a correspondingly growing portion of space in his paper for advertisements. Biicher's well-known statement "that the paper assumes the character of an enterprise which produces advertising space as a commodity that is made marketable by means of an editorial section" refers to this third phase of development. These initial attempts at a modern commercial press gave back to the journal the unequivocal character of a private



commercial enterprise now, however—in contrast to the handicraft shops of the old "publishers"—on the level of the big business of advanced capitalism. Around the middle of the century a number of newspaper enterprises were already organized as stock companies.<sup>6</sup>

If at first, within a daily press that was primarily politically motivated, the reorganization of individual enterprises on an exclusively commercial basis still represented nothing more than a possibility for profitable investment, it would soon become a necessity for all editors. For the upgrading and perfection of the technical and organizational apparatus demanded an expansion of the capital basis, an increase of the commercial risks, and, necessarily, the subordination of entrepreneurial policy to the demands of business efficiency. Already in 1814 the *Times* was being printed on a new high-speed printing machine that after four and a half centuries replaced Gutenberg's wooden press. A generation later the invention of the telegraph revolutionized the organization of the whole news network.<sup>7</sup> Not only the private economic interests of the individual enterprise gained in importance; the newspaper, as it developed into a capitalist undertaking, became enmeshed in a web of interests extraneous to business that sought to exercise influence upon it. The history of the big daily papers in the second half of the nineteenth century proves that the press itself became manipulable to the extent that it became commercialized. Ever since the marketing of the editorial section became interdependent with that of the advertising section, the press (until then an institution of private people insofar as they constituted a public) became an institution of certain participants in the public sphere in their capacity as private individuals; that is, it became the gate through which privileged, private interests invaded the public sphere.

The relationship between publisher and editor changed correspondingly. Editorial activity had, under the pressure of the technically advanced transmission of news, in any event already become specialized; once a literary activity, it had become a journalistic one.<sup>8</sup> The selection of material became more important than the lead article; the processing and evaluation of news and its screening and organization more urgent than

the advocacy of a "line" through an effective literary presentation. Especially since the 1870s the tendency has become manifest: the rank and reputation of a newspaper are no longer primarily a function of its excellent publicists but of its talented publishers. The publisher appoints editors in the expectation that they will do as they are told in the private interest of a profit-oriented enterprise.<sup>9</sup>

The publicist autonomy of the editor, incidentally, is painfully restricted even in the kind of press that does not submit to the laws of the market but serves primarily political goals—and thus is more closely related to the literary journalism of the journals cultivating rational-critical debates. For a while the political press indeed managed to preserve its individualistic style, even after parliamentary factions and parties had constituted themselves in Great Britain and France. A type of party press like the one that with Wirth's *Deutsche Tribune* entered upon the scene in Germany after the July revolution still held sway around the middle of the century. These publicists were not dependent on any one party or faction but were themselves politicians who around their paper rallied a parliamentary following. Nevertheless, the beginnings of a party-bound press controlled by political organizations go back to the first half of the century, at least in Great Britain and France. In Germany it evolved in the 1860s, first among the conservatives and then among the Social Democrats.<sup>10</sup> The editor was subordinated to a supervisory committee instead of to a director of publishing—in either case he became an employee subject to directives.

Of course, the aspects of the structural transformation of the press that related to the sociology of business enterprise must not be considered in isolation from general tendencies toward concentration and centralization which prevailed here too. In the last quarter of the century the first great newspaper trusts were formed: Hearst in the United States, Northcliffe in Great Britain, and Ullstein and Mosse in Germany. This movement has advanced in our century, although unevenly." Technological development in the means of transmission of news (after the telegraph and the telephone came the wireless telegraph and telephone and shortwave and radio) has in part hastened and in part made possible the organizational unifi-

cation and economic interlocking of the press. The homogenization of news services by monopolistically organized press agencies<sup>12</sup> was soon followed by the editorial homogenization of smaller papers through the sharing of plates and the advent of factories producing inserts. Matrices were first employed in the Anglo-Saxon countries between 1870 and 1880; by the turn of the century matrix presses also predominated on the continent. Usually this sort of technological unification went hand in hand with organizational unifications in newspaper groups or chains. Parochial papers in the predominantly rural areas were in this way often also made economically dependent on papers in cities nearby and were annexed by them in the form of regional supplementary editorships.<sup>13</sup>

Nevertheless the degree of economic concentration and technological-organizational coordination in the newspaper publishing industry seems small in comparison to the new media of the twentieth century—film, radio, and television. Indeed, their capital requirements seemed so gigantic and their publicist power so threatening that in some countries the establishment of these media was from the start under government direction or under government control. Nothing characterized the development of the press and of the more recent media more conspicuously than these measures: they turned private institutions of a public composed of private people into public corporations (*öffentliche Anstalten*). The reaction of the state to a power-penetrated public sphere that had come under the influence of forces developed in society can already be studied in relation to the history of the first telegraph bureaus. At first, governments brought the agencies into indirect dependence and bestowed on them a semiofficial status not, of course, by eliminating their commercial character but by exploiting it. Meanwhile, Reuters Ltd. is the property of the united British press; however, the consent of the highest court that is required for any change in its statutes lends it a certain public character. The Agence France Press, grown after the Second World War out of the Agence Havas, is a state enterprise whose director general is appointed by the government. The Deutsche Presseagentur is a company with limited liability supported by newspaper publishers, each holding at most a one-percent share of

the capital stock; the broadcasting corporations hold 10 percent, but they in turn are under public control.<sup>14</sup> To be sure, newspaper and film industries have been left essentially under private control.<sup>15</sup> But the fact remains that experiences with the tendencies of the press toward concentration gave enough cause to block the development of the "natural monopolies" of radio and television in the form of private business enterprises—as it nonetheless occurred in the United States. In Great Britain, France, and Germany these new media were organized into public or semipublic corporations, because otherwise their publicist function could not have been sufficiently protected from the encroachment of their capitalistic one.<sup>16</sup>

Thus the original basis of the publicist institutions, at least in their most advanced sectors, became practically reversed. According to the liberal model of the public sphere, the institutions of the public engaged in rational-critical debate were protected from interference by public authority by virtue of their being in the hands of private people. To the extent that they were commercialized and underwent economic, technological, and organizational concentration, however, they have turned during the last hundred years into complexes of societal power, so that precisely their remaining in private hands in many ways threatened the critical functions of publicist institutions. In comparison with the press of the liberal era, the mass media have on the one hand attained an incomparably greater range and effectiveness—the sphere of the public realm itself has expanded correspondingly. On the other hand they have been moved ever further out of this sphere and reentered the once private sphere of commodity exchange. The more their effectiveness in terms of publicity increased, the more they became accessible to the pressure of certain private interests, whether individual or collective. Whereas formerly the press was able to limit itself to the transmission and amplification of the rational-critical debate of private people assembled into a public, now conversely this debate gets shaped by the mass media to begin with. In the course of the shift from a journalism of private men of letters to the public services of the mass media, the sphere of the public was altered by the influx of private interests that received privileged ex-

posure in it—although they were by no means *eo ipso* representative of the interests of private people *as* the public. The separation of public and private spheres implied that the competition between private interests was in principle left to the market as a regulating force and was kept outside the conflict of opinions. However, in the measure that the public sphere became a field for business advertising, private people as owners of private property had a direct effect on private people as the public. In this process, to be sure, the transformation of the public sphere into a medium of advertising was met halfway by the commercialization of the press. Conversely, however, the latter was also propelled by the needs of business advertising that independently emerged out of economic configurations.

The flooding of the public sphere with advertising publications is not explained by the liberalization of the market, although business advertising in the old style arose just about simultaneously with it. The incomparably greater efforts of scientifically directed marketing became necessary only as the degree of oligopolistic restriction of the market increased. Especially in the big industrial enterprise a conflict arose between technological and financial optimization, which strengthened the tendency toward so-called monopolistic competition. For to the degree to which the technical aggregates were adapted to mass production, the production process lost in elasticity—"Output can no longer be varied. . . . Output is dictated by the capacity of the unified machine process."<sup>17</sup> Hence a long-term sales strategy was required that ensured the relative stability of markets and market shares. Direct competition via pricing gave way increasingly to an indirect competition via the generation of markets with clienteles oriented to specific firms. The decreasing transparency of the market, usually regarded as the motive for expanded advertising,<sup>18</sup> is in good part actually just the opposite, that is, its consequence. Competition via advertising that replaced competition via pricing is what above all created a confusing multiplicity of markets controlled by specific companies offering brand name products all the more difficult to compare with one another in terms of economic rationality the more their exchange value is codetermined by

the psychological manipulation of advertising. There is a transparent connection between the tendency toward capitalist big business and an oligopolistic restriction of the market, on the one hand; and, on the other, the proverbial soap operas, that is, a flood of advertisement which pervades the mass media's integration-oriented culture as a whole.<sup>18</sup>

Business advertising, what in 1820 in France was first called *reclamed* is only a phenomenon of advanced capitalism, however much it has become for us today an obvious ingredient of a market economy. Indeed, it attained a scope worthy of mention only in the processes of concentration that mark industrial capitalism in the second half of the nineteenth century. "Up into the nineteenth century there exists a disinclination among the better companies even toward simple business advertisements";<sup>21</sup> they were considered disreputable. In the eighteenth century advertisements occupied only about one-twentieth of the space in the advertising or intelligence journals; furthermore, they concerned almost exclusively curiosities, that is, unusual commodities. Normal business was still largely face to face; competition relied mostly on propaganda by word of mouth.

Around the middle of the last century advertising agencies arose on the basis of business advertising; Ferdinand Hansenstein founded the first one in Germany in 1855. Close cooperation with the press often led to the sale of advertising space to big advertising agencies on a subscription basis, with the result that these agencies brought an important part of the press in general under their control. In the Federal Republic today over 2,000 firms work in advertising; since the depression their methods are constantly being perfected scientifically in accord with the latest information of economic, sociological, and psychological market research.<sup>22</sup> Yet the advertising handled by these agencies amounts to only about a third of the total expenditure spent on this sort of thing in the entire economy. The other two-thirds are invested by enterprises directly, for the most part in external advertising; every larger business has its own advertising division for this purpose. In the Federal Republic in 1956 the total amount spent on advertising in the entire economy was estimated at about 3 billion

*Deutschemarks*, which is about 3 percent of all private expenditure.<sup>23</sup> The year before it had already reached a share of 1.3 percent of the gross national product, while in Great Britain and the United States the comparable figures had already reached 1.9 percent and 2.3 percent.<sup>24</sup> Expanded, of course, by the new media, the advertising agencies' activity is now as it was then confined to the design and placement of advertisements, especially in newspapers and illustrated magazines. Naturally, television commercials assume dominant importance in proportion to the proliferation of this means of communication in general and in relation to the kind of organizational structure. In 1957 in the Federal Republic at least half of the regular readers of daily papers also read the ads; 65 percent of the radio audience tuned into the programs specifically designed for advertising (*Werbefunk*), almost a third of them claiming that they listened to them daily.<sup>25</sup> Whereas exposure to the mass media in general increased with a person's position in the stratification system, here this relationship was reversed; advertisements and radio commercials reached lower status groups more extensively and more frequently than higher ones. The trickling down of commodities formerly restricted to the higher strata attracted greater attention among those strata which, through their style of consumption, were trying to elevate themselves at least symbolically.

However, the advertising business not only used the existing publicist organs for its own purposes but also created its own papers, periodicals, and booklets. In 1955 in every fifth household in the Federal Republic there could be found at least one copy of the usual company catalogues (often expensively produced as illustrated brochures).<sup>26</sup> Besides these another special species of publication emerged: at about the same time the number of in-house and customer magazines amounted to almost half of all the periodicals published for the West German market. The number of copies of these was more than a quarter of the total number of copies of all periodicals, a distribution more than twice that of all entertainment periodicals taken together.<sup>27</sup> To this must be added the fact that this entertainment in itself—and surely not only that provided by periodicals—as well as the programs of the mass media, even

in their noncommercial portions, also stimulated consumption and channeled it into certain patterns. David Riesman considers it to be practically the essence of the means of mass entertainment that it raises consumers, beginning in childhood and constantly accompanying the grown-ups: "Today the future occupation of all moppets is to be skilled consumers."<sup>28</sup> The culture of harmony infused into the masses per se invites its public to an exchange of opinion about articles of consumption and subjects it to the soft compulsion of constant consumption training.

Of course, even though it has become economically necessary, an invasion of advertising publications into the sphere of the public realm as such would not necessarily have led to its transformation. For instance, just as the daily newspapers roughly since the second third of the last century began to differentiate a classified section from the editorial one, so too a separation of the publicist functions (into a public rational-critical debate of private people as a public and a public presentation of either individual or collective private interests) could have left the public realm essentially untouched. However, such a public sphere as an element in the economic realm split off, as it were, from the political one—a public sphere independent in provenance of commercial advertising—never reached the point of crystallization. Rather, the publicist presentation of privileged private interests was fused from the very start with political interests. For at the time that the horizontal competition among the interests of commodity owners invaded the public sphere via advertising, capitalism's competitive basis as such had already been drawn into the conflict between the parties; and the vertical competition between class interests had also entered the arena of the public realm. In a phase of more or less unconcealed class antagonism, about the middle of the last century, the public sphere itself was torn between the "two nations"—and thus the public presentation of private interests *eo ipso* took on a political significance. Within such a public sphere large-scale advertising almost always also assumed the quality of being more than just business advertising—if only by the fact that it represented per se the most important factor in the financial calculations of the papers and journals and



even of the newer media to the degree that they operated on a commercial basis. However, economic advertisement achieved an awareness of its political character only in the *practice of public relations*.

This practice, like the term itself, hails from the United States.<sup>29</sup> Its beginnings can be traced back to Ivy Lee, who developed "publicity techniques on a policy-making level" for the purpose of justifying big business, especially the Standard Oil Company and the Pennsylvania Railroad, then under attack by certain social reformers.<sup>30</sup> Between the two World Wars some of the largest enterprises began to adjust their overall strategies also to considerations of public relations. In the United States this proved quite useful, particularly in the climate of national consensus that prevailed after the entry into the war in 1940. The new techniques diffused widely, including into Europe, only after the end of the war. In the advanced countries of the West they have come to dominate the public sphere during the last decade. They have become a key phenomenon for the diagnosis of that realm.<sup>31</sup> "Opinion management"<sup>32</sup> is distinguished from advertising by the fact that it expressly lays claim to the public sphere as one that plays a role in the political realm. Private advertisements are always directed to other private people insofar as they are consumers; the addressee of public relations is "public opinion," or the private citizens as the public and not directly consumers. The sender of the message hides his business intentions in the role of someone interested in the public welfare. The influencing of consumers borrows its connotations from the classic idea of a public of private people putting their reason to use and exploits its legitimations for its own ends. The accepted functions of the public sphere are integrated into the competition of organized private interests.

Advertising limited itself by and large to the simple sales pitch. In contrast, opinion management with its "promotion" and "exploitation" goes beyond advertising; it invades the process of "public opinion" by systematically creating news events or exploiting events that attract attention. In doing so it sticks strictly with the psychology and techniques of the feature and

pictorial publicity connected with the mass media and with their well tested human interest topics: romance, religion, money, children, health, and animals. By means of a dramatic presentation of facts and calculated stereotypes it aims for a "reorientation of public opinion by the formation of new authorities or symbols which will have acceptance."<sup>33</sup> Either public relations managers succeed in inserting suitable material into the channels of communication, or they arrange specific events in the public sphere that can be counted on to set the communications apparatus into motion; a textbook recommends twenty methods for this kind of "making or creating news."<sup>34</sup>

If one adds the multitude of informations and instructions packaged as solid "documentation" with which the major "distribution centers" are supplied by public relations bureaus, then statements still fixated on the old separation—now serving as occupational ideology—of news reports from advertising appear squarely antiquated.<sup>35</sup> Public relations fuses both: advertisement must absolutely not be recognizable as the self-presentation of a private interest. It bestows on its object the authority of an object of public interest about which—this is the illusion to be created—the public of critically reflecting private people freely forms its opinion. "Engineering of consent"<sup>36</sup> is the central task, for only in the climate of such a consensus does "promotion to the 'public,' suggesting or urging acceptance or rejection of a person, product, organization, or idea," succeed.<sup>37</sup> The awakened readiness of the consumers involves the false consciousness that as critically reflecting private people they contribute responsibly to public opinion.

On the other hand the consensus concerning behavior required by the public interest, or so it seems, actually has certain features of a staged "public opinion." Although public relations is supposed to stimulate, say, the sales of certain commodities, its effect always goes beyond this. Because publicity for specific products is generated indirectly via the detour of a feigned general interest, it creates and not only solidifies the profile of the brand and a clientele of consumers but mobilizes for the firm or branch or for an entire system a quasi-political credit, a respect of the kind one displays toward public authority.

The resulting consensus, of course, does not seriously have much in common with the final unanimity wrought by a time-consuming process of mutual enlightenment, for the "general interest" on the basis of which alone a rational agreement between publicly competing opinions could freely be reached has disappeared precisely to the extent that the publicist self-presentations of privileged private interests have adopted it for themselves. Simultaneously with the double condition of the restriction of the public to private people as members of civil society and the restriction of their rational-critical debate to the foundations of civil society as a sphere of private control, the old basis for a convergence of opinions has also collapsed. A new one is not brought about merely because the private interests inundating the public sphere hold on to its faked version. For the criteria of rationality are completely lacking in a consensus created by sophisticated opinion-molding services under the aegis of a sham public interest. Intelligent criticism of publicly discussed affairs gives way before a mood of conformity with publicly presented persons or personifications; consent coincides with good will evoked by publicity. Publicity once meant the exposure of political domination before the public use of reason; publicity now adds up the reactions of an uncommitted friendly disposition. In the measure that it is shaped by public relations, the public sphere of civil society again takes on feudal features. The "suppliers" display a showy pomp before customers ready to follow. Publicity imitates the kind of aura proper to the personal prestige and supernatural authority once bestowed by the kind of publicity involved in representation.

One may speak of a refeudalization of the public sphere in yet another, more exact sense. For the kind of integration of mass entertainment with advertising, which in the form of public relations already assumes a "political" character, subjects even the state itself to its code.<sup>3H</sup> Because private enterprises evoke in their customers the idea that in their consumption decisions they act in their capacity as citizens, the state has to "address" its citizens like consumers. As a result, public authority too competes for publicity.

## 21 The Transmuted Function of the Principle of Publicity

At the close of the 1920s the topic of public opinion was taken up by a congress of the German Sociological Society.<sup>39</sup> On this occasion for the first time a phenomenon was authoritatively acknowledged that was symptomatic of the transmuted political function of the public sphere—the "journalistic activation" of offices, parties, and organizations. To be sure, Brinkmann constructed an ill-considered antithesis between the "free press" and the "official releases" of public and private bureaucracies ("with that relentless extension of its 'publicity' to every sphere of life, the modern newspaper itself has caused the rise of its adversary and perhaps even master of its own insatiable urge for information: the information bureaus and press release specialists that every center of activity exposed to publicity, or desirous of it, now considers requisite."<sup>40</sup>) This antithesis was ill considered because the public relations strategy of the bureaucracies, going far beyond the classical sorts of publications, availed themselves of the existing mass media and bolstered their position. Nevertheless, the observation as such is sound. Beside the great publicist institutions and in connection with them ("an apparatus that surely represents a maximum of publicity, but very little opinion") a second apparatus was established to meet the new publicity needs of the state and the special interest associations. ("We have there . . . another public opinion, which, to be sure, offers 'opinions' that are diverse and quite to the point, but which seeks to shape and hold sway over public opinion in a way that is essentially anything but 'public.'"<sup>41</sup>) The forms of purposive opinion management to which Brinkmann alluded here were of the sorts that "consciously deviate from the liberal ideal of publicity." The state bureaucracy borrowed them from the practice already made current by big private enterprises and interest-group associations; only in conjunction with these did the public administrations acquire their "publicist character" at all.

The increase in the power of the bureaucracy in the social-welfare state—not only in relation to the legislator but to the top of the executive itself<sup>42</sup>—brought one aspect of its mounting autonomy into clear relief, although even in the liberal era

it never functioned as a pure organ of legislative implementation.<sup>43</sup> The other aspect, the countervailing process of a transfer of power from the government to societal groups, remained less obtrusive; for within the newly acquired latitude for 'discretionary structuring,' in which the bureaucracy itself also became a producer, dealer, and distributor, the executive saw itself forced to act in a fashion that complemented and even partially replaced authoritarian government from above by an arrangement with the "public." This led partly to an unofficial participation of special-interest associations, partly to a routine transfer of some of the bureaucracy's tasks into their jurisdiction. Werner Weber observed that large jurisdictional areas were altogether taken away from the state bureaucracy and have become "components of an estate system of administration that functions alongside the state."<sup>41</sup> But even where the state maintained or extended its administrative sovereignty, it had to "adapt" to the dynamics of a field of crisscrossing organized interests. Although agreements here were pursued and concluded outside the parliament, that is by circumventing the state's institutionalized public sphere, both sides nevertheless prepared them noisily and accompanied them glaringly by so-called publicity work. To the extent that state and society-penetrated each other, the public sphere (and along with it the parliament, i.e., the public sphere established as an organ of the state) lost a number of its bridging functions. A continuous process of integration was accomplished in a different fashion. Correlative to a weakening of the position of the parliament was a strengthening of the transformers through which the state was infused into society (bureaucracy) and, in the opposite direction, through which society was infused into the state (special-interest associations and political parties). The publicity effort, however, a carefully managed display of public relations, showed that the public sphere (deprived, for the most part, of its original functions) under the patronage of administrations, special-interest associations, and parties was now made to contribute in a different fashion to the process of integrating state and society.

What made it possible within the political public sphere to resolve conflicts on the basis of relatively homogeneous inter-

ests and by means of relatively reasonable forms of deliberation, what alone made it possible to encase the parliamentary conflict settlements in a system of abstract and general laws with a claim to rationality and permanence, was a peculiar arrangement. The multitude of substantive decisions within a commercial society neutralized as a private sphere were mediated by the mechanism of the market and were in principle arrived at apolitically. Although limited to a framework of interests common to private people insofar as they owned property, the public was nonetheless kept free from the competition between individual private interests to such an extent that the decisions falling within the domain of political compromise could be handled by the procedures of rational political debate. However, as soon as private interests, collectively organized, were compelled to assume political form, the public sphere necessarily became an arena in which conflicts also had to be settled that transformed the structure of political compromise from the ground up.<sup>48</sup> The public sphere was burdened with the tasks of settling conflicts of interest that could not be accommodated within the classical forms of parliamentary consensus and agreement; their settlements bore the marks of their origins in the sphere of the market. Compromise literally had to be haggled out, produced temporarily through pressure and counterpressure and supported directly only through the unstable equilibrium of a power constellation between state apparatus and interest groups. Political decisions were made within the new forms of "bargaining" that evolved alongside the older forms of the exercise of power: hierarchy and democracy.<sup>10</sup> Admittedly, on the one hand the forum of the public sphere had been expanded. But on the other hand, because the balancing of interests continued to be linked to the liberal claim of this public sphere (which is to say, to legitimation in terms of the common welfare) without being able to fulfill it or to evade it entirely, the haggling out of compromises moved to extraparliamentary sites. This could occur formally by delegating jurisdictional competences of state organs to societal organizations or informally by de facto shifts in jurisdictions, either free from or contrary to regulations.

Wherever a relatively long lasting equilibration of interests

or even a "state of peace" between employers and employees (instead of compromises that result in successive waves of regulations) is not to be expected—as in the case of the central conflict of advanced capitalist society—the elimination of coercive state arbitration can create an autonomous domain for a quasi-political exercise of power on the part of conflicting social groups. On the one hand the two sides involved in collective bargaining then no longer act in the exercise of private autonomy; they act within the framework of the public sphere as an element in the political realm and hence are officially subject to the democratic demand for publicity.<sup>47</sup> On the other hand the creation of collective bargaining regulations so shatters the forms of the old style public sphere (founded on trust in the power of reason) and the antagonism between interests which lies at its basis objectively affords so little chance for a legislation in accord with liberal criteria that these compromises are kept away from the procedure of parliamentary legislation and therefore remain altogether outside the realm of jurisdiction of the state's institutionalized public sphere.

This sort of official removal of jurisdictional competence for political compromise from the legislator to the circle of bureaucracies, special-interest associations, and parties is paralleled, to a far greater extent, by a factual divestiture. The increasing integration of the state with a society that is not already as such a political society required decisions in the form of temporary compromises between groups, which is to say, the direct exchange of particularist favors and compensations without detouring through institutionalized processes proper to the political public sphere. Consequently, special-interest associations and parties in principle remain private associations; many are not even organized in the form of bodies with legal standing and nevertheless participate in the filling of public positions. For they also carry out functions allotted to the political public sphere and stand under its claim of providing legitimacy to the pressure exerted by society upon state authority, making it more than a sheer relationship of force. In this way special-interest associations have in fact left the confines established by the statutes regulating the status of associations under civil law; their stated aim is the transfer-

mation of the private interests of many individuals into a common public interest, the credible representation and demonstration of the particular association's special interest as the general interest.<sup>48</sup> In this enterprise special-interest associations have far-reaching political power at their disposal not in spite of but on account of their private character; especially, they can manipulate "public opinion" without themselves being controlled by it. For this is the result of the dual necessity of exercising social power, on the one hand, and of claiming legitimation before the traditional standards of a disintegrating public sphere, on the other. These organizations must obtain from a mediatised public an acclamatory consent, or at least benevolent passivity of a sort that entails no specific obligations, for a process of compromise formation that is largely a matter of organization-internal manoeuvring but that requires public credit—whether to transform such consent into political pressure or, on the basis of this toleration, to neutralize political counterpressure.<sup>49</sup>

Publicity work is aimed at strengthening the prestige of one's own position without making the matter on which a compromise is to be achieved itself a topic of *public discussion*. Organizations and functionaries display *representation*: "The special-interest associations under public law do not in fact want to act as legal persons, but as collective organizations; and the reason is, indeed, that these associations *are interested* not so much in their formal representation toward the outside (whereby this representation becomes independent from the association's internal life), but above all *in the representative showing of their members in the public sphere*."<sup>50</sup> Representation, naturally, is less an element in the internal structure of the association than "an expression of its claim to publicity."<sup>51</sup> Representative publicity of the old type is not thereby revived; but it still lends certain traits to a refeudalized public sphere of civil society whose characteristic feature, according to Schelsky's observation, is that the large-scale organizers in state and society "manage the propagation of their positions."<sup>52</sup> The aura of personally represented authority returns as an aspect of publicity; to this extent modern publicity indeed has affinity with feudal publicity. Public relations do not genuinely concern public opinion



but opinion in the sense of reputation. The public sphere becomes the court *before* whose public prestige can be displayed—rather than *in* which public critical debate is carried on.

At one time publicity had to be gained in opposition to the secret politics of the monarchs; it sought to subject person or issue to rational-critical public debate and to render political decisions subject to review before the court of public opinion. Today, on the contrary, publicity is achieved with the help of the secret politics of interest groups; it earns public prestige for a person or issue and thereby renders it ready for acclamatory assent in a climate of nonpublic opinion. The very phrase "publicity work" betrays that a public sphere, which at one time was entailed by the position of the carriers of representation and was also safeguarded in its continuity through a firm traditional symbolism, must first be brought about deliberately and from case to case. Today occasions for identification have to be created—the public sphere has to be "made," it is not "there" anymore. Altmann calls this appropriately *enotigli* the act of "communification."<sup>53</sup> The immediate effect of publicity is not exhausted by the decommercialized wooing effect of an aura of good will that produces a readiness to assent. Beyond influencing consumer decisions this publicity is now also useful for exerting political pressure because it mobilizes a potential of inarticulate readiness to assent that, if need be, can be translated into a plebiscitarily defined acclamation. The new public sphere still remains related to the one rooted in civil society insofar as the latter's institutional forms of legitimation are still in force. Even staged publicity generates political efficacy only in the measure that it can credibly suggest or even cash in on a capital of potential voting decisions. This "cashing in," to be sure, is then the task of the parties.

This functional transmutation pervades the entire public sphere in the political realm. Even the central relations flip between the public, the parties, and the parliament is subject to it. The political public sphere of the liberal era received its imprint from the party run by dignitaries (*Honoratitrenptriei*), as Max Weber described it.<sup>54</sup> Under the leadership of men of the church and professors, lawyers, doctors, teachers and phar-

macists, manufacturers and landowners, the educated and propertied circles founded local political clubs—occasional associations at first, voter associations held together solely by the delegates. The number of members who were professional politicians remained small, and their functions were at first subordinate; politics was an honorific avocation. The press, as the single permanent institution, was attached to this informal enterprise held together, and not in the large towns only, by associations in the proper sense, which met periodically for the purpose of bringing delegates to account. There was an unencumbered flow of communication between the local discussion centers and the sessions of the parliament.<sup>55</sup> It was precisely the organizationally loose union of the "*Fraktionspartei*" (which existed practically only in the parliament) via the circle of dignitaries with the voters in the land that corresponded to the power-free flow of communication within a single public. The parity of the educated was not yet fundamentally called into question by the differentiation of areas of competence. The parties too understood themselves within this framework of the bourgeois public sphere as a "formation of opinions." As Rudolf Haym expressed it in his report on the German National Assembly, they had as their basis political opinions in their large-scale agglomeration. August Ludwig von Rochau claimed for the "party spirit" an objectivity of judgment that allegedly resisted mere (particular) interest.<sup>56</sup> Treitschke, however, abandoned the thesis of a party of opinion: "Especially the interests of the social classes are far more closely joined to the partylines than the parties themselves care to admit."<sup>57</sup> Finally, at the century's end were testimonies that forewent the illusion of neutrality as regards interests even with respect to the bourgeois parties. People like Friedrich Naumann demanded precisely a class party for the liberal camp, for "only a class conscious liberalism has the firmness to put up a good fight within the general class struggle as it prevails today for better or worse."<sup>58</sup>

In the meantime the structural transformation of the bourgeois public sphere had set in. The institutions of social-convivial interchange, which secured the coherence of the public making use of its reason, lost their power or utterly collapsed;

the development toward a commercial mass circulation press had its parallel in the reorganization of the parties run by dignitaries on a mass basis. The advent of equal citizenship rights for all altered the structure of parties. Since the middle of the last century loosely knit voter groups have increasingly given way to parties in the proper sense—organized supralocally and with a bureaucratic apparatus and aimed at the ideological integration and the political mobilization of the broad voting masses. In Great Britain Gladstone introduced the caucus system. With this buildup of an apparatus of professional politicians, organized more or less like a business enterprise and directed centrally, the local committees lost their importance. The parties were now confronted with the job of "integrating" the mass of the citizenry (no longer really "bourgeois"), with the help of new methods, for the purpose of getting their votes. The gathering of voters for the sake of bringing the local delegate to account had to make room for systematic propaganda. Now for the first time there emerged something like modern propaganda, from the very start with the Janus face of enlightenment and control; of information and advertising; of pedagogy and manipulation.<sup>51J</sup>

The interdependence of politically relevant events had increased. Along with its communal basis, the public sphere lost its place. It lost its clear boundary over against the private sphere on the one hand and the "world public" on the other; it lost its transparency and no longer admitted of a comprehensive view.\*" There arose as an alternative to class parties,<sup>61</sup> that "integration party" whose form was usually not clearly enough distinguished from them. It "took hold" of the voters temporarily and moved them to provide acclamation, without attempting to remedy their political immaturity.<sup>62</sup> Today this kind of mass-based party trading on surface integration has become the dominant type. For such parties the decisive issue is who has control over the coercive and educational means for ostentatiously or manipulatively influencing the voting behavior of the population. The parties are instruments for the formation of an effective political will; they are not, however, in the hands of the public but in the hands of those who control the party apparatus. This changed relationship of the parties

to the public on the one hand and to the parliament on the other can be symptomatically traced by reference to shifts in the status of delegates.

From the very start the rejection of the imperative mandate that had been typical for all kinds of representation in a society structured into estates was implied in the idea of parliamentarianism. As early as 1745 a delegate to the House of Commons declared: "By our constitution, after a gentleman is chosen, he is the representative, or, if you please, the attorney of the people of England"; a generation later this thesis was elaborated by Burke and Blackstone<sup>63</sup> into the classic doctrine of the free mandate. In the formula of the delegate's independence from directives, of the delegate who is responsible only to his conscience and to the people as a whole, it has made its way into all bourgeois constitutions.<sup>114</sup> In the liberal constitutional state this ideology was complemented at least by a process of forming political will that passed through opinion formation on the part of a public making use of its reason. In this phase the free mandate meant, from a sociological point of view, not so much the independence of the representative as such; de facto, the delegate obviously was in far closer contact with his constituency than has been the case ever since. Instead, it was a guarantee of the parity in standing among *all* private people within the public engaged in rational-critical debate. To make sure that the parliament itself would remain part of this public and that the freedom of discussion would be safeguarded *intra muros* as well as *extra muros*, the measures taken to protect the independence of the delegate were not at all supposed to create a privileged status in relation to the rest of the public—representation in the sense of the kind of publicity that antedates bourgeois society—rather, they were only supposed to prevent the status of representative from becoming underprivileged because of delegation.<sup>65</sup>

Of course, this direct mutual contact between the members of the public was lost in the degree that the parties, having become integral parts of a system of special-interest associations under public law, had to transmit and represent at any given time the interests of several such organizations that grew out of the private sphere into the public sphere. Today, as a rule,

they are neither class parties (like the old Social Democratic Party) nor interest groups themselves (in the style of the *Bund für Heimatvertriebene und Entrechtete* or BHE). Rather, it is precisely the interlocking of organized interests and their official translation into the political machinery that lends to the parties a paramount position before which the parliament is degraded to the status of a committee for the airing of party lines—and the member of parliament himself "to the status of an organizational-technical intermediary within the party, who has to obey its directives in case of conflict."<sup>66</sup> According to an observation by Kirchheimer this development is linked to the diminishing parliamentary influence of lawyers: the advocate type gives way to that of the functionary.<sup>67</sup> Besides the small group of those considered to be "minister material" and who accumulate leadership positions, a considerable number of party functionaries strictly speaking (apparatchiks, propaganda experts, etc.) and a mass of direct or indirect special-interest association representatives (corporate lawyers, lobbyists, specialists, etc.) get into the parliament. The individual delegate, while called upon to participate in the formation of majority decisions within his party, in the end decides in accordance with the party line. By enforcing the principle that in certain contexts minorities of delegates must make majority opinions their own, the party transforms the pressure toward ever renewed compromise between organized interests into a constraint enabling it to display external unity; de facto, the delegate receives an imperative mandate by his party.<sup>68</sup> The parliament therefore tends to become a place where instruction-bound appointees meet to put their predetermined decisions on record. Carl Schmitt noted a similar trend in the Weimar Republic.<sup>69</sup> The new status of the delegate is no longer characterized by participation in a public engaged in nonpartisan rational debate.

The parliament itself has correspondingly evolved away from a debating body; for the parliamentary rubber-stamping of resolutions haggled out behind closed doors not merely satisfies a formal requirement but serves to demonstrate party consensus toward the outside. The parliament no longer is an "assembly of wise men chosen as individual personalities by

privileged strata, who sought to convince each other through arguments in public discussion on the assumption that the subsequent decision reached by the majority would be what was true and right for the national welfare." Instead it has become the "public rostrum on which, before the entire nation (which through radio and television participates in a specific fashion in this sphere of publicity), the government and the parties carrying it present and justify to the nation their political program, while the opposition attacks this program with the same openness and develops its alternatives."<sup>70</sup> Friesenhahn's description, to be sure, captures only one side of this process, namely the expansion of publicity as such, and not the transmutation of its function. Whereas the public nature of the deliberations was once supposed to ensure, and for a while actually did ensure, the continuity between pre-parliamentary and parliamentary discussion, that is, the unity of the public sphere and the public opinion crystallizing within it—in a word, parliamentary deliberation as both part and center of the public as a whole—it no longer accomplishes anything of the sort. Nor can it do so, for the structure of the public sphere itself, inside and outside of parliament, has been transformed:

Were one to see the sense of the radio and television transmissions of the *Bundestag* [i.e., the German Parliament] sessions in their providing the listener (or viewer) at the receiver with the opportunity for participation in the work of the elected representatives, then one would have to conclude that radio and television are not adequate for this purpose; that instead, by biasing and distorting the debates, they represent a disruption of parliamentary work. Just as deliberation proper has shifted from the full session into committees and party caucuses, so deliberation in parliament has become completely secondary to documentation.<sup>71</sup>

Before the expanded public sphere the transactions themselves are stylized into a show. Publicity loses its critical function in favor of a staged display; even arguments are transmuted into symbols to which again one can not respond by arguing but only by identifying with them.

The transformation of the parliament's function brings the dubiousness of publicity as the organizational principle of the state order into full view. From a critical principle wielded by

the public, publicity has been transformed into a principle of managed integration (wielded by staging agencies—the administration, special-interest groups, and above all the parties). A consumer culture's distortion of publicity in the judicial realm matches the plebiscitary distortion of parliamentary publicity. For the trials in criminal court that are interesting enough to be documented and hawked by the mass media reverse the critical principle of publicity in an analogous manner; instead of serving the control of the jurisdictional process by the assembled citizens of the state, publicity increasingly serves the packaging of court proceedings for the mass culture of assembled consumers.

The strength of such tendencies can be gauged in terms of the revisionist endeavors they have called forth. Whereas in post-Napoleonic Germany publicity as the organizational principle of a liberal constitutional state found its first eloquent champions, and whereas at that time Welcker and Feuerbach advocated publicity in the parliament and in the judiciary in conjunction with a freely developing, critically debating political daily press,<sup>72</sup> one is concerned today to shield parliamentary deliberations and judicial processes from a plebiscitary public. The Senior Council of the *Bundestag* has recommended that the sessions of the House no longer be directly transmitted; criminal lawyers and judges demand ever more urgently that every legal means be exhausted or, if these do not suffice, that the trial procedures be changed, for the sake of preventing radio and television reporting in the court room. In both cases the principle of publicity is to be reduced to guaranteeing "public accessibility to those bodily present." To be sure, proceedings are to continue to be open to the public; what is to be avoided is turning parliamentary documentation of internally haggled out resolutions into party grandstanding or criminal trials into show trials for the entertainment of consumers who, strictly speaking, are indifferent. The argument is directed against the plebiscitary deviations from the liberal model. Typical for this purpose is the distinction between public sphere and publicity, a distinction that Eberhard Schmitt would like to see preserved even for criminal trials involving "persons of contemporary significance":

Of what are we really deprived when we do not get to see pictures of defendants or witnesses in the press? There may be a legitimate interest on the part of the public to learn of the acts of which important personalities of our times are being accused, of the court's findings in this respect, and of the sentence. *These* are aspects that are important to know for opinion-forming citizens interested in public life, and that by means of reliable court reporting may also be brought to the attention of those not participating in the deliberations. But what kind of facial expressions defendants and witnesses exhibit when being questioned in the main hearing or at the time of sentencing is a matter of complete indifference for any legitimate interest in information. Only one caught up in the unhappy trend toward publicity that today tramples underfoot everything that a humane mentality naturally feels obligated to respect can here still speak of a legitimate need for information on the part of the public.<sup>73</sup>

It is quite clear that such reactive measures cannot contribute toward reinstating the public sphere in its original function. Any attempt at restoring the liberal public sphere through the reduction of its plebiscitarily expanded form will only serve to weaken even more the residual functions genuinely remaining within it.

Even today the constitution of the welfare-state mass democracy binds the activity of the organs of state to publicity, so that a permanent process of opinion and consensus formation can be influential at least as a freedom-guaranteeing corrective to the exercise of power and domination: "The manifestations of this process that are necessary for the survival of a free democracy, manifestations that consist in the generation of a public opinion concerning state activity in all its ramifications, may legitimately consist in power that is not at all legally sanctioned . . . , presuming that they too are fully public and that they publicly confront the power of the state itself that is obligated to act in public."<sup>74</sup> The public sphere commandeered by societal organizations and that under the pressure of collective private interests has been drawn into the purview of power can perform functions of political critique and control, beyond mere participation in political compromises, only to the extent that it is itself radically subjected to the requirements of publicity, that is to say, that it again becomes a public sphere in the strict sense. Under the changed



conditions the intention of the classical demands for publicity can be protected from reactionary misdirection if, supplemented by unorthodox demands for publicity, publicity is also to be extended to institutions that until now have lived off the publicity of the other institutions rather than being themselves subject to the public's supervision: primarily to parties but also to politically influential mass media and special-interest associations under public law. These are all institutions of societal power centers whose actions are oriented to the state—private organizations of society that exercise public functions within the political order.

To be able to satisfy these functions in the sense of democratic opinion and consensus formation their inner structure must first be organized in accord with the principle of publicity and must institutionally permit an intraparty or intra-association democracy—to allow for unhampered communication and public rational-critical debate.<sup>75</sup> In addition, by making the internal affairs of the parties and special-interest associations public, the linkage between such an intraorganizational public sphere and the public sphere of the entire public has to be assured.<sup>76</sup> Finally, the activities of the organizations themselves—their pressure on the state apparatus and their use of power against one another, as well as the manifold relations of dependency and of economic intertwining—need a far-reaching publicity. This would include, for instance, requiring that the organizations provide the public with information concerning the source and deployment of their financial means.<sup>77</sup> In Germany the constitution furnishes the means for extending such publicity requirements from the parties to the special-interest associations under public law as well,<sup>78</sup> because under the constitutional protection of "the multi-party state's institutional freedom of public opinion" they too are legitimated to participate in national opinion and consensus formation.<sup>79</sup> Even political journalism, like all institutions which through display and manipulation exercise a privileged influence in the public realm, should for its part be subject to the democratic demand for publicity. However this may appear from a legal perspective, from the vantage point of sociology such demands make the important dimension of a democratization of societal

organizations engaged in state-related activity a topic of discussion. Not only organs of state but all institutions that are publicistically influential in the political public sphere have been bound to publicity because the process in which societal power is transformed into political power is as much in need of criticism and control as the legitimate exercise of political domination over society. Institutionalized in the mass democracy of the social-welfare state no differently than in the bourgeois constitutional state, the idea of publicity (at one time the rationalization of domination in the medium of the critical public debate of private people) is today realizable only as a rationalization—limited, of course, because of the plurality of organized private interests—of the exercise of societal and political power under the mutual control of rival organizations themselves committed to publicity as regards both their internal structure and their interaction with one another and with the state.<sup>80</sup>

Only in proportion to advances in this kind of rationalization can there once again evolve a political public sphere as it once existed in the form of the bourgeois public of private people—that is to say, ". . . [a] society that, beyond the periodic or sporadic state-commandeered elections and referenda, has a real presence in a coherent and permanent process of integration."<sup>81</sup> Of course, how much the political public sphere of the welfare state's mass democracy still lags behind in this dimension, or better, how little it has advanced in this respect, may be analyzed in relation to the public preparation of elections and to the electoral process itself. For the public sphere temporarily created and only intermittently mobilized for this purpose brings just that other publicity of public relations into ascendancy that organizations can all the more successfully install over the heads of the nonorganized public the more they themselves evade the democratic demand of publicity. The most recent election study shows "how advantageous it is for a party to have no members, but rather to come to life only at election time with the centralized freedom to manoeuvre that characterizes an advertising firm existing for one purpose only: to carry out the advertising campaign."<sup>82</sup> A process of public communication evolving in the medium of the parties and

organizations themselves obviously stands in an inverse relation to the staged and manipulative effectiveness of a publicity aimed at rendering the broad population (and especially the sector of it that is most indifferent as regards politics) infectionously ready for acclamation.

## **22 Manufactured Publicity and Nonpublic Opinion: The Voting Behavior of the Population**

Citizens entitled to services relate to the state not primarily through political participation but by adopting a general attitude of demand—expecting to be provided for without actually wanting to fight for the necessary decisions.<sup>^</sup> Their contact with the state occurs essentially in the rooms and anterooms of bureaucracies; it is unpolitical and indifferent, yet demanding. In a social-welfare state that above all administers, distributes, and provides, the "political" interests of citizens constantly subsumed under administrative acts are reduced primarily to claims specific to occupational branches. The effective representation of these claims, of course, requires that it be delegated to large organizations. Whatever is left over and above this to the initiative of personal decision is appropriated by the parties for an election organized as a vote. The extent to which the public sphere as an element in the political realm has disintegrated as a sphere of ongoing participation in a rational-critical debate concerning public authority is measured by the degree to which it has become a genuine publicist task for parties to generate periodically something like a public sphere to begin with. Election contests are no longer the outcome of a conflict of opinions that exists *per se* within the framework of an institutionally protected public sphere.

Nonetheless, the democratic arrangement of parliamentary elections continues to count on the liberal fictions of a public sphere in civil society. The expectations that still exercise a normative influence on the citizen's role as voter are a social-psychological mirror image of those conditions under which a public of rationally debating private people once assumed critical and legislative functions. It is expected that the voter, provided with a certain degree of knowledge and critical ca-

capacity, might take an interested part in public discussions so that he might help discover what can serve as the standard for right and just political action in rational form and with the general interest in mind.

In an essay entitled "Democratic Theory and Public Opinion" Berelson detailed the components of the voter's "personality structure": interest in public affairs; possession of information and knowledge; of stable political principles or moral standards; ability to observe accurately; engagement in communication and discussion; rational behavior; consideration of community interest.<sup>84</sup> The sociological constituents of a political public sphere have here turned into psychological characteristics. However, if today the mass of the enfranchised population exhibits the democratic behavior patterns to the low degree found by many empirical investigations—even when measured in terms of such superficial criteria as the degree of political activity and initiative and of participation in discussions<sup>85</sup>—then such deviation can only be understood sociologically in connection with the structural and functional transformation of the public sphere itself.

At first sight a remote connection between the voting public in the mass democracies of the social-welfare states, on the one hand, and the public of private people in the bourgeois constitutional states of the nineteenth century, on the other, does seem to exist. Ideally the vote was only the concluding act of a continuous controversy carried out publicly between argument and counterargument; entitled to vote were those who in any case had been admitted to the public sphere: the private people, that is to say, predominantly the heads of households from the urban bourgeois strata who were propertied and well educated. The social composition of the only public that was then entitled to vote is echoed today in that more active portion of a generally enfranchised population that makes use of its voting right. Males usually vote more frequently than females, married people more frequently than the unmarried, and those who belong to the higher status groups (who have a higher income and a higher level of education) more frequently than those belonging to the lower social strata. In this connection, moreover, it is interesting to note that businessmen

belonging to the commercial middle classes go to the polls in relatively large numbers. The fact that voter participation is highest in the age groups between thirty-five and fifty-five leads one to assume a strong influence both of the kind of occupation (as in the strata that succeeded the class of bourgeois private people) and of the involvement in relations of social labor through occupational activity per se. Even the participation in rational-critical public debate, at one time the informal condition for taking part in the vote, today seems still to correspond, members of private associations make use of their right to vote to a greater extent than the nonorganized citizens.<sup>86</sup> Such characteristics of a liberal public sphere preserved in the voting behavior of the population can also be demonstrated in the flow of political communication investigated by Katz and Lazarsfeld. In contradistinction to a more horizontal, social stratum-specific spread of fashions and consumption habits in general, the stream of political opinion flows in a vertical direction, from the higher status groups down to the ones just below—the "opinion leader(s) in public affairs" are usually wealthier, better educated, and have a better social position than the groups influenced by them.<sup>87</sup> On the other hand, it has been observed that these politically interested, informed, and active core strata of the public are themselves the least inclined to seriously submit their views to discussion. Precisely among the carriers of this two-tiered process of communication, mediated by these opinion leaders, an opinion once assumed often becomes fixed as a rigid habit.<sup>88</sup> Even those opinions that do not have to bear public exposure do not evolve into a public opinion without the communication flow of a rationally debating public.

Even the well documented fact that those who engage in discussion more frequently (being relatively speaking the best informed) have a tendency to do no more than mutually confirm their ideas and at best to influence only the hesitant and less involved parties—shows how little they contribute to a process of *public* opinion. In addition the political discussions are for the most part confined to in-groups, to family, friends, and neighbors who generate a rather homogeneous climate of opinion anyway. On the other hand, those voters who fluctuate

between parties are recruited predominantly from the large reservoir of less interested, less informed, and apathetic citizens, to the extent that they are not altogether indifferent and do not ignore the election. Thus, as a rule, precisely those who are most decisively predisposed to avoid a public opinion formed by discussion are the ones most likely to be influenced in their views—but this time by the staged or manipulatively manufactured public sphere of the election campaign.

The dissolution of the voting constituency's coherence as a public is betrayed in the peculiar immobilization of the larger part of the voters. Of course, the core constituency of one or the other party is composed of two quite distinct groups. On one side there is the small minority of those who with a certain justification may still be called "active" citizens, either members of parties and other social organizations, or unorganized but well informed and strongly involved voters who are usually also influential as opinion leaders. On the other side is the majority of citizens, who, of course, are equally rigid in their decisions, over whom the sands of day-to-day political controversies blow, so it seems, without leaving a trace. This fixation arises partly from the justified but stereotypically ingrained perception of group interests and partly from a layer of cultural common-sense assumptions, from deeply rooted attitudes and prejudices pertaining to experiences usually far in the past and transmitted over generations.<sup>90</sup> Different age groups are guided by experiences specific to their generations; different denominational and ethnic groups by analogous ones. As a result volitional impulses totally heterogeneous in substance and often enough in competition with each other enter into voting decisions that are formally the same and all the more susceptible to being averaged into an illusory consensus as long as the latter's undiscussed presuppositions remain removed from public communication. Between the immobilized blocks stand or fluctuate independent groups of voters composed, according to the findings of Janowitz, partly of compromisers and partly of those who are neutral, ambivalent, or apathetic; depending on how narrowly the criteria are defined, this group amounts to between a fourth and almost half of all those entitled to vote. To their number belong the nonvoters and the

so-called marginal voters who vote now for one, now for the other party and who at times cannot be mobilized at all: non-voters and changers. The characterization of nonvoters as the worst informed and least firmly democratic group<sup>91</sup> also holds true, with certain qualifications, for the bearers of the "floating vote".<sup>92</sup> "Independent voters tend to be those who know and care the least."<sup>93</sup> Nonetheless, these enfranchised voters who are qualified to participate in the public opinion process are the target group for the election managers. Each party tries to draw as much as possible from this reservoir of the "undecided," not through enlightenment but through adaptation to the unpolitical consumer attitude that is especially prevalent in this group. Janowitz is quite right to ask "whether these efforts, which rely heavily on mass media and other promotional devices, do not represent a misuse of limited resources."<sup>94</sup> In any case, campaign advertising also affects the other voter groups. Hence the connection between voter participation and an orientation toward programmatic goals is far weaker than that between voter participation and the successful generation of an appealing image of the leading candidates.<sup>95</sup>

For the periodic staging, when elections come around, of a political public sphere fits smoothly into the constellation representing the decayed form of the bourgeois public sphere. Initially the integration culture concocted and propagated by the mass media, although unpolitical in its intention, itself represents a political ideology; a political program, or any staged announcement whatsoever, must indeed not enter into competition with it but must strive for concordance. The collapse of political ideology as diagnosed decades ago by Mannheim seems to be only one side of that process in reference to which Raymond Aron speaks of the *Fin de l'Age Idéologique* (End of the Ideological Age) altogether.<sup>96</sup> The other side is that ideology accommodates itself to the form of the so-called consumer culture and fulfills, on a deeper level of consciousness, its old function, exerting pressure toward conformity with existing conditions. This false consciousness no longer consists of an internally harmonized nexus of ideas, as did the political ideologies of the nineteenth century, but of a nexus of modes of behavior. As a system of other-directed consumption habits

it takes a practical shape in the guise of a practice. To the extent that this involves consciousness, it is exhausted by the pseudo-realistic replication of the status quo as it appears on the surface:

Were one to compress into one sentence what the ideology of mass culture actually amounts to, one would have to present it as a parody of the statement, "Become what you are": as a glorifying reduplication and justification of the state of affairs that exists anyway, while foregoing all transcendence and critique. Inasmuch as the spirit that is active in society limits itself to providing people with no more than a replication of what constitutes the condition of their existence anyway, while at the same time proclaiming this way of life as its own norm, they become confirmed in their faithless belief in pure existence.<sup>97</sup>

Advertising is the other function that has been taken over by the mass media-dominated public sphere. Consequently the parties and their auxiliary organizations see themselves forced to influence voting decisions publicistically in a fashion that has its analogue in the way advertising pressure bears on buying decisions.<sup>98</sup> There emerges the industry of political marketing. Party agitators and old style propagandists give way to advertising experts neutral in respect to party politics and employed to sell politics in an unpolitical way. Although this tendency has been visible for a long time, it prevailed only after the Second World War, with the scientific development of empirical techniques of market and opinion research. The resistance to this trend, which was broken in some parties only after several electoral setbacks,<sup>99</sup> shows that election managers must not only take note of the disappearance of a genuine public sphere in the realm of politics but must in full consciousness promote it themselves. The temporarily manufactured political public sphere reproduces, albeit for different purposes, the sphere for which that integration culture prescribes the law; even the political realm is social-psychologically integrated into the realm of consumption.

The addressees of this kind of public sphere are the type of political consumers to whom Riesman gave the name "new indifferents":



they are not necessarily equivalent to the nonvoters: these indifferents may perform quite a few political chores, for a price or under pressure. Nor are they devoid of political opinions. . . . But. . . these political opinions are connected neither with direct political self-interest nor with clear emotional ties to politics. They resemble, rather, the peer-group exchange of consumption preferences, though unlike the latter, the preferences are seldom taken into the political market and translated into purchases of political commodities. For the indifferents do not believe that, by virtue of anything they do, know, or believe, they can buy a political package that will substantially improve their lives. And so, subject to occasional manipulations, they tend to view politics in most of its large-scale forms as if they were spectators."<sup>1</sup>

The disintegration of the electorate as a public becomes manifest with the realization that press and radio, "deployed in the usual manner,"<sup>101</sup> have practically no effect; within the framework of the manufactured public sphere the mass media are useful only as vehicles of advertising. The parties address themselves to the "people," de facto to that minority whose state of mind is symptomatically revealed, according to survey researchers, in terms of an average vocabulary of five hundred words.<sup>102</sup> Together with the press the second classical instrument of opinion formation, the party meeting, also loses its significance. By now it has been learned that "used in the usual manner," it can at best serve the task of handing out slogans to a small troop of persons who are hard core loyalists to begin with. Party meetings too are useful only as advertising events in which those present may at most participate as unpaid supernumeraries for television coverage.

In the manipulated public sphere an acclamation-prone mood comes to predominate, an opinion climate instead of a public opinion. Especially manipulative are the social-psychologically calculated offers that appeal to unconscious inclinations and call forth predictable reactions without on the other hand placing any obligation whatever on the very persons who in this fashion secure plebiscitary agreement. The appeals, controlled according to carefully investigated and experimentally tested "psychological parameters," must progressively lose their connection with political program statements, not to mention issue-related arguments, the more they are effective as

symbols of identification. Their meaning is exhausted in the release of that kind of popularity "that in today's mass society replaces the direct relationship of the individual to politics."<sup>103</sup> Hence the presentation of the leader or the leader's team plays a central role; they too need to be packaged and displayed in a way that makes them marketable. The popularity index is a government's measure of how much it has the nonpublic opinion of the population under its control or of how much publicity that can be translated into popularity its team of leaders must additionally obtain. Popularity is not as such identical with publicity, but it cannot be maintained in the long run without it. The mood it designates is a dependent variable of the temporarily manufactured publicity, although it is by no means dependent on it alone. It is not without reason that ruling parties, in order to survive at the polls, create objective causes, publicity vehicles in the form of genuine concessions to the expectations of the population—say, lowering the taxes on alcohol or cigarettes—to create an abundance of publicity. In order to adjust, however manipulatively, to the scientifically analyzed motives of the voters, it is at times also necessary to take measures, crystallization points of the denied publicity, that satisfy real needs. To that extent the manipulation of even the most inventive election managers has its natural limits. From this, of course, one should not simply draw the converse conclusion that "the better the motives of the voters are known, the more the 'government' is 'manipulated' by the 'people.'"<sup>104</sup>

Certainly the publicist exploitation of given motives must also be accommodating to them; in this connection it may be necessary under certain circumstances to create opportunities for publicity in the form of obligations to satisfy the real needs of the voters. The narrower the "natural" limits of manipulation, the stronger the pressure not only to exploit scientifically analysed motives but to satisfy them as well. In this regard no unambiguous information is available as yet. Even if we hypothetically suppose that in a situation where the limits of manipulation are drawn very narrowly, the acclamation procedure within the framework of the periodically manufactured public sphere guarantees a far-reaching readiness on the part of the government to submit to nonpublic opinion,<sup>105</sup> the con-

ditions for democratic opinion and consensus formation would not be fulfilled. For the offers made for the purposes of advertising psychology, no matter how much they may be objectively to the point, in such a case are not mediated by the will and consciousness but by the subconscious of the subjects. This kind of consensus formation would be more suited to the enlightened absolutism of an authoritarian welfare regime than to a democratic constitutional state committed to social rights: everything for the people, nothing by the people—not accidentally a statement stemming from the Prussia of Frederick II. Strictly speaking, not even welfare would be guaranteed by this procedure. For aside from the attitude of autonomy, a nonpublic opinion having an indirect influence would also lack the attribute of rationality as such. The satisfaction of even a well established motive of the broadest strata does not itself afford any guarantee that it would correspond to their objective interests. Publicity was, according to its very idea, a principle of democracy not just because anyone could in principle announce, with equal opportunity, his personal inclinations, wishes, and convictions—opinions; it could only be realized in the measure that these personal opinions could evolve through the rational-critical debate of a public into public opinion—*opinion publique*. For the guarantee of universal accessibility was understood only as the precondition that guaranteed the truth of a discourse and counter-discourse bound to the laws of logic.

The relationship between the manufactured public sphere and nonpublic opinion can be illustrated by some measures that influenced the elections for the German Bundestag in 1957 in favor of the parties in government. (We focus on this example of a manipulative use of the empirical results of survey research by a certain party only because of the availability of reliable documentation, which is lacking with respect to other parties<sup>10</sup>.) Four strategic measures were, for the most part, decisive for the publicity work of the party victorious in the electoral campaign. The image of the party leader that had so well stood the test of the Bundestag elections of 1953 had to be restyled to undercut potential apprehensiveness, especially relating to his age: he was presented in the midst of "his team." Next, the propaganda concentrated especially upon anxieties

and needs for security, on the one hand, by effectively associating the opponent with the Bolshevik danger and, on the other, by generating the belief that the party that happened to be in control of government (and was without reluctance portrayed as identical with the state as such) represented the only guarantee for security, whether military or social: "no experiments"; "you have what you have." Thirdly, in order to counter the fear of price increases that might have hurt the government at the polls it worked out with industrial leaders a so-called holdback agreement that caused companies to postpone price increases until after the election. In addition, a number of brand-name companies, in advertisements in the daily press, vouched for the stability of the price levels; this was preceded by the advertising campaign of a retailers' association. As the most effective measure, finally, legislation reforming the social security system had been passed. From May of 1957 on about 6 million retired people received higher benefits and retroactive payments; naturally, the material and psychological effect was not limited to retirement benefits. All four measures were carefully tested beforehand and then through calculated advertising techniques publicistically launched ("the soft sell") and exploited ("prosperity for all"). The individual strategic measures were not evaluated with regard to their effectiveness, that is, the amount of acclamation captured; their relative importance is difficult to assess. It is easier to interpret their political content than their effectiveness as propaganda. The only binding obligation assumed by the parties in government was their consent prior to the election to the reform of the social security system. The opposition, to be sure, contributed its own share to the passing of the legislation; but as the Bundestag is identified by many voters with the federal government, the parties in government were in a better position to exploit it as a perfectly timed publicity opportunity.

Thus, on the one hand, even this method of political consensus formation ensures a kind of pressure of nonpublic opinion upon the government to satisfy the real needs of the population in order to avoid a risky loss of popularity. On the other hand, it prevents the formation of a public opinion in the strict sense. For inasmuch as important political decisions

are made for manipulative purposes (without, of course, for this reason being factually less consequential) and are introduced with consummate propagandistic skill as publicity vehicles into a public sphere manufactured for show, they remain removed *qua political* decisions from both a public process of rational argumentation and the possibility of a plebiscitary vote of no confidence in the awareness of precisely defined alternatives. To stay with our example, the reform of social security during its preparatory phase was never systematically made into a topic of a process of public opinion formation, although it was thoroughly treated in the great daily press. Population surveys showed that the mass of the population associated no apposite ideas with the notion of dynamic retirement benefits; nor did such benefits afterward, as a central social-political problem, explicitly become an issue in the election campaign (only the indirect psychological effects could be utilized as the basis for propaganda geared to simplistic stereotypes of improvements in the standard of living). In this case too the public sphere as a show set up for purposes of manipulation and staged directly for the sake of that large minority of the "undecided" who normally determine the outcome of an election served a communication process between set symbols and given motives that was social-psychologically calculated and guided by advertising techniques. Even added together the votes resulting from all this did not amount to a public opinion, because two conditions were not fulfilled: informal opinions were not formed rationally, that is, in conscious grappling with cognitively accessible states of affairs (instead, the publicly presented symbols corresponded to unconscious processes whose mode of operation was concealed from the individuals); nor were they formed in discussion, in the pro and con of a public conversation (instead the reactions, although in many ways mediated by group opinions, remained private in the sense that they were not exposed to correction within the framework of a critically debating public). Thus a public of citizens that had disintegrated *as a public* was reduced by publicist means to such a position that it could be claimed for the legitimation of political compromises without participating in effective decisions or being in the least capable of such participation.

The example of social security reform is informative in another respect as well, for social security is part of the complex of social-welfare-state protections against personal life-risks that were once left to private autonomy. The contradiction is obvious: a proliferation of the social conditions of private existence that are maintained and secured by public authority, and therefore ought to be clarified within the communication process of a politically autonomous public of citizens, that is, should be made a topic for public opinion. Although objectively greater demands are placed on this authority, it operates less as a *public* opinion giving a rational foundation to the exercise of political and social authority, the more it is generated for the purpose of an abstract vote that amounts to no more than an act of acclamation within a public sphere temporarily manufactured for show or manipulation.

### **23 The Political Public Sphere and the Transformation of the Liberal Constitutional State into a Social-Welfare State**

The characteristic imbalance between those functions that the political public sphere actually fulfills today and those that, in the context of the changed relation between public sphere and private realm, might be expected of it in relation to the needs of a democratically organized society becomes palpable wherever the transformation of the liberal constitutional state<sup>107</sup> into the so-called social-welfare state is explicitly legislated and, often enough, anticipated in its intention by the letter and spirit of constitutional institutions.

In the first modern constitutions subdivisions in the catalogues of basic rights were the very image of the liberal model of the bourgeois public sphere. They guaranteed society as a sphere of private autonomy. Confronting it stood a public authority limited to a few functions, and between the two, as it were, was the realm of private people assembled into a public who, as the citizenry, linked up the state with the needs of civil society according to the idea that in the medium of this public sphere political authority would be transformed into rational authority. On the assumption of the inherent justice of the market mechanism and the exchange of equivalents (insofar

as they implied equal opportunity for the acquisition of property and therewith independence and a voice in political affairs), it seemed that the general interest that was to yield the standard for gauging this kind of rationality would be guaranteed (within a society in which commodities could be freely exchanged) so long as the traffic of private people in the market and in the public sphere was emancipated from domination. As a sphere emancipated from domination all power relationships would be automatically neutralized within a society of small commodity traders.

The injunction-like character of the liberal basic rights corresponded to the following ideas: these rights protected from state interference and encroachment those areas that in principle were the preserve of private people acting in accord with the general rules of the legal system. With regard to their social function (as the framers of constitutions at that time had in mind), however, the basic rights had by no means only an exclusionary effect; according to the basis on which this political order was conceived they necessarily acted as positive guarantees of equal opportunity participation in the process of generating both societal wealth and public opinion. Within the system of a commercial society, as was taken for granted,<sup>108</sup> equal opportunity for social recompense (via the market) and participation in political institutions (in the public sphere) could be assured only indirectly through the guarantee of liberties and securities over against the power concentrated in the state. The positive effect could be ensured only by way of efficacious prohibitions through constitutional rights. In contrast to the view that prevails among the jurists, therefore, it must be concluded that from a sociological perspective the constitution of the liberal constitutional state was from the beginning meant to order not only the state as such and in relation to society but the system of coexistence in society as a whole. The constitutionally determined public order, therefore, also comprised the order that was the object of private law.<sup>109</sup> In consequence, the usual distinction between liberal guarantees of freedom and democratic guarantees of participation appeared in a different light. To be sure, *status negativus* and *status activus* were as clearly separated as the positions and

functions of *bourgeois* and *citoyen*, of private person and citizen in general. Yet when one approaches the two types of constitutional right sociologically, by reference to the original relationship between public and private spheres, their indissoluble connection becomes apparent. Status in both the public and private spheres (of civil society and family) was guaranteed in a negative fashion on the basis of a confidence that the public sphere and the market would function in the anticipated way as long as the autonomy of private people was assured in both spheres. Even the constitutionalization of the public sphere in the parliament as an organ of the state obviously did not obscure its origin in the private and autonomous affairs of the public. The right to vote too, directly formulated as a right of participation, was the automatic consequence of the protection, through exemption, of private dealings in the public sphere. Like the order of private law and, in general, the encasing of public order in a constitution, liberal human rights and democratic civil rights diverged in the theory and practice of bourgeois constitutional law only when the fictitious character of the social order hypothetically assumed to be at their basis became conscious and revealed its ambivalence to the bourgeoisie as it gradually actualized its rule.

The transformation of the liberal constitutional state in the direction of a state committed to social rights must be comprehended by reference to this point of departure, for certainly it is characterized by continuity rather than by a break with the liberal traditions. The constitutional social-welfare state (*sozialer Rechtsstaat*) was distinguished from the liberal one not to the extent "that a *state* constitution emerged which also claims to anchor, with legally binding force, the constitution of *societal* organizations in certain basic principles"<sup>10</sup>; instead, matters were reversed. The social-welfare state was compelled to shape social conditions to continue the legal tradition of the liberal state, because the latter too wanted to ensure an overall legal order comprising both state and society. As soon as the state itself came to the fore as the bearer of the societal order, it had to go beyond the negative determinations of liberal basic rights and draw upon a positive directive notion as to how "justice" was to be realized through the interventions that char-



acterize the social-welfare state. As we have seen, the liberal constitutional state's concept of law was so hollow in its two elements—the equality-guaranteeing universality and Tightness (in the sense of justice-guaranteeing truth)—that the fulfilling of its formal criteria no longer sufficed for an adequate normative regulation of the new material."<sup>1</sup> Substantive guarantees subjecting compromises between interests to the programmatic rules *of justitia distributiva* had to replace formal ones. Thus the distribution of increases in the gross national product became ever more a proper concern of political authorities. The special-interest associations under public law wrestled with the legislative and executive branches over the key in accord with which the distribution was to proceed. Thus the state charged with social obligations (*sozialpflichtig*) had to watch out that the negotiated balance of interests stayed inside the framework of the general interest. H. P. Ipsen accordingly interpreted the constitution's welfare-state clause as a definition of the state's goal.<sup>112</sup> With this clause more was posited than just a constitutional recognition of some existing legal institutions in the area of social welfare—there remained "as the normative effect of the constitutional mandate for a state committed to social rights . . . the obligation of all state organs to ensure through legislation, administration, and judicial decisions the adaptation of such legal institutions in the area of social welfare to the ongoing demands."<sup>113</sup>

Somewhat similar programmatic statements hold good for the other Western democracies; and wherever they are not encased in the constitution, they have by now become valid as a kind of political convention. In some cases the traditional catalogues of basic rights have also been expanded in accordance with a program of social welfare, prototypically in the Weimar Constitution."<sup>4</sup> Today basic social rights to welfare are found, apart from the liquidated French Constitution of 1946, in the United Nations Declaration of Human Rights of December 10, 1948.<sup>115</sup> They ensure a share in social services and participation in political institutions: "The freedom secured through demarcation is related to a state that sets limits to itself, that does not interfere with the individual's situation in society, whatever it happens to be. . . . Participation as a right

and claim implies an active, allotting, distributing, providing state that does not leave the individual at the mercy of his situation in society, but comes to his aid by offering support. This is the state committed to social rights."<sup>116</sup> This contrast, of course, abstracts from the historical continuity (judged in terms of their social functions) between liberal basic rights and social rights to welfare.

To be sure, in accord with the concept of law proper to the constitutional state, the guarantees of basic rights rest on the demarcation of the private sphere and of a public sphere operative in the political realm not directly subject to interference by public authority; the institutional guarantees concerning property and family serve this purpose as well. They are, however, supplemented by basic social rights only because the positive consequences resulting from the interdictions no longer come about "automatically"; because the demarcation of realms exempted from invasion by the state is no longer honored, through the "accommodating response" of immanent societal mechanisms, with anything that comes even close to equal opportunity in the sharing of social recompenses and in participating in political institutions; these become now explicitly ensured by the state. Only in this way can the political order remain faithful today, under the conditions of a public sphere that itself has been structurally transformed, to that idea of a public sphere as an element in the political realm once invested in the institutions of the bourgeois constitutional state.

This dialectic can be shown with special clarity in the case of the liberal basic rights which, even if their original formulations have been preserved in the currently valid constitutions, have to shift their normative meaning to remain true to their own intention. The very reality that corresponds to a constitution altered in the direction of a social-welfare state causes one to reflect

as to what extent these liberal constitutional rights, originally formulated and conceived as exclusionary rights over against state authority, should now be reconceived as participatory rights, since they pertain to a democratic and constitutional state committed to social rights. . . . [The constitution] is aimed at extending the idea of a substantively democratic constitutional state (which means especially

the principle of equality and its combination with the notion of participation in the idea of self-determination) to the entire economic and social order and thereby giving real content to the ideal of the concept of the state committed to social rights.<sup>117</sup>

First of all it has to be demonstrated with regard to those basic rights guaranteeing the effectiveness of a public sphere in the political realm (such as freedom of speech and opinion, freedom of association and assembly, and freedom of the press) that in their application to the factual state of the structurally transformed public sphere they must no longer be interpreted merely as injunctions but positively, as guarantees of participation, if they are to fulfill their original function in a meaningful way. Since the publicist institutions themselves have become a societal force that can be employed both to grant a privileged status to (or to boycott) the private interests Hooding into the public sphere and to mediatize all merely individual opinions, the formation of a public opinion in the strict sense is not effectively secured by the mere fact that anyone can freely utter his opinion and put out a newspaper. The public is no longer one composed of persons formally and materially on equal footing. Pushing the interpretation of the social function of the freedom of private opinion to its logical conclusion, Ridder<sup>118</sup> arrived at the formulation of a "freedom of public opinion" aimed at providing citizens with the equal opportunity to participate in the process of public communication to begin with. Correspondingly, he complemented the classical freedom of the press of private people with the institutional commitment of publicist organs to the basic order of the democratic and constitutional state committed to social rights: "It is obvious that freedom of the press cannot be specified in a negative fashion as individual or collective freedom from government interference. What matters before everything else is the public mission of the political press for the sake of which freedoms are subsequently guaranteed."<sup>9</sup> Free expression of opinion by the press can no longer be regarded as part of the traditional expression of opinion by individuals as private people.<sup>12</sup> Equal access to the public sphere is provided to all other private people only through the state's guarantee of active interference to this end (*Gestaltungsgarantie*); a mere guarantee that the state

will refrain from intrusion is not longer sufficient for this purpose.<sup>121</sup>

In an analogous way the freedoms of assembly and association change their character. Insofar as they are big, bureaucratized organizations, parties and special-interest associations under public law enjoy an oligopoly of the publicistically effective and politically relevant formation of assemblies and associations. Hence here too freedom of assembly and association needs a guarantee of active promotion (*Gestaltungsgarantie*), which can be effective in assuring citizen participation in the political realm's public sphere only by obligating the organization to fulfill a certain task and to structure its internal order accordingly. To this obligation corresponds the guarantee of certain claims that find expression in the so-called party privilege.<sup>122</sup>

The other group of basic rights which, with the institutional guarantee of private property as its core, confirms the basic liberties of private law and also ensures free choice of occupation, work place, and place of training can no longer be understood as a guarantee of a private sphere based on competitive capitalism. In part these rights take on the character of participatory rights, insofar as they must already be understood (in conjunction with a principle of equality interpreted in a substantive sense) as guarantees of social claims such as an occupational position corresponding to one's performance or an apprenticeship or education corresponding to one's capability. In part they are restricted by other guarantees of the state committed to social rights, so that they lose the character of an area in principle protected from interference. So, for instance, free control over private property finds its limits not only in the social proviso of its compatibility with the interests of society as a whole or in the socialist proviso of its possible transference, in the name of the general interest, into collective property; the social guarantees embedded especially in the legislation concerning work, landlord-tenant relations, and housing construction directly place limits on the liberal guarantee of property.

Even the basic rights that protect the integrity of the family's interior domain and the status of personal freedom (life, lib-

erty, and shelter), together with a substantively interpreted right to free personal development, lose the merely injunction-like character that made them prototypical in the transition from the ancient status-group privileges to civil freedoms.<sup>123</sup> For under the conditions of an industrial society constituted as a social-welfare state the securing of these legal provisions cannot be accomplished by defensive and exemptive measures, or rather can be attained only if these in turn are supported by participatory rights, by guaranteed claims to benefits. The development of personal freedom in a private sphere that has de facto shrunk down to the circle of family and leisure time is itself in need of a status publicly guaranteed through democratic participation—instead of a basis in private property that formerly was adequately protected by liberal exemptionism.

Of course, private autonomy is then only possible as something derivative; the social rights to security, recompense, and free development, reinterpreted within a state committed to social rights, are also no longer grounded in a constitutionality (*Rechtstaatlichkeit*) stabilized per se by the interest of bourgeois commerce. Instead they are based on the integration of the interests of all organizations that act in a state-related fashion, an integration that according to the prescribed ideal of a state committed to social rights is always to be achieved democratically: "Only from this viewpoint is it possible to reconcile with each other the safeguards of individual rights, protected by impartial judicial decision, and the substantively interpreted idea of equality before the law." In this connection, Abendroth suggests that the real alternative is *not*

whether one wishes to bring about full freedom for each individual to make his own economic and social decisions or his subjection to the planning power of a state that democratically represents society, but rather whether one subjects the great mass of society's members to the power—formally private (and hence oriented toward particular interests, not toward the common good)—of those members of the society who control the society's decisive positions of economic power or whether one removes the planning that is necessary and unavoidable for social production and social life from the haphazardness of the private dispositions of small groups and places it under the collective control of those who participate in the communal process if production as members of a society whose highest decision making

unit is the state. In both cases the predictability of legal decisions about the consequences of private dispositions by the society's members is restricted. But in the case of the planning measures of a democratic state committed to social rights this predictability is maintained not in every particular, to be sure, but certainly along general lines and can be made tolerable through regularized procedures and, if warranted, through payment of damages. Within an organization of society irrevocably shot through with oligopolies and monopolies, in contrast, it is subject (on account of private decisions) to changes in scenario that from the individual's point of view are completely accidental. . . . Consequently, the economically weaker members of society are repeatedly exposed to changes in social position for which there are no compensations of any kind. In reality, therefore, the influence of law is not weakened but strengthened when the realm of the publicly controlled sphere is expanded relative to that which formerly was purely a domain of private law.<sup>124</sup>

Forsthoff is admittedly justified in indicating that even the social-welfare state (*Sozialstaat*), as the constitution of a *bourgeois* society, remains in principle a state financed by taxation (*Steuerstaat*) and does not per se normatively posit its transformation into a society under state tutelage (*Staatsgesellschaft*). The social-welfare state, like the liberal one, rests upon the specific foundation of a demarcation of the sovereign right to taxation from the constitutionally granted protection of property: "It is thereby possible to interfere via the right to levy taxes with income and wealth in a fashion which, if it were directed . . . with equal intensity against property, would be qualified as expropriation and would trigger claims to compensation."<sup>125</sup> In the course of the development toward a state committed to social rights, of course, the qualitative difference between interference with income and wealth, on the one hand, and with the control over property on the other is reduced to one of degree, so that taxation can become the instrument for the control of private property. But the state based on taxation would definitely pass over into a society under state tutelage only when all social power that was sufficiently relevant politically was also subjected to democratic control. The model that Abendroth contrasts with the bourgeois public sphere, according to which the direction and administration of all processes of social reproduction are subordinate to a public formation

of opinion and will on the part of the citizenry, therefore points up merely the goal of a direction of development—whereby at first not the goal as such but the dimension of development itself is characteristic of the transformation of the bourgeois constitutional state into a social-welfare state.

To the extent that state and society penetrate each other and bring forth a middle sphere of semipublic, semiprivate relationships ordered by social legislation still emerging, the constitutional tenets of a private sphere that precedes the state and of a public sphere that connects society with the state and thus has a function in the political realm are changed in their significance (as regards their sociological import and actual constitutional function) by virtue of a concurrent set of constitutional norms. For what can no longer be vouchsafed indirectly by means of exemption is now in need of being positively granted: a share in social benefits and participation in the institutions of the political realm's public sphere. The legitimate scope of this participation has to be expanded simultaneously to the degree to which this participation is to become effective. Hence societal organizations are active in a state-related fashion in the public sphere of the political realm, be it indirectly through parties or directly in interplay with public administration. In part these are economic associations in the narrower sense that now collectively organize those formerly individual interests of owners operating out of their original private autonomy; in part they are mass organizations that by means of the collective representation of their interests in the public sphere have to obtain and defend a private status granted to them by social legislation. In other words, they have to obtain and defend private autonomy by means of political autonomy. Together with the politically influential representatives of cultural and religious forces this competition of organized private interests in the face of the "neomercantilism" of an interventionist administration leads to a "refeudalization" of society insofar as, with the linking of public and private realms, not only certain functions in the sphere of commerce and social labor are taken over by political authorities but conversely political functions are taken over by societal powers.

Consequently, this refeudalization also reaches into the po-

litical public sphere itself. Here organizations strive for political compromises with the state and with one another, as much as possible to the exclusion of the public; in this process, however, they have to procure plebiscitary agreement from a mediatized public by means of a display of staged or manipulated publicity. In opposition to this factual trend toward the weakening of the public sphere as a principle stands the redefinition of the functions of constitutional rights by a state committed to social rights and, in general, the transformation of the liberal constitutional state into a social-welfare state. The mandate of publicity is extended from the organs of the state to all organizations acting in state-related fashion. In the measure that this is realized, a no longer intact public of private people dealing with each other individually would be replaced by a public of organized private people. *Only such a public could, under today's conditions, participate effectively in a process of public communication via the channels of the public spheres internal to parties and special-interest associations and on the basis of an affirmation of publicity as regards the negotiations of organizations with the state and with one another.* The formation of political compromises would have to be legitimated by reference to this process.

The political public sphere of the social-welfare state is marked by two competing tendencies. Insofar as it represents the collapse of the public sphere of civil society, it makes room for a *staged and manipulative* publicity displayed by organizations over the heads of a mediatized public. On the other hand, to the degree to which it preserves the continuity with the liberal constitutional state, the social-welfare state clings to the mandate of a political public sphere according to which the public is to set in motion a *critical* process of public communication through the very organizations that mediatize it. In the constitutional reality of the social-welfare state this form of critical publicity is in conflict with publicity merely staged for manipulative ends.<sup>126</sup> The extent to which the former type prevails gauges the degree of democratization of an industrial society constituted as a social-welfare state—namely, *the rationalization of the exercise of social and political authority*. The state committed to social rights has abandoned the fiction of the liberal constitutional state that with its establishment as an organ of state



the public sphere had actually become a reality in the realm of politics. From the very start, indeed, the parliament was rent by the contradiction of being an institution opposing all political authority and yet established as an "authority" itself. In contrast, publicity operating under the conditions of a social-welfare state must conceive of itself as a self-generating process. Gradually it has to establish itself in competition with that other tendency which, within an immensely expanded public sphere, turns the principle of publicity against itself and thereby reduces its critical efficacy.

Naturally, the question of the degree to which the forces active in the political public sphere can effectively be subjugated to the democratic mandate of publicity—and to what extent it is thus possible to achieve the rationalization of political domination and social authority to which the social-welfare state lays claim—ultimately leads back, to the problem which from the very beginning was implicit in the idea of the bourgeois public sphere. The notion of society as liberalism's ambivalent conception made evident had supposed the objective possibility of reducing structural conflicts of interest and bureaucratic decisions to a minimum.<sup>127</sup> One aspect of the problem is technical, the other can be reduced to an economic one. Today more than ever the extent to which a public sphere effective in the political realm can be realized in accord with its critical intentions depends on the possibility of resolving these problems. Here I would like to confine myself to two provisional remarks.

With the mounting bureaucratization of the administration in state and society it seems to be inherent in the nature of the case that the expertise of highly specialized experts would necessarily be removed from supervision by rationally debating bodies. Max Weber analyzed this tendency with respect to the inevitably precarious relationship between the parliament and the executive. Against this, however, it must be taken into account that in the meantime a partner equal to the administration has grown within the administration itself: "The control of the state's political bureaucracy today is possible only by means of society's political bureaucracy, in the parties and pressure groups (*Interessenverbände*)."<sup>129</sup> Of course, the latter them-

selves would have to be subject to a control within the framework of their intraorganizational spheres. Inasmuch as this is a matter of the technical aspect within one and the same organization, it should not be impossible on structural grounds to arrive at an appropriate relationship between bureaucratic decisions and a quasi-parliamentary deliberation by means of a process of public communication.<sup>130</sup>

To be sure, this problem does not present itself today as primarily technical. The disappearance of publicity inside large organizations, both in state and society, and even more their flight from publicity in their dealings with one another results from the unresolved plurality of competing interests; this plurality in any event makes it doubtful whether there can ever emerge a general interest of the kind to which a public opinion could refer as a criterion. A structurally ineradicable antagonism of interests would set narrow boundaries for a public sphere reorganized by the social-welfare state to fulfill its critical function. Neutralization of social power and rationalization of political domination in the medium of public discussion indeed presuppose now as they did in the past a possible consensus, that is, the possibility of an objective agreement among competing interests in accord with universal and binding criteria.<sup>131</sup> Otherwise the power relation between pressure and counterpressure, however publicly exercised, creates at best an unstable equilibrium of interests supported by temporary power constellations that in principle is devoid of rationality according to the standard of a universal interest.

In our day, nevertheless, two tendencies are clearly visible which could add a new twist to the problem. On the basis of the high (and ever higher) level of forces of production, industrially advanced societies have attained an expansion of social wealth in the face of which it is not unrealistic to assume that the continuing and increasing plurality of interests may lose the antagonistic edge of competing needs to the extent that the possibility of mutual satisfaction comes within reach. Accordingly, the general interest consists in quickly bringing about the conditions of an "affluent society" which renders moot an equilibrium of interests dictated by the scarcity of means.<sup>1:12</sup> On the other hand, the technical means of destruc-

tion increase along with the technical means of satisfying needs. Harnessed by the military, a potential for self-annihilation on a global scale has called forth risks so total that in relation to them divergent interests can be relativized without difficulty. The as yet unconquered state of nature in international relations has become so threatening for everybody that its specific negation articulates the universal interest with great precision. Kant argued that "perpetual peace" had to be established in a "cosmopolitan order."<sup>133</sup>

Be that as it may, the two conditions for a public sphere to be effective in the political realm—the objectively possible minimizing of bureaucratic decisions and a relativizing of structural conflicts of interest according to the standard of a universal interest everyone can acknowledge—can today no longer be disqualified as simply **Utopian**. The dimension of the democratization of industrial societies constituted as social-welfare states is not limited from the outset by an impenetrability and indissolubility (whether theoretically demonstrable or empirically verifiable) of irrational relations of social power and political domination. The outcome of the struggle between a critical publicity and one that is merely staged for manipulative purposes remains open; the ascendancy of publicity regarding the exercise and balance of political power mandated by the social-welfare state over publicity merely staged for the purpose of acclamation is by no means certain.<sup>134</sup> But unlike the idea of the bourgeois public sphere during the period of its liberal development, it cannot be denounced as an ideology. If anything, it brings the dialectic of that idea, which had been degraded into an ideology, to its conclusion.

## **VII**

### **On the Concept of Public Opinion**

#### **24 Public Opinion as a Fiction of Constitutional Law—and the Social-Psychological Liquidation of the Concept**

"Public opinion" takes on a different meaning depending on whether it is brought into play as a critical authority in connection with the normative mandate that the exercise of political and social power be subject to publicity or as the object to be molded in connection with a staged display of, and manipulative propagation of, publicity in the service of persons and institutions, consumer goods, and programs. Both forms of publicity compete in the public sphere, but "the" public opinion is their common addressee. What is the nature of this entity?

The two aspects of publicity and public opinion do not stand in a relationship of norm and fact—as if it were a matter of the same principle whose actual effects simply lagged behind the mandated ones (and correspondingly, the actual behavior of the public lagged behind what was expected of it). In this fashion there could be a link between public opinion as an ideal entity and its actual manifestation; but this is clearly not the case. Instead, the critical and the manipulative functions of publicity are clearly of different orders. They have their places within social configurations whose functional consequences run at cross-purposes to one another. Also, in each version the public is expected to behave in a different fashion. Taking up a distinction introduced earlier it might be said that one version is premised on public opinion, the other on nonpublic opinion.

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And critical publicity along with its addressee is more than merely a norm. As a constitutionally institutionalized norm, no matter what structural transformation its social basis has undergone since its original matrix in the bourgeois constitutional state, it nevertheless determines an important portion of the procedures to which the political exercise and balance of power are factually bound. This publicity, together with an addressee that fulfills the behavioral expectations set by it, "exists"—not the public as a whole, certainly, but surely a workable substitute. Further questions, to be decided empirically, concern the areas in which these functions of publicity are in force and to what extent and under which conditions its corresponding public exists today. On the other hand, the competing form of publicity along with its addressee is more than a mere fact. It is accompanied by a specific self-understanding whose normative obligatoriness may to a certain extent also be in opposition » immediate interests of "publicity work." Significantly, this self-understanding borrows essential elements precisely from the publicist antagonist.

Within the framework of constitutional law and political science, the analysis of constitutional norms in relation to the constitutional reality of large democratic states committed to social rights has to maintain the institutionalized fiction of a public opinion without being able to identify it directly as a real entity in the behavior of the public of citizens. The difficulty arising from this situation has been described by Landschut. On the one hand, he registers the fact that "public opinion [is] replaced [by] an in itself indeterminate mood-dependent inclination. Particular measures and events constantly lead it in this or that direction. This mood-dependent preference has the same effect as shifting cargo on a rolling ship."<sup>1</sup> On the other hand, he recalls that the constitutional institutions of large, democratic, social-welfare states count on an intact public opinion because it is still the only accepted basis for the legitimation of political domination: "The modern state presupposes as the principle of its own truth the sovereignty of the people, and this in turn is supposed to be public opinion. Without this attribution, without the substitution of public opinion as the origin of all authority for decisions binding the

whole, modern democracy lacks the substance of its own truth."<sup>2</sup> If, without a naive faith in the idea of a rationalization of domination, the mandate implicit in the constitutional norms of a public sphere as an element in the political realm<sup>3</sup> cannot be simply abandoned to the facticity of a public sphere in a state of collapse,<sup>4</sup> two paths toward defining the concept of public opinion become evident.

One of these leads back to the position of liberalism, which in the midst of a disintegrating public sphere wanted to salvage the communication of an inner circle of representatives capable of constituting a public and of forming an opinion, that is, a critically debating public in the midst of one that merely supplies acclamation: "it is obvious that out of the chaos of moods, confused opinions, and popularizing views of the sort spread by the mass media, a public opinion is much more difficult to form than out of the rational controversy between the different great currents of opinion that struggled against one another within society. To this extent it must be conceded that it is harder than ever for public opinion to prevail."<sup>5</sup> Hennis, of course, announces this state of affairs only for the sake of demonstrating the urgency of special arrangements intended to procure authority and obedience for "the view adopted by the relatively best informed, most intelligent, and most moral citizens"<sup>6</sup>, as the public in contradistinction to the common opinion. The element of publicity that guarantees rationality is to be salvaged at the expense of its other element, that is, the universality guaranteeing general accessibility. In this process, the qualifications that private people once could attain within the sphere of commerce and social labor as social criteria of membership in the public become autonomous hierarchical qualities of representation, for the old basis can no longer be counted on. Sociologically, a representativeness of this kind can no longer be determined in a satisfactory fashion under the existing conditions.<sup>7</sup>

The other path leads to a concept of public opinion that leaves material criteria such as rationality and representativeness entirely out of consideration and confines itself to institutional criteria. Thus Fraenkel equates public opinion with the view that happens to prevail in the parliament and to be

authoritative for the government: "With the help of parliamentary discussion, public opinion makes its desires known to the government, and the government makes its policies known to public opinion"—public opinion reigns, but it does not govern. Leibholz contends that this way of counterposing government and parliament as the mouthpieces of public opinion is incorrect, claiming that the antagonistic political actors always are the parties in their roles as party-in-government and party-in-opposition. The will of the parties is identical with that of the active citizenry, so that the party happening to hold the majority represents the public opinion: "Just as in a plebiscitary democracy the will of the enfranchised citizenry's majority is identified, in a functioning democratic state with a party system, with the collective will of the people on an issue, the will of the parties that happen to hold the majority in government and parliament is identified with the *volonté générale*."<sup>3</sup> Non-public opinion only attains existence as "public" when processed through the parties. Both versions take into account the fact that independently of the organizations by which the opinion of the people is mobilized and integrated, it scarcely plays a politically relevant role any longer in the process of opinion and consensus formation in a mass democracy. At the same time, however, this is the weakness of this theory; by replacing the public as the subject of public opinion with agencies in virtue of which alone it is still viewed as capable of political activity, this concept of public opinion becomes peculiarly non-descript. It is impossible to discern whether this "public opinion" has come about by way of public communication or through opinion management, whereby it must remain undecided again whether the latter refers merely to the enunciation of a mass preference incapable of articulating itself or to the reduction to the status of a plebiscitary echo of an opinion that, although quite capable of attaining enlightenment, has been forcibly integrated. As a fiction of constitutional law, public opinion is no longer identifiable in the actual behavior of the public itself; but even its attribution to certain political institutions (as long as this attribution abstracts from the level of the public's behavior altogether) does not remove its fictive character. Empirical social research therefore returns with pos-

itivist pathos to this level, in order to establish "public opinion" directly. Of course, it in turn abstracts from the institutional aspects and quickly accomplishes the social-psychological liquidation of the concept of public opinion as such.

Already a problem for liberalism by the middle of the century, 'public opinion' came fully into view as a problematic entity in the final quarter of the nineteenth century. Striking a note of liberal resignation, a treatise about "Nature and Value of Public Opinion" of 1879 put it in the following fashion:

So for the present the novelty of facts and the need for diversions has become so decisive that the people's opinion is as deprived of the support of a firm historical tradition ... as it is of that peculiarly energetic spadework in the intellectual laboratory of great men who placed their faith in principles and sacrificed everything to them. What a century ago was, according to the belief of contemporaries, a social principle that placed an obligation upon each individual (namely, public opinion), in the course of time has become a slogan by which the complacent and intellectually lazy mass is supplied with a pretext for avoiding the labor of thinking for themselves.<sup>10</sup>

A half-century earlier Schaffle had characterized public opinion as a "formless reaction on the part of the masses" and defined it as "expression of the views, value judgments, or preferences of the general or of any special public."<sup>11</sup> The normative spell cast by constitutional theory over the concept was therewith broken—public opinion became an object of social-psychological research. Tarde was the first to analyze it in depth as "mass opinion";<sup>12</sup> separated from the functional complex of political institutions, it is immediately stripped of its character as "public" opinion. It is considered a product of a communication process among masses that is neither bound by the principles of public discussion nor concerned with political domination.

When, under the impression of an actually functioning popular government, political theoreticians like Dicey in England and Bryce in the United States<sup>13</sup> nevertheless retained this functional context in their concepts of public opinion (which, to be sure, already show the traces of social-psychological reflection), they exposed themselves to the accusation of empirical unreliability. The prototype of this kind of objection is



A. C. Bentley's early critique. He misses "a quantitative analysis of public opinion in terms of the different elements of the population," which is to say, "an investigation of the exact things really wanted under the cover of the opinion by each group of the people, with time and place and circumstances all taken up into the center of the statement." Hence Bentley's thesis: "There is no public opinion . . . nor activity reflecting or representing the activity of a group or set of groups."<sup>14</sup>

Public opinion became the label of a social-psychological analysis of group processes, defining its object as follows: "Public opinion refers to people's attitudes on an issue when they are members of the same social group."<sup>15</sup> This definition betrays in all clarity what aspects had to be positivistically excluded from the historic concept of public opinion by decades, of theoretical development and, above all, of empirical methodological progress. To begin with, "public," as the subject of public opinion, was equated with "mass," then with "group," as the social-psychological substratum of a process of communication and interaction among two or more individuals. "Group" abstracts from the multitude of social and historical conditions, as well as from the institutional means, and certainly from the web of social functions that at one time determined the specific joining of ranks on the part of private people to form a critical debating public in the political realm. "Opinion" itself is conceived no less abstractly. At first it is still identified with "expression on a controversial topic,"<sup>16</sup> later with "expression of an attitude," then with "attitude" itself.<sup>17</sup> In the end an opinion no longer even needs to be capable of verbalization; it embraces not only any habit that finds expression in some kind of notion—the kind of opinion shaped by religion, custom, mores, and simple "prejudice" against which public opinion was called in as a critical standard in the eighteenth century—but simply all modes of behavior. The only thing that makes such opinion a public one is its connection with group processes. The attempt to define public opinion as a "collection of individual opinions" is soon corrected by the analysis of group relations: "We need concepts of what is both fundamental or deep and also common to a group."<sup>20</sup> A group opinion is considered "public" when subjectively it has come to

prevail as the dominant one. The individual group member has a (possibly erroneous) notion concerning the importance of his opinion and conduct, that is to say, concerning how many and which ones of the other members share or reject the custom or view he embraces.<sup>21</sup>

In the meantime Lazarsfeld has pointedly insisted that the price to be paid for the social-psychological concept of public opinion is too high if it is held at the expense of eliminating all essential sociological and politological elements. Using several examples he confronts the social-psychological version with the concept as it derives from traditional political theory<sup>22</sup> but then, unfortunately, does no more than state the desirability of a "classical-empirical synthesis."<sup>23</sup> Nevertheless, the expansion of the field of investigation beyond group dynamics to institutions of public opinion, that is, to the relationship between the mass media and opinion processes, is a first step in this direction. A typical example of the extent to which even these investigations of communication structures are better able to deal with psychological relationships than with institutional conditions is provided by the theorem (which as such is interesting) concerning the two-step flow of communication.<sup>24</sup> A more significant step toward the desired synthesis between the classical concept of public opinion and its social-psychological surrogate occurs only through the recollection of the suppressed relationship to the agencies of political domination. "Public opinion is the corollary of domination . . . something that has political existence only in certain relationships between regime and people."<sup>25</sup>

Yet just as the concept of public opinion oriented to the institutions of the exercise of political power does not reach into the dimension of informal communication processes, a concept of public opinion social-psychologically reduced to group relations does not link up again with that very dimension in which the category once developed its strategic function and in which it survives today, leading the life of a recluse not quite taken seriously by sociologists: precisely as a fiction of constitutional law.<sup>26</sup> Once the subject of public opinion is reduced to an entity neutral to the difference between public and private spheres, namely, the group—thus documenting a structural

transformation, albeit not providing its concept—and once public opinion itself is dissolved into a group relationship neutral to the difference between reasonable communication and irrational conformity, the articulation of the relationship between group opinions and public authority is left to be accomplished within the framework of an auxiliary science of public administration. Thus Schmidtchen's approach leads to the following definition: "Accordingly, all those behaviors of population groups would be designated as public opinion that are apt to modify or preserve the structures, practices, and goals of the system of domination."<sup>27</sup> The intention of a political public sphere (to which the mandate of democratic publicity on the part of a social-welfare state refers after all) is so completely ignored by such a concept that if it were applied in empirical research, not even the nonexistence of this sphere would be demonstrated. For it characterizes public opinion as something that, friction-like, might offer resistance to governmental and administrative practice and that in line with the results and recommendations of opinion research can be diagnosed and manipulated by appropriate means. For these results and recommendations "enable the government and its organs to take action with regard to a reality constituted by the reaction of those who are especially affected by a given policy. Opinion research has the task of providing the committees and institutions in charge ... of aligning the behavior of the population with political goals"<sup>28</sup> with a feedback of reliable soundings of this reality. The author does not fail to produce evidence for his assertion.<sup>29</sup> Public opinion is defined from the outset in reference to the kind of manipulation through which the politically dominant must ever strive "to bring a population's dispositions into harmony with political doctrine and structure, with the type and the results of the ongoing decision process."<sup>30</sup> Public opinion remains the object of domination even when it forces the latter to make concessions or to reorient itself. It is not bound to rules of public discussion or forms of verbalization in general, nor need it be concerned with political problems or even be addressed to political authorities.<sup>31</sup> A relationship to domination accrues to it, so to speak, behind its back. The "private" desires for cars and refrigerators fall under

the category of "public opinion" just as much as the behaviors of any given group, if only they are relevant to the governmental and administrative functions of a social-welfare state.<sup>32</sup>

## **25 A Sociological Attempt at Clarification**

The material for opinion research—all sorts of opinions held by all sorts of population groups—is not already constituted as public opinion simply by becoming the object of politically relevant considerations, decisions, and measures. The feedback of group opinions, defined in terms of the categories employed in research on governmental and administrative processes or on political consensus formation (influenced by the display of staged or manipulative publicity), cannot close the gap between public opinion as a fiction of constitutional law and the social-psychological decomposition of its concept. A concept of public opinion that is historically meaningful, that normatively meets the requirements of the constitution of a social-welfare state, and that is theoretically clear and empirically identifiable can be grounded only in the structural transformation of the public sphere itself and in the dimension of its development. The conflict between the two forms of publicity which today characterizes the political public sphere has to be taken seriously as the gauge of a process of democratization within an industrial society constituted as a social-welfare state.<sup>35</sup> Nonpublic opinions are at work in great numbers, and "the" public opinion is indeed a fiction. Nevertheless, in a comparative sense the concept of public opinion is to be retained because the constitutional reality of the social-welfare state must be conceived as a process in the course of which a public sphere that functions effectively in the political realm is realized, that is to say, as a process in which the exercise of social power and political domination is effectively subjected to the mandate of democratic publicity. The criteria by which opinions may be empirically gauged as to their degree of publicness are therefore to be developed in reference to this dimension of the evolution of state and society; indeed, such an empirical specification of public opinion in a comparative sense is today the most reliable means for attaining valid and comparable statements about the

extent of democratic integration characterizing a specific constitutional reality.

Within this model, two politically relevant areas of communication can be contrasted with each other: the system of informal, personal, nonpublic opinions on the one hand, and on the other that of formal, institutionally authorized opinions. Informal opinions differ in the degree of their obligatoriness. The lowest level of this area of communication is represented by the verbalization of things culturally taken for granted and not discussed, the highly resistant results of that process of acculturation that is normally not controlled by one's own reflection—for example, attitudes toward the death penalty or sexual morality. On the second level the rarely discussed basic experiences of one's own biography are verbalized, those refractory results of socialization shocks that have again become subreflective—for example, attitudes toward war and peace or certain desires for security. On the third level one finds the often discussed things generated as self-evident by the culture industry, the ephemeral results of the relentless publicist tirade and propagandist manipulation by the media to which consumers are exposed, especially during their leisure time.<sup>5</sup>

In relation to those matters taken for granted in a culture (which as a kind of historical sediment can be considered a type of primordial "opinion" or "prejudice" that probably has scarcely undergone any change in its social-psychological structure), the matters whose taken-for-granted status is generated by the culture industry have both a more evanescent and more artificial character. These opinions are shaped within the medium of a group-specific "exchange of tastes and preferences." Generally, the focus for this stratum of other-directed opinions is the family, the peer group, and acquaintances at work and in the neighborhood—each with its specific structures of information channeling and opinion leadership ensuring the binding nature of group opinions.<sup>35</sup> To be sure, matters that are taken for granted in a culture also become topical in the exchanges of opinion of such groups, but they are of a different sort from the ideas sustained by conviction, which in anticipation of their inconsequentiality circulate, so to speak, until recalled. Like those "opinions," they too constitute systems of

norms demanding adaptation, but they do so more in the manner of a social control through "fashions" whose shifting rules require only a temporary loyalty. Just as those things that are taken for granted in a culture because of deep-seated traditions may be called subliterate, so those generated by the culture industry have reached a post-literary stage, as it were. The contents of opinion managed by the culture industry thematize the wide field of intrapsychic and interpersonal relationships first opened up psychologically by the subjectivity which during the eighteenth century, within the framework of an intact bourgeois domain of interiority, required a public and could express itself through literature. At that time the private spheres of life were still protected in their explicit orientation to a public sphere, since the public use of reason remained tied to literature as its medium. In contrast, the integration culture delivers the canned goods of degenerate, psychologically oriented literature as a public service for private consumption—and something to be commented on within the group's exchange of opinions. Such a group is as little a "public" as were those formations of pre-bourgeois society in which the ancient opinions were formed, secure in their tradition, and circulated unpolemically with the effect of "laws of opinion." It is no accident that group research and opinion research have developed simultaneously. The type of opinion that emerges from such intragroup relations—picked up ready-made, flexibly reproduced, barely internalized, and not evoking much commitment—this "mere" opinion, a component of what is only "small talk" anyway, is per se ripe for research. The group's communication processes are under the influence of the mass media either directly or, more frequently, mediated through opinion leaders. Among the latter are often to be found those persons who have reflected opinions formed through literary and rational controversy. However, as long as such opinions remain outside the communication network of an intact public, they too are part of the nonpublic opinions, although they clearly differ from the three other categories.

Over and against the communicative domain of nonpublic opinion stands the sphere of circulation of quasi-public opinion. These formal opinions can be traced back to specific in-

stitutions; they are officially or semiofficially authorized as announcements, proclamations, declarations, and speeches. Here we are primarily dealing with opinions that circulate in a relatively narrow circle—skipping the mass of the population—between the large political press and, generally, those publicist organs that cultivate rational debate and the advising, influencing, and deciding bodies with political or politically relevant jurisdictions (cabinet, government commissions, administrative bodies, parliamentary committees, party leadership, interest group committees, corporate bureaucracies, and union secretariats). Although these quasi-official opinions can be addressed to a wide public, they do not fulfill the requirements of a public process of rational-critical debate according to the liberal model. As institutionally authorized opinions, they are always privileged and achieve no mutual correspondence with the nonorganized mass of the "public."

Between the two spheres, naturally, exists a linkage, always through the channels of the mass media; it is established through that publicity, displayed for show or manipulation, with the help of which the groups participating in the exercise and balancing of power strive to create a plebiscitary followermentality on the part of a mediated public. We also count this vehicle of managed publicist influence among the formal opinions; but as "publicly manifested" they have to be distinguished from "quasi-public" opinions.

In addition to this massive contact between the formal and informal communicative domains, there also exists the rare relationship between publicist organs devoted to rational-critical debate and those few individuals who still seek to form their opinions through literature—a kind of opinion capable of becoming public, but actually nonpublic. The communicative network of a public made up of rationally debating private citizens has collapsed; the public opinion once emergent from it has partly decomposed into the informal opinions of private citizens without a public and partly become concentrated into formal opinions of publicistically effective institutions. Caught in the vortex of *publicity that is staged for show or manipulation* the public of nonorganized private people is laid claim to not

by public communication but by the communication of publicly manifested opinions.

An opinion that is public in the strict sense however can only be generated in the degree that the two domains of communication are mediated by a third, that of *critical publicity*. Today, of course, such a mediation is possible on a sociologically relevant scale only through the participation of private people in a process of formal communication conducted through intraorganizational public spheres. Indeed, a minority of private people already are members of the parties and special-interest associations under public law. To the extent that these organizations permit an internal public sphere not merely at the level of functionaries and managers but at all levels, there exists the possibility of a mutual correspondence between the political opinions of the private people and that kind of quasi-public opinion. This state of affairs may stand for a tendency that for the time being is on the whole insignificant; the extent and actual impact of this tendency need to be established empirically—that is, whether we are dealing in general with a growing or declining tendency. For a sociological theory of public opinion this tendency is nevertheless of decisive importance, for it provides the criteria for a dimension in which alone public opinion can be constituted under the conditions of a large democratic state committed to social rights.

In the same proportion as informal opinions are channeled into the circuit of quasi-public opinions, seized by it, and transformed, this circuit itself, in being expanded by the public of citizens, also gains in publicity. Since, of course, public opinion is by no means simply "there" as such, and since it is at best possible to isolate tendencies that under the given conditions work in the direction of generating a public opinion, it can be defined only comparatively. The degree to which an opinion is a public opinion is measured by the following standard: the degree to which it emerges from the intraorganizational public sphere constituted by the public of the organization's members and how much the intraorganizational public sphere communicates with an external one formed in the publicist interchange, via the mass media, between societal organizations and state institutions.



C. W. Mills, by contrasting "public" and "mass," obtained empirically usable criteria for a definition of public opinion: "In a *public*, as we may understand the term, (1) virtually as many people express opinions as receive them. (2) Public communications are so organized that there is a chance immediately and effectively to answer back any opinion expressed in public. Opinion formed by such discussion (3) readily finds an outlet in effective action, even against—if necessary—the prevailing system of authority. And (4) authoritative institutions do not penetrate the public, which is thus more or less autonomous in its operation."<sup>36</sup> Conversely, opinions cease to be public opinions in the proportion to which they are enmeshed in the communicative interchanges that characterize a "mass":<sup>5</sup>

In a *mass*, (1) far fewer people express opinions than receive them. for the community of publics becomes an abstract collection of individuals who receive impressions from the mass media. (2) The communications that prevail are so organized that it is difficult: or impossible for the individual to answer back immediately or with an effect. (3) The realization of opinion in action is controlled by authorities who organize and control the channels of such action. (4) The mass has no autonomy from institutions; on the contrary, agencies of authorized institutions penetrate this mass, reducing any autonomy it may have in the formation of opinion by discussion.<sup>37</sup>

These abstract determinations of an opinion process that takes place under the conditions of a collapse of the public sphere can be easily fitted into the framework of our historical and developmental model.<sup>39</sup> The four criteria of *mass* communication are fulfilled to the extent that the informal domain of communication is linked to the formal merely through the channels of a publicity staged for the purpose of manipulation or show; via the "culture industry's unquestioning promulgations," the nonpublic opinions are then integrated through the "publicly manifested" ones into an existing system; in relation to this system the nonpublic opinions are without any autonomy. In contrast to this, under conditions of the large democratic social-welfare state the communicative interconnectedness of a *public* can be brought about only in this way through a critical publicity brought to life within intraorganizational public spheres, the completely short-circuited circula-

tion of quasi-public opinion must be linked to the informal domain of the hitherto nonpublic opinions.

In like measure the forms of consensus and conflict that today determine the exercise and equilibration of power would also be altered. A method of public controversy which came to prevail in that manner could both ease the forcible forms of a consensus generated through pressure and temper the forcible forms of conflicts hitherto kept from the public sphere. Conflict and consensus (like domination itself and like the coercive power whose degree of stability they indicate analytically) are not categories that remain untouched by the historical development of society. In the case of the structural transformation of the bourgeois public sphere, we can study the extent to which, and manner in which, the latter's ability to assume its proper function determines whether the exercise of domination and power persists as a negative constant, as it were, of history—or whether as a historical category itself, it is open to substantive change.

# Notes

## Preface

1. Cf. W. Hennis, "Bemerkungen zur wissenschaftsgeschichtlichen Situation der politischen Wissenschaft," *Staat, Gesellschaft, Erziehung* 5:203ff.; *Htm. Politik und praktische Philosophie* (Neuwied, 1963); regarding the latter, see my essay, "The Classical Doctrine of Politics in Relation to Social Philosophy," *Theory and Practice*, trans. John Viertel (Boston, 1973), 41-81.

## 1 Introduction: Preliminary Demarcation of a Type of Bourgeois Public Sphere

1. See below, 23ff.

2. *Deutsches Wörterbuch der Brüder Grimm* (Leipzig, 1889), 7:1183, art. "Öffentlichkeit."

3. *Weigand's Deutsches Wörterbuch*, 5th ed. (Gießen, 1910), 2:232.

4. Most recently H. Arendt, *The Human Condition* (Chicago, 1958).

5. See J. Kirchner, *Beiträge zur Geschichte des Begriffs "öffentlich" und "öffentliches Recht"* Ph.D. diss. (Göttingen, 1919). 2. The *res publica* is public property that is universally accessible to the *populus*, i.e. the *res extra commercium*, which is exempted from the law that applies to the *privati* and their property; e.g., *fiumen publicum*, *via publica*, etc. *Ibid.*, 10ff.

6. Otto Brunner, *Land und Herrschaft* (Brünn, 1943), 386f.

7. Kirchner, *Beiträge zur Geschichte des Begriffs*, 22.

8. We leave aside the problem of late medieval town sovereignty. On the level of the "territory" we encounter the towns (which usually belonged to the prince's crown land) as an integral component of feudalism. In early capitalism, however, the free towns assumed a decisive role in the evolution of the bourgeois public sphere. See below, section 3. 25ff.

9. *The Oxford Dictionary* (1909), 7:2.

10. On the history of the concept of "representation," see the remarks in H. G. Gadamer, *Truth and Method* (New York, 1975), p.125, n. 53 (on 513-14): "The history of this word is very informative. The Romans used it, but in the light of the Christian idea of the incarnation and the mystical body it acquired a completely new meaning. Representation now no longer means 'copy' or 'representation in a picture' . . . but 'replacement.' The word can obviously have this meaning because what is represented is present in the copy. *Repraesentare* means 'to make present.' . . . The important thing about the legal idea of representation is that the *persona repraesentata* is only the person represented, and yet the representative, who is exercising the former's right, is dependent on him." See also the supplementary observation on p.514: "*Repraesentatio* in the sense of 'representation' on the stage—which in the middle ages can only mean in a religious play—can be found already in the thirteenth and fourteenth centuries. . . . this does not mean that *repraesentatio* signifies performance' but signifies, until the seventeenth century, the represented presence of the divine itself."

11. C. Schmitt, *Verfassungslehre*, 3rd ed. (Berlin, 1957), 208ff.; on the localization of this medieval concept of public life in the context of intellectual history, see A. Dempf, *Sacrum Imperium* (Darmstadt, 1954), esp. ch. 2, pp. 21ff., on the "Forms of Publicity."

12. Carl Schmitt observes that the rhetorical formula is as intimately connected to representative publicity as discussion is linked to the bourgeois version: "It is not speech in the form of discussion and argumentation but, if the expression be permitted, representative speech [that is] decisive. . . . Slipping neither into discourse, nor dictate, nor dialectic, it moves along in its architecture. Its grand diction is more than music: it is human dignity become visible in the rationality of speech as it assumes form. All this presupposes a hierarchy, for the spiritual resonance of grand rhetoric comes from faith in the representation to which the orator lays claim." *Römischer Katholizismus und politische Form* (München, 1925), 32f.

13. Arnold Hauser. *The Social History of AH* (New York, 1951) 1:209-10.

14. Schmitt, *Römischer Katholizismus und politische Form*, 26.

15. J. Huizinga, *The Waning of the Middle Ages* (Garden City, NY, 1952).

16. For a view that differs from Jacob Burckhardt's famous interpretation, see the exposition by O. Brunner, *Adeliges iMndleben* (Salzburg, 1949), 108ff.

17. On the plane of intellectual history Gadamer develops the connection between this early tradition of educational humanism and those formulae of *sensus communis* and of "taste" (a category in moral philosophy) whose sociological implications reveal the significance of courtly humanism for the formation of the "public sphere." With regard to Gracian's educational ideal, he comments: "It is remarkable within the history of Western ideals of *Bildung* for being independent of class. It is the ideal of a society based on *Bildung*. . . . Taste is not only the ideal created by a new society, but we see this ideal of 'good taste' producing what was subsequently called 'good society.' Its criteria are no longer birth and rank but simply the shared nature of its judgments or, rather, its capacity to rise above the narrowness of interests and private predilections to the title of judgment. The concept of taste undoubtedly includes a mode of knowing. It is through good taste that we are capable of standing back from ourselves and our private preferences. Thus taste, in its essential nature, is not private, but a social phenomenon of the first order. It can even counter the private inclinations of the individual like a court of law, in the name of a universality that it represents." Gadamer, *Truth and Method*, 34.

18. R. Alewyn, *Das grosse WeUhraler. Die Epoche der höfischen Frsu* (Hamburg, 19&9). K -

19. "On ail public occasions, victory celebrations, and peace treaties, illuminanc»r« nt-rl fireworks are merely the finale of a day that started at dawn with rounds o' aw » fire and the blowing of the (own pipers from every tower, a day on which v:lav f, the fountains of the city and entire oxen were publicly roasted on a spit, a d nj'tlii \* was given over, until late into the night, to the dancing and games and rnerr.meiv a crowd lhat had flocked together from far and wide. In the baroqueperiod tlvs no different than in ages past, and only the era of the bourgeoisie wrought j .j I change." Alewyn, *Das grosse Welttheater*, 43.

20. Ibid.

21. See P. Joachimsen, "Zur historischen Psychologie des deutschen Siaatsgedankensr' *Die Dioskuren. Jahrbuch für Criluxuiofnuckaftm*, vol. I (1921).

22. *Weigands Deutsches Wörterbuch*, 475.

23. *Deutsches Wörterbuch der Brüder Grimm*. 21371.

24. *The Oxford Dictionary*, 1 388f.

25. *Dictionnaire de la Langue Française* (1875), vol. 3, art. "privé."

26. In his contribution, "Der soziale Gehalt von Goethes Roman Wilhelm Mei;i\*r s Lehtjahre," *Erinnerungsgabe für Max Weber*, ed. Melchior Palyi (München und L-eipg;:, ISIS\*, 2:279ff., Werner Witiich has drawn attention to this letter from a sociolojjicil perspective. [Translator's note: For the passages from Goethe cited in the text I have-used Johann Wolfgang von Goethe, *Wilhelm Meisters Apprenticeship* (*Wilhelm Aleüirrs Lehrjahre*), trans. Thomas Carlyle (Boston, 1901), vol. 2. bk. 5, ch. 3, pp.13-15.)

27. W. Sombart, *Der Moderne Kapitalismus*, 3rd ed. (München und Leipzig. 1913 ). «i'ï. bk. 1, p.33.

28. M. Dobb, *Studies in the DiuelupmetU of Capitalism* (London, 1954), I 60f.: "Atairy rate, it is clear that a mature development of merchant and financial capilal is nwof itselfa guarantee that capitalist production will develop under its wirçç."

29. Ibid., 83ff.

30. H. Sée, *Modern Capitalism: Its Origin and Evolution* (New York, 1 968)-

31. In Germany especially Strassburg, Nuremberg, Augsburg, Frankfurt, C\* Jo lvr< Hamburg, Lübeck, and Leipzig.

32. This occurred quite early on in Venice through the writers of news letters, *scnun-i d'avisi*!, in Rome they were called *gaiettani*, in Paris *nouvellistes*, in London *writei letters*, and in Germany *Zeitungen* or *Novellisten*. In the course of the sixteenth cenur-y they became suppliers of formal weekly reports, the newsletters, of which the so-called *Fvggeneitungen* were typical in Germany. (The approximately 40,000 reportifrotnilif years between 1565 and 1605, however, originated not only in such news offices bitt also among employees and business friends of the House of Fugger.)

33. W. Sombart, *Der Moderne Kapitalismus*, 2:369.

34. For a long lime ihereporls ofiheStrassburg printer and merchantjohann Carta s

were held to be the oldest newspaper; see, however, the investigation by Helmut Fischer, *Die ältesten Zeitungen und ihre Verleger* (Augsburg, 1936).

35. The traditional form of authority included as one of its elements the right to represent and interpret whatever was held to be "the ancient truth." Communications concerning actual events remained anchored in this knowledge of the tradition. Anything novel appeared under the aspect of a more or less marvelous event. "New facts," if only they were sufficiently unusual, were transformed in the court of the "ancient truth" into something "extraordinary"—into signs and miracles. Facts were transfigured into ciphers. Since they could only be representations of knowledge vouched for by tradition, the novel and the surprising assumed an enigmatic structure. In this respect no distinction was made between events in the world or nature and in human history; natural catastrophes and historical incidents were considered equally suitable for miraculous stories. The fifteenth-century broadsheets and sixteenth-century single-sheet prints called *New Journali* still bore witness to the strength with which an unbroken traditional knowledge was able to assimilate communications whose rising stream, to be sure, already pointed to a new form of public sphere. Such sheets indiscriminately spread the news of religious wars, campaigns against the Turks, and Papal decrees as well as news of rains of blood and fire, freaks, locust plagues, earthquakes, thunderstorms, and heavenly phenomena; of Papal Bulls, electoral agreements, and discoveries of new continents as well as of baptisms of Jews, punishments by the devil, divine judgments, and resurrections of the dead. Often the *New Journals*, like the broadsheets before them, were written in the form of songs or dialogues, i.e., were meant to be declaimed or sung, alone or with others. In this process, the novelty moved out of the historical sphere of "news" and, as sign and miracle, was reintegrated into that sphere of representation in which a ritualized and ceremonialized participation of the people in the public sphere permitted a merely passive acceptance incapable of independent interpretation. Characteristically, even songs were published as *New Journals*, e.g., the so-called historical folk songs that at once transported the political events of the day into the sphere of the heroic epic. See E. Everth, *Die Öffentlichkeit in der Außenpolitik* (Jena, 1931), 114. In general, cf. Karl Bücher, "Die Grundlagen des Zeitungswesens," *Gesammelte Aufsätze zur Zeitungskunde* (Tübingen, 1926), 1ff. The content of some broadsheets has survived until today in the form of nursery rhymes.

36. G. Schmoller, *Umriss und Untersuchungen* (Leipzig, 1898), 37.

37. In the founding charter of 1553 the "Adventurers" called themselves a "mystery and Company of the Marchants Adventurers for the Discovery of regions, dominions, islands, and places unknown." Cf. Sie, *Modern Capitalism*, 55f.

38. See E. F. Heckscher, *Merkantilismus* (Jena, 1932), 1:108ff. [English version: *Mercantilism* (New York: Macmillan, 1935).]

39. In the areas where Roman Law was adopted, the fiction of the *fiscus* became the legal expression for a state household independent from the prince's person; at the same time it furnished subjects with the advantage of being able to raise private legal claims against the state.

40. "Greater export meant greater opportunity for the employment of labour in home manufacture; and increased employment of labour represented a widened scope for investments of capital in industry." Dobb, *Studies in The Development of Capitalism*, 218.

41. The classic expression were Colbert's regulations for the industrial techniques of textile manufacturing. But even in Great Britain regulations regarding raw materials, the manner of their processing, and the quality of the finished products existed until

the second half of the eighteenth century. See Heckscher, *Merkantilismus*, 1:118ff. and 201ff.

42. J. Schumpeter, *Die Krise des Steuerstaates* (Leipzig, 1918), 16.

43. H. Arendt, *The Human Condition*, 46: "Civil society," *Zivilgesellschaft, société civile*, in the eighteenth-century usage of the words, often still betray the older tradition of political theory, which does not yet differentiate "civil society" from the "state." On this, see M. Riedel, "Aristoteles-tradition am Ausgang des 18. Jahrhunderts," *Alteuropa und die moderne Gesellschaft Festschrift für Otto Brunner*, ed. Alexander Bergengruen and Ludwig Deike (Göllingen, 1963), 276ff.; Riedel, "Hegels Bürgerliche Gesellschaft und das Problem ihres Ursprungs," *ARS Bei* 48 (1962): 39ff. Much earlier the new sphere of the social received its apt apolitical conceptualization in modern natural law. See my essay referred to above in note 1 to the Preface

44. O. Brunner, *Adeliges Landleben*, 244ff.

45. See K. Kempters, *Die wirtschaftliche Berichterstattung in den sog. Fuggerungen* (München, 1936).

46. Hermann Bode, *Anfänge der wirtschaftlichen Berichterstattung* (Heidelberg, 1908), 25: "The newspaper was a secondary news organ compared to the Jener, which in the seventeenth century was quite generally considered the faster and more reliable news source." See also Heinrich Goitsch, *Entwicklung und Strukturwandlung des Wirtschaftsteils der deutschen Tageszeitung*. Ph. D. diss. (Frankfurt, 1939).

\* 47. O. Groth, *Die Zeitung* (Berlin-Leipzig, 1928), 1:580.

48. Cited after Groth, *Die Zeitung*, 1:585.

49. E. Everth, *Die Öffentlichkeit in der Außenpolitik*, 202.

50. Stanley Morrison, *The English Newspaper* (Cambridge, 1932).

51. W. Sombart, *Der Moderne Kapitalismus*, 2:406ff.; also K. Bücher *Gesammelte Aufsätze zur Zeitungskunde*, 87. As in the first intelligence sheets so too in eighteenth-century advertisers the advertisements still referred to the commodities and deadlines outside the usual business routines, to special offers, books, medicine, travel companionships, domestic servants, etc. Commercial advertising in the proper sense was rare: the local market for goods and services was still a matter of face-to-face contact.

52. Groth, *Die Zeitung*, 1:598.

53. R. Stadelmann and W. Fischer, *Die Bildungswelt des deutschen Handwerks* (Berlin, 1955), 40. Compare also Br. Kuske, "Der Einfluss des Staates auf die geschichtliche Entwicklung der sozialen Gruppen in Deutschland," *Kölner Zeitschrift für Soziologie und Sozialpsychologie* 2 (1949): 193ff

54. Percy Ernst Schramm, *Hamburg, Deutschland und die Welt* (München, 1943), 37, stresses this difference precisely in comparing the social development of Hamburg with that of the rest of the Reich: "The feature that constituted the authentic townsman (*Bürger*) is precisely what they (i.e., the bourgeois) lacked, namely, membership in a town community confirmed by an oath of citizenship. . . . These others, who were not 'citizens' but 'bourgeois,' served their masters, their church, and their employers or were 'free' as members of a liberal profession; but they had nothing more in common among themselves than that they belonged to the 'bourgeoisie'—which did not mean

a whole lot more than that this label distinguished them from nobility, peasantry, and the lower strata of the town. For the use of this expression did not even require that one had made the town one's home; the pastor in his country parish, the engineer in his mining district, and the petty official in the prince's palace also belonged to the 'bourgeoisie.' They too were counted among the educated bourgeoisie, in the wider sense, which was strictly distinguished from the people, *It peuple*."

55. See below, sect. 5, pp. 31 ff.

56. Heckscher, *Merkantilismus*, 1:258; also on this W. Treue, "Das Verhältnis von Fürst, Staat, Unternehmer in der Zeit des Merkantilismus," *Vierteljahreshefte für Sozial- und Wirtschaftsgeschichte* 44 (1957): 26ff.

57. Sombart, *Der Moderne Kapitalismus*, 1:365.

58. Cited after Groth. *Die Zeitung*, 1:623.

59. Cited after W. Schöne, *Leistungswesen und Statistik* (Jena, 1924), 77.

60. *Wörterbuch der hochdeutschen Mundart* (Wien, 1808), pt. 3, p.856.

## II Social Structures of the Public Sphere

1. Kant used "reasoning" (*räsonieren*) and "use of rational argument" (*Ktuonnement*) naively in the Enlightenment sense. He still stood, as it were, on this side of the barricades; Hegel crossed them. Reasoning thought (*das räsonierende Denken*), as mere use of the understanding (*Verstandesbetrachtung*), did not penetrate to the concrete universality of the concept; Hegel, faithful to the Platonic tradition, found its most exemplary development in the Sophists. Concerning their use of rational argumentation he stated "that it makes duly, that which has to be done, not come from the notion of the thing as determined in and for itself; for it brings forward external reasons through which right and wrong, utility and harmfulness, are distinguished." *Hegel's Lectures on The History of Philosophy*, trans. E. S. Haldane and Frances H. Simson (New York: Humanities Press, 1974), 1:366-67. Hegel downgraded the use of rational arguments, especially their public use, in order to justify political authority (with which the reasoning public, of course, was involved in a polemical way) as an element on a higher level. The conception of the monarch is therefore of all conceptions the hardest for ratiocination, i.e., for the method of reflection employed by the Understanding. This method refuses to move beyond isolated categories. ... *Hegel's Philosophy of Right*, trans. T. M. Knox (Oxford, 1964), 182.

2. Such status contracts, usually concluded on the occasion of a knight's rendering homage to his Lord's successor, are naturally not to be compared with contracts in the sense of modern private law; see Brunner, *Land und Heirschaft*, 484ff.

3. See W. Naef, "Frühformen des modernen Staates im Spätmittelalter," *Historische Zeitschrift* 171 (1951): 225fr.

4. E. Auerbach finds the word, in the sense of a theater audience, documented as early as 1629; until then, the use of "public" as a noun referred exclusively to the state or to the public welfare. See *Das französische Publikum des 17. Jahrhunderts* (München, 1933), 5.

5. At that time it still referred to the state room, in the sense of the Italian Renaissance, and not to the cabinet, the circle, the reduite, etc.



6. A. Hauser, *The Social History of Art*, 2:505-6.

7. Unlike Paris, London was never directly subject to the king. The city, which administered itself by means of elected councillors and maintained public order through its own militia, was less accessible to the court's and Parliament's administration of justice than any other town in the country. Around the turn of the eighteenth Century us approximately 12,000 taxpayers, almost all of whom were members of the 89 guilds and companies, elected 26 councillors and 200 council members—a broad, almost "democratic" base without equal during this period. Nevertheless, after the Glorious Revolution a shift occurred in the relationship between court and town that was comparable, say, to the development under the regency.

8. G. M. Trevelyan, *English Social History: A Survey of Six Centuries from Chaucer to Elizabeth Victoria* (London, 1944), 338.

9. L. Stephen, *English Literature and Society in the 18th Century* (London, 1903; JUDSI recently, 1947), 47. See also H. Reinhold, "Zur Sozialgeschichte der Kaffees und des Kaffeehauses," *Kölner Zeitschrift für Soziologie und Sozialpsychologie* 10 (1959): 151-111. (review of a group of works).

10. H. Westerfrölke, *Englische Kaffeehäuser ab Sammelpunkte der literarischen Welt* (Jena 1924), 24f.

11. As early as 1674 there appeared a pamphlet. "The Women's Petition against Coffee, representing to Public Consideration of the Grand Inconveniences according to their Sex from the Excessive use of that Drying, Enfeebling Liquor."

12. Trevelyan, *English Social History*, 324, footnote.

13. See "The Clubs of London," *National Review* 4, no. 8 (April 1857): 3C1 "Every profession, trade, class, party, had its favourite coffee-house. The lawyers discussed law or literature, criticised the last new play, or retailed the freshest Westminster-Hall 'bite' at Nando's or the Grecian, both close on the purlieu of the Temple... . But they met to discuss the rise and fall of stocks, and to settle the rate of insurances at Garraway's or Jonathan's: the parsons exchanged university gossip, or commented on Dr. Sacheverell's last sermon at Truby's or at Child's in St. Paul's Churchyard; like soldiers mustered to grumble over their grievances at Old or Young Man's, near Charing Cross; the St. James's and the Smyrna were the head-quarters of the Whig politicians, while the Tories frequented the Cocoa-Tree or Ozinda's, all in St. James Street; Scotchmen had their house of call at Forrest's, Frenchmen at Giles's or at Slaughter's in St. Martin's Lane; the gamblers shook their elbows in White's, and the Chocolate-houses, round Covent Garden; the *virtuosi* honoured the neighbourhood! Gresham College; and the leading wits gathered at Will's, Button's, or Toin's, in Great Russell Street, where after the theatre, was playing at piquet and the best of conversation till midnight."

14. Hauser, *The Social History of Art*. 2:506-7.

15. "Nos écrits n'opèrent que sur une certaine classe de citoyens, nos discours "toutes" (Our writings have an impact only on a certain class of citizens, our speech "to all").

16. E. Mannheim, *Die Träger der öffentlichen Meinung* (Wien, 1923), 83.

17. Language is considered "the organ of a transcendental communal spirit" and "the

medium of a public consensus"; see Manheim, *Die Träger der öffentlichen Meinung*, 88 and 92.

18. Lessing, Ernst, and Falk, *Gespräche für Freimaurer* (1778). On the entire complex, see E. Lennhoff and O. Posner, *Internationales Freimaurerlexikon* (Zürich-Leipzig-Wien, 1932); also B. Fay, *La Franc-maçonnerie et la révolution intellectuelle du XVIII<sup>e</sup> siècle* (Paris, 1935).

19. Manheim, *Die Träger der öffentlichen Meinung*, 11.

20. H. Plessner, admittedly in a different context, defines the public sphere as the "sphere in which tact rules." Diplomatic relations arise between role bearers, relationships of tact between natural persons; see his *Grenzen der Gemeinschaft* (Bonn, 1924), esp. 100.

21. R. Williams, *Culture and Society 1870-1950* (London, 1958), xv. xvi: "An art had formerly been any human skill [art in the sense of artfulness, ability. J.H.]; but *Art*, now, signified a particular group of skills, the 'imaginative' or 'creative' arts... From ... a 'skill,' it had come ... to be a kind of institution, a set body of activities of a certain kind." To this corresponded the change in the meaning of "culture": "... it had meant, primarily, the 'tending of natural growth' [culture in the sense of the cultivation of plants. J.H.], and then, by analogy, a process of human training [e.g., a 'man of culture.' J.H.] But this latter use, which had usually been a culture of something, was changed ... to culture as such, a thing in itself." Also R. Wittam, *Das Interesse an der Geschichte* (Göttingen, 1958), 40ff., who offers several observations on the history of the concept of culture.

22. See R. D. Altick, *The English Common Reader: A Social History of the Mass Reading Public* (Chicago, 1957), especially the first chapter, the results of which are summarised on p. 30. "It, speculating from such little information as we have, we tried to chart the growth of the reading public in the first three centuries after Caxton, the line would climb slowly for the first hundred years. During the Elizabethan period its rate of ascent would considerably quicken. The line would reach a peak during the Civil War and Commonwealth, when interest in reading was powerfully stimulated by public excitements. But during the Restoration it would drop, because of the lessening of popular turmoil, the damage the war had done to the educational system, and the aristocratic domination of current literature in the age of Dryden. A fresh ascent would begin in the early eighteenth century, the time of Addison and Steele, and thereafter the line would climb steadily."

23. I. Watt, "The Reading Public." *The Rise of the Novel* (London, 1957).

24. A. Hauser, *The Social History of Art*, 2:548: "The patron's place is taken by the publisher; public subscription, which has very aptly been called collective patronage, is the bridge between the two. Patronage is the purely aristocratic form of the relationship between author and public; the system of public subscription loosens the bond, but still maintains certain features of the personal character of the relationship; the publication of books for a general public, completely unknown to the author, is the first form of the relationship to correspond to the structure of a middle-class society based on the anonymous circulation of goods."

25. Parfait even reports a playwright who proudly measured the success of his piece by the fact that four ushers were killed at the premiere. See Auerbach, *Das französische Publikum*, 13.

26. Trevelyan, *English Social History*, 260.

27. Cited after Groth, *Die Zeitung*, 1:620.

28. Hauser, *The Social History of Art*, 2:574f. See also L. Balet, *Die Verbürgerlichung der deutschen Kunst, Literatur und Musik im 18. Jahrhundert* (Leyden, 1938), 30: "Regular public concerts had been performed in Frankfurt since 1723, in Hamburg since 1724, in Strassburg since 1730, and in Lübeck since 1733. In Leipzig the *Grosse Konzerte* were founded in 1743 by some enterprising merchants. Later on these were expanded into the famous *Cewandhnuskonierie* still in existence today."

29. They took place, under open skies in the courtyard of the Royal Palace, on the occasion of the Academy's annual meeting; in 1699 the first *salon* moved to the Louvre. After 1704, however, these exhibitions entirely ceased for a generation.

30. La Font, *Reflexions sur quelques causes de l'état présent de la peinture*, cited after A. Dresdner, *Die Entstehung der Kunstkritik im Zusammenhange des europäischen Kunstlebens* (München, 1915), 161.

31. Especially epoch-making were the critiques of the *salons* of 1765 and 1767; however, all of them were published only after the revolution.

32. In principle anyone was called upon and had the right to make a free judgment as long as he participated in public discussion, bought a book, acquired a seat in a concert or theater, or visited an art exhibition. But in the conflict of judgments he was not to shut his ears to convincing arguments; instead, he had to rid himself of his "prejudices." With the removal of the barrier that representative publicity had erected between laymen and initiates, special qualifications—whether inherited or acquired,

\* social or intellectual—became in principle irrelevant. But since the true judgment was supposed to be discovered only through discussion, truth appeared as a process, a process of enlightenment. Some sectors of the public might be more advanced in this process than others. Hence, if the public acknowledged no one as privileged, it did recognize experts. They were permitted and supposed to educate the public, but only inasmuch as they convinced through arguments and could not themselves be corrected by better arguments.

33. As soon as the press assumed critical functions, the writing of news letters developed into literary journalism. The early journals, called *Monthly Conversations*, *Monthly Discussions*, etc., had this journalism's origin in convivial critical discussion written all over them. Their proliferation may be observed in exemplary fashion in Germany. The beginning was made with the *Gelehrte Anzeigen* which, developing out of the Thomasian journals, through articles and reviews submitted philosophy and the sciences to public discussion. After 1736 the well-known *Frankfurtische Gelehrte Zeitungen* too concerned themselves with the "fine arts and sciences." Following upon Gottsched's efforts, the journals devoted to literary criticism reached their point of fullest development with the *Bibliothek der schönen Wissenschaften und der freyen Künste*, founded in Berlin in 1757 by Nicolai. Beginning with Lessing's and Mylius's *Beiträge zur Historie und Aufnahme des Theaters* in 1751 a journalistic theater criticism arose. Journals for music criticism were also founded, although less frequently than those dealing with the stage, once Adam Hiller in Leipzig had created the model with his *Wöchentliche Nachrichten und Anmerkungen die Musik betreffend* in 1767.

34. Dresdner, *Die Entstehung der Kunstkritik*, 17.

35. L. Stephen, *English Literature and Society*, 76: "The periodical essay represents the most successful innovation of the day ... because it represents the mode by which the most cultivated writer could be brought into effective relation with the genuine interests of the largest audience."

36. The *Taller* expressly addressed the "worthy citizens who live more in a coffeehouse than in their shops." *Tatler*, 17 May 1709.

37. The *Taller* immediately reached an edition of 4,000. How strong the interest was is demonstrated by the universal regret expressed when the *Taller* suddenly ceased publication in 1711. For details, see Westerfrüfke, *Englische Kaffeehäuser*, 64.

38. From then on the submitted letters were published weekly as the "Roaring of the Lion,"

39. The British models remained valid for three generations of moral weeklies on the continent, too. In Germany *Der Vernünftler* was published in 1713 in Hamburg. Later on the *Hamburger Patriot* was much more successful, lasting from 1724 until 1726. In the course of the entire century the number of these journals grew to 187 in Germany; during the same period in Great Britain the number is reported to have been 227; in France, 31.

40. Trevelyan, *English Social History*, 246.

41. W. H. Riehl, *Die Familie*, 10th ed. (Stuttgart, 1889), 174 and 179.

42. *Ibid.*, 187; "In the old style house, the architectural symbol of the individual's relation to the family was the oriel. In the oriel, which essentially was part of the family room or living hall, the individual had indeed his corner for work, play, and sulking; he could withdraw there, but he could not close himself off since the oriel was open to the room."

43. *Ibid.*, 185.

44. See Hans Paul Bahrdt, *Öffentlichkeit und Privatheit als Grundformen städtischer Sozialierung* (Manuscript, 1956). 32: "The interiorization and cultivation of family life; a culture of life in the home that involves the conscious shaping of the most intimate material environment; private possession of the means of education, and their common use by the smallest social group; intellectual exchange as the normal and integrative form of life with one's kin, a religious life within the circle of the family, relatively independent of the Church; individual eroticism; and freedom of choice of marriage partner, which in its final stage of development grants legitimate veto power not even to the parents—all these are typical phenomena of the expansion of the private sphere and, at the same time, of bourgeois culture and mores." Meanwhile published in expanded form in H. P. Bahrdt, *Die moderne Grossstadt* (Hamburg, 1961), 36ff.

45. See especially Erich Fromm in Max Horkheimer, *Autorität und Familie* (Paris, 1936), 77ff.

46. See my gloss "Heiratsmarkt" in the journal *Merkur* (November 1956).

47. The sociological roots of the humanism of the Renaissance differed from those of the Anglo-French humanism of the Enlightenment and of the neohumanism of the German classic period with which we are dealing here.

48. See M. Horkheimer, *Autorität und Familie*, 64; "The reification of the human being in the economy as the mere function of an economic variable is, of course, also continued in the family to the extent that the father becomes the breadwinner, the woman a sex object or domestic slave, and the children one's heirs or living insurance from whom one expects a later return, with interest, for the pains one has taken. Nonetheless, since relations inside the family are not mediated by the market and

individuals do not oppose one another to be competitors, human beings have always also had the opportunity for acting not merely as determined by a function but as human beings. Whereas in bourgeois life the communal interest has an essentially negative character, concerning itself only with the defense against danger, it assumes a positive character in sexual love and, above all, in maternal care. Within this unity . . . the development and happiness of the other is desired. To this extent, the bourgeois family leads not only to bourgeois authority but to a premonition of a better human condition."

49. G. Steinhausen, *Geschichte des deutschen Brieves* (Berlin, 1889), esp. 245ff.

50. *Ibid.*, 288.

51. In Germany, in any event, Pietism had prepared the way for these feelings of secularized sentimentality.

52. See Hauser, *The Social History of Art*, 2:565-66; on the role of (the narrator, see U. Kayser, *Entstehung und Krise des modernen Romans* (Göttingen, 1954).

53. G. D. Leavis, *Fiction and the Reading Public* (London, 1932), 130; also Altick, *The English Common Reader*, 30ff.

54. On the classical concept of *soaetas civilis*, see M. Riedel, "Aristoteles tradiiion inn Ausgang des 18. /ahrhundrrts," *Festschrift für Otto Brunner*, 278ff.

55. C. Schmitt, *Die Diktatur* (München-Leipzig, 1928), 14ff.

56. Concerning the eighteenth-century's rigorous notion of law, see E. Lask, *Juristische Rechtsphilosophie* (1902); most recently, from a legal perspective, E. W. Böckenfordt, *Gesetzgebende Gewalt* (Berlin, 1958), 20ff.

57. J. Locke, *Two Treatises of Civil Government* (London, 1953), 182.

58. *Ibid.*, 191.

59. Baron de Montesquieu, *The Spirit of the Laws*, trans. Thomas Nugent (New York and London, 1949), bk. I, ch.1, p.1.

60. *Ibid.*, bk. I, ch.17, p.169.

61. See below, sect. 12.

62. On the "natural system of the seventeenth-century *Geisteswissenschaften*" see the well-known investigation by Wilhelm Dilthey, *Gesammelte Schriften*, 5th ed. (Döttingen 1957), vol. 2; F. Borkenau clarifies the social-philosophic meaning and sociology of context of the rationalist concept of "nature" in *Der Übergang vom feudalen zum bürgerlichen Weltbild* (Paris, 1934).

### III Political Functions of the Public Sphere

1. Most of the seats in parliament were "attached" to landed estates; see K. Kluxtn, *Das Problem der politischen Opposition* (München, 1956), 71.

2. E. H. Carr, *Studies in the Development of Capitalism*, 193.

3. As we know, the specific form of modern capitalism became dominant only in the measure that finance and merchant capital first subjugated the old mode of production in town (petty commodity production) and country (feudal agrarian production) and transformed it into a production on the basis of wage labor. Capitalist forms of commodity exchange (finance and merchant capitalism) seemed to be able to get *established firmly* only where labor power was also exchanged as a commodity, which is to say, where production took place on a capitalist basis.

4. For the first time the King appointed a cabinet composed entirely of Whigs (1695-1698). The period from the accession to the throne of William III to that of the Hanoverian dynasty was a transitional period in which the Crown selected its ministers partly in accord with its own free judgment, partly according to the mood in the House of Commons. See W. Hasbach, *Die parlamentarische Kabinettsregierung* (Stuttgart-Berlin, 1919). 45ff.

5. Cited after C. S. Emden, *The People and the Constitution* (Oxford, 1956), 33. Similar proclamations were issued in 1674 and 1675. Hans Speier's "The Historical Development of Public Opinion," *Social Order and the Risks of War* (New York, 1952), 323ff. establishes the connection between the coffee houses and the beginnings of "public opinion."

6. It was replaced only in 1792 by Fox's liberal Libel Act.

7. The "tax on knowledge," as it has been called, existed until 1855. See L. Hanson, *Government and the Press (1695-1763)* (London, 1936), 11 f.

8. Under the pseudonym Cato, two Whigs wrote lead articles that, especially during the so-called Panama Scandal, indulged "in the loudest cries for justice." The newspaper stirred up attention when in August of 1721 it publicized and commented on the proceedings of the investigative commission instituted by Parliament: a first act of political journalism in the strict sense.

9. Kluxen, *Das Problem der politischen Opposition*, 187.

10. Most recently, see M. Schlenke, *England und das Fürstentum Preussen 1740-1763* (Freiburg-München, 1963).

11. W. Bauer, *Die Öffentliche Meinung in der Weltgeschichte* (Berlin-Leipzig, 1950), 227f.

12. In general, these parliamentary reports had, since 1641, constituted the first daily newspapers.

13. Hanson, *Government and the Press*, 81.

14. Which could be additionally based on the traditional rule of order concerning the "exclusion of strangers."

15. K. Löwenstein, "Zur Soziologie der parlamentarischen Repräsentation in England," *Erinnerungsgabe für Max Weber*, ed. M. Palyi, vol. 2, (München-Leipzig, 1923), 94.

16. Every male taxpaying householder had the right to vote there.

17. For details. See Löwenstein, "Zur Soziologie der parlamentarischen Repräsentation," 95ff.

18. Kluxen, *Das Problem der politischen Opposition*. 103ff.

19. In 1733 and 1734 on the issue of the Septennial Bill and in 1739 on the issue of the War with Spain.

20. See the balanced assessment in Emden, *The People and the Constitution*, 194–90.

21. *Parliamentary History* 29:974.

22. Emden, *The People and the Constitution*, 205.

23. Louis XIV already had to prohibit the importation of foreign newspapers in 1679, 1683, and 1686. At that time the *Gazettes de Hollande*, Europe's least censored papers, earned the reputation that they maintained throughout the eighteenth century. Through these publicist channels too the Huguenots forced into exile by the abolition of the Edict of Nantes exercised an influence upon their homeland. See E. Everth, *Die Öffentlichkeit in der Aufklärung*, 229.

24. See the sociological analysis of the noblesse robe in Borkenau, *Der Übergang*, 172ff.

25. E. G. Barber, *The Bourgeoisie in 18th Century France* (New York, 1959).

26. In 1750 appeared Diderot's *Prospectus*, a prepublication announcement that was soon echoed throughout Europe; one year later came D'Alembert's *Discours Préliminaire*, a brilliant outline of the entire work. His essay was expressly addressed to the public (*clairf.* It spoke in the name of a *société de gens de lettres*. And in 1758 Diderot underscored in a letter to Voltaire the obligations to the public. In the meantime 4,000 subscribers had come forward, two to three times as many as the most widely read newspaper at that time had.

27. At the emigre Bolingbroke's urging a private society had been established at the home of the Abbé Alary, located on a mezzanine (*entresol*) (hence the name *Club d'Entresol*). This was an informal academy of scholars, clerics, and officials who exchanged news, developed plans, and analyzed the constitution of the state as well as the needs of society. Walpole too frequented it, as did the Marquis d'Argenson and the old Abbé de St. Pierre. See R. Koselleck, *Kritik und Krise* (Freiburg-München, 1959), 53ff. (now in English translation, *Critique and Crisis*. Cambridge, MA, 1988).

28. On the eve of the revolution it was Necker who noticed the bourgeois public's degree of maturity: "The spirit of convivial life, the predilection for respect and praise, have instituted a court of appeal in France before which all who draw attention to themselves are obliged to appear: it is public opinion (*opinion publique*)." And he continued: "For the majority of foreigners it is difficult to obtain a correct idea of the authority that public opinion exercises in France. Only with difficulty do they understand that there is an invisible power that, without treasury, without bodyguard, without army, lays down laws—laws obeyed even in the palace of the King; and yet there exists nothing that would be more true." From then on people talked about "Monsieur Necker's public opinion." and it even made its way into the reports to the King. Cited after Bauer, *Die Öffentliche Meinung*, 234, and M. von Böhm, *Rokoko, Frankreich im 17. Jahrhundert* (Berlin, 1921), 318.

29. On this, in greater detail, see Bauer, *Die Öffentliche Meinung*, ch.13, pp.239ff.

30. The verse is found in R. Smend, "Zum Problem des Öffentlichen und der Öffentlichkeit," *Forschungen und Berichte aus dem öffentlichen Recht. Gedächtnisschrift für Walter Jellinek*, ed. O. Bachof et al. (München, 1955).

31. F. Härtung, ed., *Die Entwicklung der Menschen- und Bürgerrechte* (Göttingen, 1954),

33. 35. The first to grant similar guarantees was the state of Virginia in its Bill of Rights of June 12, 1776, art. 12: "The freedom of the press is one of the great bulwarks of liberty and can never be restricted except by despotic governments." *Ibid.*, 27.

32. *Ibid.*

33. Härtung, *Die Entwicklung der Menschenrechte*, 45.

34. "Le roi règne et ne gouverne pas" (The king rules and does not govern.)

35. See the contemporary report, "Schreiben von München, betreffend den bayerischen Landtag von 1831," *Historisch Politische Zeitschrift* 1 (Hamburg, 1832): 94ff.

36. E. Heilborn, *Zwischen zwei Revolutionen* (Berlin, 1929), vol. I, *Der Geist der Schinkelzeit 1789 bis 1848*, 97ff.

37. So, for instance, the *Journal von und für Deutschland* (1790): 2:55; or the *Jentische Allgemeine Literaturzeitung*, no. 30 (1797): 255. In general, on the emergence of a public sphere in the political realm of late eighteenth-century Germany, see F. Valjavec, *Die Entstehung der politischen Strömungen in Deutschland 1770-1815* (München, 1951).

38. See the abundant material in the Ph.D. dissertation by I. Jentsch, *Zur Geschichte des Zeitungswesens in Deutschland* (Leipzig, 1937). The same holds true of Switzerland; *ibid.*, 33, n. 10. See also the detailed study by M. Braubach, "Ein publizistischer Plan der Bonner Leseegesellschaft," *Aus Geschichte und Politik. Festschrift zum 70. Geburtstag von Ludwig Briggsträsser*, ed. A. J. M. Herrmann (Düsseldorf, 1954), 21ff.

39. In the famous reading room of the *Hamburger Harmonie* around the turn of the century 47 German, 8 French, and 2 British journals were available. Journals for light reading, following upon the old moral weeklies, did not really belong to the repertoire; women read these at home.

40. Groth, *Die Zeitung*, 1:706.

41. On this, see Balet, *Die Verbürgerlichung*. 132f.: "For one year Schubart lay upon a bed of straw in the cell of the old tower (of the Hohenasperg fortress). His night robe had finally disintegrated on his body. . . . After 2<sup>1</sup>/<sub>4</sub> years of incarceration he was allowed to exercise outside in the fresh air. In 1780 he was for the first time permitted to correspond with his wife and children, and in the same year the lock-down in his cell was converted to confinement within the fortress. After ten years of imprisonment he was finally released...." Incidentally, Schiller received his first political impulses from this Schubart the *Robbers* too belonged in its own way to the beginnings of political publicity.

42. On the history of this concept from the point of view of legal theory, see Hermann Coing, *Der Rechtsbegriff der menschlichen Person und die Theorie der Menschenrechte*, special issue of *Zeitschrift für ausländisches und internationales Privatrecht* (Berlin and Tübingen, 1950); 191 ff. H. Conrad, "Individuum und Gemeinschaft in der Privatrechtsordnung," *Juristische Studiengesellschaft*, Heft 18 (Karlsruhe, 1956), traces the progressive establishment of "general legal capacity" in the private law codifications of the eighteenth and early nineteenth centuries.

43. Namely, the stock company, mortgage debentures, bonds, elements of legislation for trade and navigation, mining statutes, and the entire legislation regulating competition.



44. E.g., codes regulating dress, weddings, prostitution, usury, blasphemy, adulteration of food, etc.. See F. Wieacker, *Privatrechtsgeschichte der Neuzeit* (Göttingen, 1952), 108ff.

45. *Ibid.* 110.

46. L. Brentano, *Geschichte der wirtschaftlichen Entwicklung England\** (Jena, 1927-1928), vol. 3, pt. 1, pp.223ff.

47. W. Ashley, *The Economic Organization of England: An Outline History* (London, 1923) 141: "Long before 1776, by far the greater part of English industry had become dependent on capitalistic enterprise in the two important respects that a commercial capitalist provided the actual workmen with their materials and found a market for their finished goods." See also H. O. Meredith, *Economic History of England* (London, 1949), 221ff.

48. R. Hilferding, *Das Finanzkapital* (Berlin, 1955), 447ff.

49. "The victory of Trafalgar, and the consequent establishing of the unrivalled maritime power of Britain, seemed to render it unnecessary to pay any special attention to the political aspects of national wealth or to raise any question as to what trades were good for the community. All ground for interference on the part of the State with the manner in which a man employed his capital seemed to be taken away, and when the nineteenth century opened public opinion was inclined to leave the capitalist perfectly free to employ his wealth in any enterprise he chose, and to regard the profit which he secured as the best proof that his enterprise was beneficial to the State." W. Cunningham, *The Progress of Capitalism in England* (Cambridge, 1916), 107.

50. The liberalization of foreign trade began with the treaty that William Pitt concluded with the French in 1786.

51. This did not hold for Germany to the same extent as it did for Great Britain and France. At the close of the eighteenth century the separation of State and society in Prussia was only virtual. On this, see the social-historical study by W. Conze, "Staat und Gesellschaft in der frührevolutionären Epoche Deutschlands," *Historische Zeitschrift* 151 (1958): 1-34; see also W. Conze, ed., *Staat und Gesellschaft im deutschen Vormärk* (Stuttgart, 1963),

52. "The man who is moved to exploit his consumers through unduly high prices will survive only long enough to discover that they have deserted him in favor of his numerous competitors. To pay a worker less than the going wage is to invite him to go where the going wage is paid. It requires only a moment's reflection to conclude that a businessman with power neither to overcharge his customers nor to oppress his labor (and for similar reasons his other suppliers) has very little power to do anybody ill. To minimize the exercise of private power, and especially the opportunity for its misuse, was to remove most of the justification for exercise of government authority over the economy." J. K. Galbraith, *American Capitalism* (Boston, 1952), 31

53. Max Weber, *Economy and Society* (Berkeley, 1978) 2:1095: "Industrial capitalism must be able to count on the continuity, trustworthiness and objectivity of the legal order, and on the rational, predictable functioning of legal and administrative agencies."

54. I am speaking of the "bourgeois constitutional state" (*bürgerlicher Rechtsstaat*) in its substantive sense of a distinctive political constitution; the formalization of this concept in late nineteenth-century German jurisprudence was an adaptation, itself to be explained sociologically, that belonged in the context to which I alluded. For further

information, see U. Scheuner, "Die neuere Entwicklung des Rechtsstaats in Deutschland", *Festschrift des deutschen Juristentages* (Karsruhe, 1960) 2:229ff.

55. Whereby the administration of justice in turn called for a scientific jurisprudence; see Wieacker, *Privatrechtsgeschichte der Neuzeit*, 257: "The neutrality of a science of jurisprudence responsible to its own principles has a direct function for the attainment of justice. Inasmuch as it binds the judge to established and verifiable doctrines, approved by public opinion, it forces the competing, self-interested political, social, and economic interests in a free society (whose functional principle is the regulated struggle, i.e., competition) to remain outside the realm of jurisprudence. Hereby, however, it realizes precisely this society's rule of the game, namely, arbitration and formal correctness instead of the dominance of power.

56. L. Brentano, *Geschichte der wirtschaftlichen Entwicklung Englands*, 209ff.

57. C. Schmitt, *Verfassungslehre*, 148.

58. *Ibid.*, 139.

59. Böckenförde, *Gesetzgebende Gewalt*, 35.

60. See *Theory and Practice*, 1 13ff.

61. See Härtung, *Die Entwicklung der Menschen- und Bürgerrechte*.

62. If one conceives of the basic rights in the context of the link established, within the constitutional state, between a public sphere that is an element in the political realm and a private sphere that is free from political interference, their genealogy becomes transparent as well. Civil rights of man are clearly distinct from the privileges enjoyed by estates. No direct path led from the Magna Charta Libertatum of 1215 over the Petition of Rights of 1628, the Habeas Corpus Act of 1679, and the Bill of Rights of 1689 to Virginia's first Declaration of the Rights of Man of 1776. The liberties granted to estates were essentially treaties between corporations that established limits of legally permissible interference; they did not guarantee the autonomy of a private sphere through the political functions of a public composed of private people, that is, of the public sphere. To the extent that in the course of the evolution of civil society (and of the patriarchal conjugal family as one of its preeminent institutions), the Church too lost the character of representative publicity, and religion after the Reformation became a private affair (and the private practice of religion therewith at once function and symbol of the new intimate sphere)—to that extent the so-called freedom of religion may be considered the historically earliest "basic right." However, when G. Jellinek in *Die Erklärung der Menschen- und Bürgerrechte* (Leipzig, 1909) derived the origin of the basic rights purely from the struggle over religious freedom, he was hypostatizing a connection on the level of intellectual history that itself can only be clearly understood as part of a more comprehensive system of social interdependencies. In those conflicts between colonies and mother country from which the first formulation of the rights of man resulted, it was not religious freedom that played the decisive role but the issue of whether private people, assembled into a public, had the right to political input regarding such laws as invaded their private sphere: no taxation without representation (see the introductory remarks by Härtung, *Die Entwicklung der Menschenrechte*, 2ff., who summarizes the controversy surrounding Jellinek). The protection of the intimate sphere (with the freedom of the person and, especially, of religious worship) was the early expression of the protection of the private sphere in general that became necessary for the reproduction of capitalism in the phase of liberalized markets. See the collection of texts by R. Schnur, ed., *Zur Geschichte der Erklärung der Menschenrechte* (Darmstadt, 1964).

63. The demands concerning legal policy that arose in the public sphere of civil society found their first precise expression in the Napoleonic code for civil suits, the *Code de Procedure*. On the left bank of the Rhine it went into effect immediately; from 1815 on, however, its maxims came to prevail also in the rest of the German territories.

64. Cited after Groth. *Die Zeitung*, 1:721.

65. At this level of generality we disregard national differences between Great Britain, France, and Germany, which are simultaneously differences in the level of capitalist development. The conditions in the United States, of course, are incomparable in this regard, as their social structure and political order did not have to come to terms with the traditional European elements of the feudal manorial regime and of absolutist monarchy. Generally our analysis, oriented toward European conditions, neglects the specific features of American development; on that political system, see recently Ernst Fraenkel, *Das amerikanische Regierungssystem* (Köln-Opladen, 1960).

66. On the analysis of economic theories in terms of the sociology of knowledge, see G. Eisermann, "Ökonomische Theorien und sozioökonomische Struktur," *Zeitschrift für die Gesamte Staatswissenschaft* 110 (1954): 457ff.

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67. For a polemic against landed interests see, for instance, Ricardo's treatise attacking high grain prices. *An Essay on the Influence of a Low Price of Corn on the Profit of Stock* (London, 1815). Ricardo reached the conclusion that indeed the interest of the landowner was opposed to that of every other class in society.

68. On the history of the concept of ideology, see most recently the text collection by Kurl Lenk, ed., *Ideologiekritik und Wissenssoziologie*, 2nd ed. (Neuwied, 1964), including its references.

## IV The Bourgeois Public Sphere: Idea and Ideology

1. In this context we skip the ramified history of the concept of "*inimicus communis*"; see Gadamer, *Truth and Method*, 19ff. and 40f. Similarly there exists a connection, mediated by the concept of "common opinion," between the phrase "public opinion" and the classical tradition of the *consensus omnium*: see Klaus Oehler, "Der consensus omnium als Kriterium der Wahrheit in der antiken Philosophie und der Patristik," *Antike und Abendland* 10 (1961): 103ff. Such interconnections, although certainly relevant in terms of intellectual history, skip over specific ruptures in the social evolution, ruptures which are at the same time thresholds in the formation of polemical concepts—as, for instance, in the case of the transition from "opinion" to "public opinion."

2. R. Mischke, *Die Entstehung der öffentlichen Meinung im 18. Jahrhundert* (Ph.D. diss., Hamburg, 1958) neglects the English development. I am indebted to the outstanding investigation by R. Koselleck. *Critique and Crisis*, for many references.

3. The nuances emerge clearly in Shakespeare's usage. For example, the great repute, even fame (*Julius Caesar*, act 1, sc. 2. l. 323: "all tending to the great opinion that Rome holds of his name"); via the good reputation of a gentleman (*Henry IV*, 5.4.48: "Thou hast redeem'd thy lost opinion"); and the already mercenary good will one enjoys from others (*Julius Caesar*, 2.1.145: "Purchase us a good opinion"); to the dubious and precarious brilliance of merely superficial valor (*Othello*, 1.3.225: "Opinion, a sovereign mistress of effects"); the two basic meanings flow into one another. Shakespeare characterized them in that contrast between the "craft of great opinion" and the "great truth of mere simplicity" (*Henry VIII*, 4.4.105).

4. J. Bartleu, *A Complete Concordance of Shakespeare* (London, 1956), see entries under "opinion" and "spirit."

5. Indeed, "critique" was also taken over into the English language around 1600; the humanists applied the word initially in the philological-historical context of their studies in source criticism; after Shaftesbury to engage in "criticks" meant to know how to judge in accord with the rules of good taste. Here, however, opinion was not opposed to criticism. Incidentally, in Germany at that time too *Kritik* was the judge of art and of language; see A. Räumler, *Kants Kritik der Urteilstkraft* (Halle, 1923), 46ff.

6. Hobbes, *The Elements of Law. Natural and Political*, ed. Ferdinand Tinnies (Cambridge, 1928) 1, 6: 8; "Men, when they say things upon their conscience, are not therefore presumed certainly to know the truth of what they say. Conscience therefore I define to be opinion of evidence."

7. *Ibid.*, 2, 6: 12.

8. See C. Schmitt, *Der Leviathan* (Hamburg, 1933), 94: "At the moment when the distinction between inward and outward is acknowledged, the superiority of the inward over the outward and hence that of the private over the public is, at its core, already decided." In another context I hope to show how, along the path from Luther and Calvin to Hobbes, the Reformation's distinction between the *regnum spirituale* and the *regnum politicum* shifted in meaning and ultimately came to refer to the inner-worldly opposition of a privatized society to political authority, of society to government.

9. Locke, *An Essay Concerning Human Understanding*, bk. 2, ch. 28, sec. 11; see Koselleck, *Kritik und Krise*, 41. (English translation, *Critique and Crisis*. Cambridge, MA, 1988.)

10. Locke, *An Essay Concerning Human Understanding*, bk. 2, ch. 28, sect. 12.

11. See Koselleck. *Kritik und Krise*. 89ff.

12. In 1695 Bayle's *Dictionnaire historique et critique* was published.

13. D'Alembert, *Discours Préliminaire, Einleitung zur Enzyklopädie von 1751*, ed. Kühler (Hamburg, 1955), 148.

14. *Ibid.*, 149.

15. J. J. Rousseau, "Discourse on the Sciences and Arts (First Discourse)," *The First and Second Discourses*, trans. R. D. and J. R. Masters (New York, 1964), 50.

16. *Spectator*, no. 204 (1712).

17. *Craftsman*, 27 July 1734.

18. Recently, D. Hilger, *Edmund Burke und seine Kritik der französischen Revolution* (Stuttgart, 1960), 122ff.; I am leaving aside the interesting doctrines regarding the public sphere in the political realm with which the Scottish moral philosophers at the same period supplemented their evolutionary theory of civil society. See the references in *Theory and Practice*. 76ff.

19. *Burke's Politics*, ed. Hoffmann and Levack (New York, 1949), 106.

20. *Ibid.*, 119.

21. On this see Jürgen Kuczynski, "Zur Theorie der Physiokraten," *Grundpositionalen der französischen Aufklärung* (Berlin, 1955), 27ff.

22. R. Mischke, *Die Entstehung*, 170ff.; already Carl Schmitt, *Du Diktatur*, 119ff., directed attention to this connection.

23. L. S. Mercier, *Notions claires sur les gouvernements* (Amsterdam, 1797), vi IT

24. *Ibid.*, vii.

25. Cited after L. Say, *Turgot* (1891), 108; Koselleck directs attention to this characteristic passage, *Kritik und Krise*, 123. (English translation, *Critique and Crisis*. Cambridge MA, 1988.)

26. "The commitments that bind us to the body politic are obligatory only because they are mutual, and their nature is such that in fulfilling them one cannot work for someone else without also working for oneself." J. J. Rousseau. *On the Social Contract*. trans. and ed. Donald A. Cress (Indianapolis, 1983) bk. 2, ch. 4, p. 33.

27. See Weigand's footnote to bk. 3, p. 15, in Rousseau, *Control Social*, trans. Weigand (München, 1959), 164.

28. Rousseau. *In the Social Contract*, bk. 2, ch. 12, p. 48.

29. On what follows, see *On the Social Contract*, bk. 4, chs. 1 and 2, pp. 79-83.

30. *Ibid.*, bk. 3, ch. 1, pp. 49-52.

31. *Ibid.* bk. 3, ch. 4, p. 56.

32. *Ibid.*

33. *Ibid.*, bk. 4, ch. 7, p. 95.

34. *Ibid.*

35. *Ibid.*, bk. 2, ch. 7, p. 40.

36. W. Hennis in "Der Begriff der öffentlichen Meinung bei Rousseau," *Archiv für Rechts- und Sozialphilosophie* 43 (1957): 11 ff. does not realize that Rousseau identifies *opinion publique* with nonpublic opinion. Precisely the mistrust, in terms of his critique of culture, toward the accomplishments of public opinion in the strict sense of this. Physiocrat contemporaries forced the democratic idea of the *Social Contract* to incorporate certain elements of a dictatorship. See most recently I. Fetsdier, *RUTJS. UNA politische Philosophie* (Neuwied, 1960) and references to further literature there.

37. *On the Social Contract*, bk. 3, ch. 20, p. 74: "Sovereignty cannot be represented. It consists essentially in the general will, and the will does not allow of being represented. It is either itself or it is something else. . . . Any law that the populace has not ratified in person is null."

38. Characteristic of this usage is the broadsheet of the Abbi Sieyès, published in 1788, entitled, "What is the Third Estate?" See my essay "Natural law and Revolution," *Theory and Practice*, 82-120.

39. Cited after R. Redslob, *Staatstheorien der französischen Nationalversammlung* (Leipsg. 1912), p. 65, n. 1.

40. These proposals, however, were not able to exercise any influence on the authors of the French constitution. The original was written in French; it was first published in Geneva in 1816. Cited after "An Essay on Political Tactics," *Jur.m'y Bentham's Works*, ed. Bowring (Edinburgh, 1843) 2: 299-373. See esp. ch. 2, "Of Publicity."

41. *Ibid.*, 310.

42. *Ibid.*, 311.

43. *Ibid.*

44. *Ibid.*, 312.

45. 316. At another place was the expression of a safeguard in "the protection of the people"; the French edition read instead: "Il n'y a de sauve garde que dans la protection de l'opinion publique." "Tactic des Assemblies Legislatives," ed. Dumont, 2nd ed., (Paris 1822), 28.

46. M. Guizot, *History of the Origin of Representative Government in Europe* trans. A. R. Scoble (London, 1852), 264. C. Schmitt also remarked on the significance of this passage in *Die geistesgeschichte der Lage des Parlamentarismus* (München, Leipzig. 1923), 22, footnote. (English translation. *The Crisis of Parliamentary Democracy*. Cambridge, MA, 1985.)

47. Forster wrote about the origin of public opinion in France in his *Parisische Umiisse*. "Not without reason do I place its first transformations still in the final years of the monarchy. For the greatness of the capital city, the amount of information, taste, wit, and imagination concentrated in it; the ever more gnawing needs in this place for an education providing Epicurean titillation; the independence from prejudices in the higher and more or less also in the middle strata; the power of the pailiaments ever opposing the Court; the ideas about government, constitution, and republicanism brought into currency by America's attainment of independence and by France's role in this achievement. . . . All of this paved the way for freedom of thought and freedom of will in such way that already for a considerable time before the Revolution, a firm public opinion held almost limitless sway throughout Paris and, reaching out from this center, nearly over the whole of France." Cited after Bauer, *Die öffentliche Meinung*, 238.

48. *Georg Forsters sämtliche Schriften*, ed. Gervinus (Leipzig, 1843), vol. 5, ch. 2 ("Über öffentliche Meinung"), p. 249.

49. Posselt's *Europäische Annalen*, the first volume of which was published in 1795 with an article entitled. "Frankreichs Diplomatie oder Geschichte der öffentlichen Meinung in Frankreich," still betrayed the uncertainty in terminological usage.

50. C. M. Wieland, *Sämtliche Werke* (Leipzig, 1857), 32:191ff.

51. *Ibid.*, 200.

52. *Ibid.*, 218.

53. *Ibid.*, 192.

54. *Ibid.*, 198.

55. *Ibid.*, 193: Public opinion is the opinion that, "without being noticed has taken

over most heads, and even in cases when it does not yet dare lope uttered, yet like a beehive about to swarm, announces itself by a rumbling that grows ever stronger;" similarly, *ibid.*, 212f. R. Flad demonstrated the connection of the notion of public opinion with the teaching of the spirit of a nation developed especially in the anti-Napoleonic journalism. See *Der Begriff der öffentlichen Meinung bei Stein, Arndt, Humboldt* (Berlin-Leipzig, 1929).

56. "As long as morality is an exclusive office of the priesthood and politics is the presumptuous secret of courts and cabinet, both the former and the latter must needs be misused as tools of deception and suppression. The people become victims of outrageous games of words, and the powers-that-be do as they please and get away with it unpunished, since it depends only on their arbitrary will to stamp what is just unjust, and what is unjust just. What they fear most, the promulgation of the truth, they make a crime, and they punish it as such. Not so when reason has again recouped its inveterate rights to bring to light all truths the knowledge of which is the first desire of everyone, and to obtain for these truths the greatest possible popularity with the help of all the Muses' arts, and in every imaginable shape and guise. A multitude of corrected notions and facts then gains currency, a multitude of prejudices fall from the eyes like scales. . . ." *Ibid.*, 2081.

57. See I. Kant, "Perpetual Peace", On *History* ed. and trans. Lewis White Beck (Indianapolis, 1957), 85-135; see p. 128.

58. *Ibid.*, 115ff.

59. Kant, "What is Enlightenment," *ibid.*, 3-10; see p. 3.

60. *Ibid.*, 4.

61. I. Kant, "On the Common Saying: 'This May be True in Theory, but it Does not Apply in Practice,'" *Kant's Political Writings*, ed. Hans Reiss, trans. H. B. Nisbet (Cambridge, England, 1970), 61-92; see 84, 85 Henceforth: "Common Saying."

62. I. Kant, "What is Orientation in Thinking?", *Critique of Practical Reason and other Writings in Moral Philosophy*, ed. Lewis White Beck (Chicago, 1949). 293-305; see 303.

63. I. Kant, *The Conflict of the Faculties*, trans. Mary J. Gregor (New York, 1979). 57.

64. *Ibid.*, 55.

65. *Ibid.*, 29.

66. "What is Enlightenment?", 5.

67. *Ibid.*

68. *Ibid.*, 6.

69. *Immanuel Kant's Critique of Pure Reason*, trans. Norman Kemp Smith (London, 1963), 658, note. Henceforth: *Pure Reason*.

70. I. Kant. *Critique of Practical Reason*, trans. L. W. Beck (New York, 1956), 250-51.

71. A distinction which certainly did not coincide with that between public and private law. In the Kantian sense, civil law as a whole was public; see I. Kant, *The Metaphysical*

*Elements of Justice: Part I of the Metaphysics of Morals*, trans. J. Ladd (Indianapolis-New York, 1965).

72. "Common Saying," 129fi.

73. *Ibid.*, 85: "Whatever a people cannot impose upon itself cannot be imposed upon it by the legislator either,"

74. *Ibid.*, 85-86.

75. In the section: "Opining, Knowing, and Believing," *Pure Reason*, 645.

76. Kant called this "The harmony which the Transcendental Concept of Public Right Establishes Between Morality and Politics," in "Perpetual Peace", 129ff.

77. See R. Koselleck, *Kritik und Knse*, esp. 81 ff. (English translation, *Critique and Crisis*. Cambridge, MA, 1988.)

78. Kant, *The Conflict of the Faculties*. 165.

79. 1. Kant, "Idea for a Universal History With a Cosmopolitan Purpose," *Kant's Political Writings*, 41-53; see 44-45.

80. "Perpetual Peace," 112.

81. "Common Saying," 78.

82. "The domestic servant, the shop assistant, the labourer, or even the barber, are merely labourers (*operarii*), not artists (*artifices*, in the wider sense) or members of the state, and are thus unqualified to be citizens"; they can only be co-beneficiaries who enjoy the protection of the laws, but not the right to legislate itself—"although the man to whom I give my firewood to chop and the tailor to whom I give material to make into clothes both appear to have a similar relationship towards me, the former differs from the latter in the same way as the barber from the wig-maker (to whom I may in fact have given the requisite hair) or the labourer from the artist or tradesman, who does a piece of work which belongs to him until he is paid for it. For the latter, in pursuing his trade, exchanges his property with someone else (*opus*), while the former allows someone else to make use of him (*operam*)." *Ibid.*, 78, footnote.

83. In another context, Kant made an anecdotal reference to the slogan, "laissez faire," just put in currency at that time: "A minister of the French government summoned a few of the most eminent merchants and asked them for suggestions on how to stimulate trade. . . . After one had suggested this and another that, an old merchant who had kept quiet so far said: 'Build good roads, mint sound money, give us laws for exchanging money readily, etc.; but as for the rest, leave us alone!'" *The Conflict of the Faculties*, 27-29, note.

84. "Common Saying," 76-77.

85. *Pure Reason*, 409ff.

86. "Perpetual Peace," 134-35.

87. *Ibid.*, 126-27.

88. "Common Saying," 88.



89. *Ibid.*, 89.
90. "Idea for a Universal History from a Cosmopolitan Point of View," *On History*, 15.
91. *The Conflict of the Faculties*, 163, 165.
92. *Pure Reason*, 485.
93. *Ibid.*, 486-87.
94. "Idea for a Universal History," 23.
95. *Ibid.*
96. *The Conflict of the Faculties*, 161.
97. *Ibid.*
98. G. W. F. Hegel. *Hegel's Philosophy of Right*, trans. T. M. Knox (Oxford, 1952), para. 301, p. 195. Hegel commented upon this paragraph: "The phrase, 'the Many' ... denotes empirical universality more strictly than 'All,' which is in current use. If it is said to be obvious that this 'all' prima facie excludes at least children, women, etc., then it is surely still more obvious that the quite definite word 'all' should not be used when something quite indefinite is meant."
99. *Hegel's Philosophy of Right*, sect. 316, p. 204.
100. *Ibid.*, addition to sects. 116 and 117, p. 294.
101. *Ibid.*, addition to sect. 315, p. 294.
102. *Ibid.*, sect. 319, p. 207.
103. *Ibid.*, sect. 200, p. 130.
104. *Ibid.*, sects. 243 and 245, pp. 149-150.
105. *Ibid.*, sect. 258, p. 156.
106. *Ibid.*, sect. 303, p. 198.
107. *Ibid.*, sect. 302, p. 197.
108. *Ibid.*, sect. 236, pp. 147-48.
109. *Ibid.*, sect. 317, p. 204.
110. *Ibid.*, sect. 314, p. 205.
111. *Ibid.*, sect. 315, pp. 203-4.
112. *Ibid.*, sect. 318, p. 205.
113. *Ibid.*, sect. 320, p. 208.
114. *Ibid.*, sect. 317, p. 205. See also G. W. F. Hegel, *Phenomenology of Mind*, trans. J. B. Baillie (London, New York, 1966), 428-29.

115. *Hegel's Philosophy of Right*, sec. 337, p. 215.

116. See M. Riedel, "'Hegels bürgerliche Gesellschaft' und das Problem ihres Ursprungs," *Studien zu Hegels Rechtsphilosophie* (Frankfurt, 1969), 135-66.

117. K. Marx, "Critique of Hegel's Doctrine of State," *Early Writings*, ed. Quentin Hoare, trans. R. Livingstone and G. Benton (New York, 1975), 57-198, see 147.

118. *Ibid.*, 90.

119. K. Marx, "On the Jewish Question," *Early Writings* trans, and ed. T. B. Bottomore, *The Marx-Engels Reader* (New York, 1963), 28-29

120. *Ibid.*, 25.

121. *Ibid.*, 15.

122. Marx, "Critique of Hegel's Doctrine," 143.

123. *Ibid.*, 188.

124. K. Marx, *The Eighteenth Brumaire of Louis Bonaparte* (New York, 1963), 66.

125. "Critique of Hegel's Doctrine," 191.

126. K. Marx and Fr. Engels, *Manifesto of the Communist Party* (New York, 1983), 52 (end of sect. 2).

127. *The Poverty of Philosophy* (New York, 1963), 175.

128. F. Engels, *Heir Eugen Dühring's Revolution in Science (Anti-Dühring)* (New York, 1966), 283.

129. K. Marx, *Capital* (New York, 1967), 3:820.

130. F. Engels, "Principles of Communism," *Birth of the Communist Manifesto*, ed. D.J. Struik (New York, 1971), 169-89; see 185.

131. K. Marx, "On a Proposed Divorce Law," *Writings of the Young Marx on Philosophy and Society*, ed. L. D. Easton and K. H. Guddat (Garden City, NY: 1967), 136-42; see 139.

132. H. Resting, *Gesellschaftsphilosophie und Weltbürgerkrieg* (Heidelberg, 1959). 241T. and 219rr.

133. In connection with issues of the emancipation of women, one even reads: "In all things the presumption ought to be on the side of equality. A reason must be given why anything should be permitted to one person and interdicted to another. But when that which is interdicted includes nearly everything which those to whom it is permitted most prize, and to be deprived of which they feel to be most insulting; when not only political liberty but personal freedom of action is the prerogative of a caste; when even in the exercise of industry, almost all employments which task the higher faculties in an important field, which lead to distinction, riches, or even pecuniary independence, are fenced round as the exclusive domain of the predominant section, scarcely any doors being left open to the dependent class, except such as all who can enter elsewhere disdainfully pass by; the miserable expedients which are advanced as excuses for so

grossly partial a dispensation, would not be sufficient, even if they were real, to render it other than a flagrant injustice." Harriet Taylor Mill, "Enfranchisement of Women," in J. S. Mill. *Collected Works*, ed. J. M. Robson, vol. 21 (London. 1984), 393-415; see 398.

134. A. de Tocqueville, "Question Financière," *Oeuvres Complètes*, ed. J. P. Mayer vol. 3. pt. 2 (Paris. 1985). 734-37; see 735.

135. J. S. Mill, "On Liberty," *Collected Works*. 18:213-310; see 268-69,

136. A. de Tocqueville, *Democracy in America*, trans. G. Lawrence (New York, 1969), 399-400.

137. *ibid.*, 233.

138. Mill, "On Liberty," 269.

139. *Ibid.*, 254.

140. J. S. Mill, "Bentham," *Collected Works*, 10:75-115: see 107-8. Also in J. S. Mill, *Dissertations and Discussions*, vol. 1 (Boston, 1868), 355-417; see 404, 406.

141. Most recently, E. Fraenkel, "Die repräsentative und die plebiszitäre Komponente im demokratischen Verfassungsstaat," *Recht und Staat*, nos. 219-20 (Tübingen, 1958).

142. Mill, "On Liberty," 251.

143. *Ibid.*, 247.

144. A. de Tocqueville, *Democracy in America*, 644; also 645, 656.

145. *Ibid.*, 672.

146. J. S. Mill, "Appendix," *Dissertations and Discussions*, 1:648-53 in *Collected Works*, 19:650.

147. See the observation of the conservative constitutional specialist Friedrich Julius Stahl, *Die gegenwärtigen Parteien in Staat und Kirche* (Berlin, 1863), 73: "The liberal party affirms the idea of equality against the nobility, against all estates as such, because on the basis of the revolution it cannot admit to an organic structure of society. However, when it comes to giving the propertyless class the same rights as the propertied, then it abandons the idea and makes political-legal distinctions in favor of those with means. It wants a census for representation and payment of security for the press; it admits only the fashionable to its salons; it does not extend honor and courtesies to the poor as it does to the rich. This stopping halfway in the implementation of the principles of the revolution is what characterizes the party stance of the liberals." Of course, this was aimed specifically at conditions in Germany. To be sure, in Germany on the eve of the revolution too a more courageous liberal theory provided the puny constitutional actuality with the vision of the classical idea of publicity: "Complete publicity therefore consists," according to Welcker's programmatic definition, "in treating all affairs of state as matters of common concern to the entire state and all its citizens, and accordingly in making them accessible to public opinion by arranging that they may be seen and heard to the greatest possible extent, through public presentation and the freedom of all publicistic organs." *Staatslexikon oder Enzyklopädie der Staatswissenschaften*, 15 vols. (1834-1848; 15th ed., 1855), art. "Öffentlichkeit und öffentliche Meinung." And Jäbieuhr insisted rigorously on the convergence

of public opinion and reason: "Public opinion is what emerges in minds on its own and in congruence despite diversities of individuality and varieties of condition, undisturbed by the personal influences that can lead those in power astray; and if in fact it is a judgment, it can be deemed a representation of universal reason and truth, a voice of God." Bluntschli, however, quoted this statement only to expound, in contrast to it, a liberalism adapted to national particularities: "It is a radical exaggeration if public opinion is declared to be infallible and even our rightful ruler. The men who possess a deeper insight into political life and its needs too are never numerous in any age; and it is far from certain whether they are successful in diffusing their opinion so that it becomes public opinion. The knowing and wise minority by no means always agrees with the majority of the middle classes. The general judgment even of the educated classes will almost always be superficial. It is not possible for them to know all the circumstances and to have uncovered all the reasons upon which decision in important matters depends. Public opinion can be confused by the momentary passions of the crowd; it can even be artificially misled. A single remarkable individual may see things correctly, while all the world about him has wrong views." *Bluntschli's Stufswirterbuch in drei Bänden*, ed. Lihning (Zürich, 1871), 2:745f., art. "Öffentliche Meinung." Inasmuch as Bluntschli definitely viewed public opinion as the correlate of one among several classes ("it is above all the opinion of the great middle class"), he broke with the principle of publicity, i.e., with the principle of the universal accessibility of that domain in which is to be rationally decided what is practically necessary in the general interest. Inasmuch as he located publicity sociologically within the framework of a class society taken as a natural given, he treated it as an ideology without criticizing it as such. In his opinion, the class of manual laborers should fittingly refrain from participation in political life: "Indeed, upon the opposition between mental and manual labor, between intellectual and physical activity, rests the distinction which is of great importance also for the organization of the state and its political life. . . . For the liberal professions of the third estate higher education is a necessary requirement, and hence only these persons usually also have the capacity and the leisure to work intellectually for the state. In contrast, the large classes preoccupied with the material cultivation of the soil, with crafts, small trade, and factory work, are throughout lacking in the education and leisure needed to dedicate themselves to the affairs of the state," *Ibid.*, 3:879. But even the bourgeoisie was not to exercise the political functions of a truncated public sphere closed to the people at large. Instead, public opinion was to be confined to the criticism and control of an authority which from the outset was granted as the preserve of the monarch, supported by the landowning nobility: "The aristocracy is inclined by nature to share power with the monarchy; the third estate is inherently inclined to criticize and to control," *Ibid.*, 881. On the basis of a class compromise between the bourgeoisie and the feudal powers which were still politically dominant in Germany, it was not only access to the public realm that became a privilege; this realm too no longer viewed itself as a sphere in which the state, through the critical debate of a public comprised of private people, was penetrated by society and in which authority was dissolved to the extent to which its substance was domination: "It is not true that public opinion rules, since it neither can rule, nor does it want to rule. It leaves government to the organs entrusted with it. Not a creative power, it is first and foremost a controlling force," *Ibid.*, 2:747. T. Schieder analyzed the connection of this deformed liberal ideology to the specific relationship between state and society in nineteenth-century, Prussian Germany in "Das Verhältnis von Staat und gesellschaftlicher Verfassung und die Kritik des bürgerlichen Liberalismus," *Historische Zeitschrift* 177 (1954): 49-74.

148. Tocqueville, *Democracy in America*, 667.

149. Tocqueville, *Oeuvres Complètes* (publiées par Mme. de Tocqueville). (Paris, 1866). vol. 9, *Études Économiques, Politiques et Littéraires*, 537-38.

150. K. Marx, *The Eighteenth Brumaire of Louis Bonaparte*, 12 ff.

151. K. Marx, *The Civil War in France* (New York, 1940), 54.

152. *Ibid.*

153. M. L. Goldschmidt, "Publicity, Privacy, and Secrecy," *Western Political Quarterly* 1 (1954): 401.

## V The Social-Structural Transformation of the Public Sphere

1. W. Hallgarten, *Vorkriegsimperialismus* (Paris, 1935).

2. G. Lukacs, "On Some Characteristics of Germany's Historical Development," *The Destruction of Reason*, trans. P. Palmer (London: Merlin Press, 1980), ch. 1; further, see: H. Plessner, *Die verspätete Nation* (Stuttgart, 1959) and my review in *Frankfurt\* Hefte*, Nov. 1959; most recently, R. Dahrendorf, "Demokratie und Sozialstruktur in Deutschland," *Europäisches Archiv für Soziologie* 1 (1960): 86ff.

3. Dobb, *Studies in the Development of Capitalism*, 258 (quoting J. R. Hicks).

4. *Ibid.*, 257: "An age of technical change which rapidly augmented the productivity of labour also witnessed an abnormally rapid natural increase in the ranks of the Proletariat, together with a series of events which simultaneously widened the field of investment and the market for consumption goods to an unprecedented degree. We have seen how straitly in previous centuries the growth of capitalist industry was cramped by the narrowness of the market, and its expansion thwarted by the low productivity which the methods of production of the period imposed; these obstacles being reinforced from time to time by scarcity of labour. At the industrial revolution these barriers were simultaneously swept away; and, instead, capital accumulation and investment were faced, from each point of the economic compass, with ever widening horizons to lure them on."

5. T. H. Bunzel, "Liberal Theory and the Problem of Power," *Western Political Quarterly* 13 (1960): 374-88.

6. The term, which comes from Lassalle, is always associated with Wilhelm von Humboldt's famous treatise, "Ideen zu einem Versuch, die Grenzen der Wirksamkeit des Staates zu bestimmen," *Werke*, ed. Flitner (Bonn, 1960), 1:561f.

7. F. Neumann, "Der Funktionswandel des Gesetzes im Recht der bürgerlichen Gesellschaft," *Zeitschrift für Sozialforschung* 6:542ff., and Neumann, "Ökonomie und Politik," *Zeitschrift für Politik* 2 (1955): 1ff.

8. H. Achinger, *Sozialpolitik als Gesellschaftspolitik* (Hamburg, 1958), 155.

9. J. Strachey, *Contemporary Capitalism* (New York, 1956), 185.

10. J. K. Galbraith, *American Capitalism: The Concept of Countervailing Power* (Boston 1952). For a critique, see the outstanding essay by A. Schweizer, "A Critique of Countervailing Power," *Social Research* 21 (1954): 253ff.

11. Well documented for the United States by Berle and Means. *The Modern Corporations*

and *Private Property* (New York, 1932); *The Structure of the American Economy*, vol. 1 (National Resources Planning Board, U.S. Government Printing Office, 1939); idem., *The Concentration of Productive Facilities* (1947); idem., *A Survey of Contemporary Economics* (1948). For Germany: H. König, "Konzentration und Wachstum, eine empirische Untersuchung der westdeutschen Aktiengesellschaften," *Zeitschrift für die gesamte Staatswissenschaft* 115 (1959): 229ff.

12. S. Fabricant, *The Trends of Government Activities in the U.S.A. Since 1900* (New York, 1952); Urs Micks, *British Public Finances: Their Structure and Development 1880-1952* (London, 1954). In his *Lehrbuch der politischen Ökonomie*, 3rd ed. (Leipzig, 1883), 5:76ff. Adolf Wagner already discusses the "law" of an expanding need for capital.

13. F. Neumark, *Wirtschafts- und Finanzpolitik des Interventionsstaates* (Tübingen, 1961); from the legal perspective, see U. Scheuner, "Die staatliche Intervention im Bereich der Wirtschaft," *Veröffentlichung des Vereins deutscher Rechtslehrer* 11 (Berlin, 1954): 1ff.

14. Strachey, *Contemporary Capitalism*, 30f.

15. The transition here between merely regulative and formative functions was fluid but clear enough in its tendency. Legally this process found expression in the extension and hence the transformation of the older police law; on this see H. Huber, *Recht, Staat und Gesellschaft* (Bern, 1954), 32: "Police law is the law which for the maintenance of public order protects the public from danger. It has a negative, defensive character. Until not long ago it was a branch of public law which, so to speak, clung to private law. Presently there is a growing inclination toward either replacing or complementing the defense against dangers with a positive shaping of social life. So, for instance, building codes used to be designed to protect against traffic, health, and fire hazards, environmental legislation aimed at preventing the disfiguring of urban and rural landscapes. Today urban, regional, and super-regional planning do not merely want to fight detrimental developments but to take a hand in shaping something positive, namely, the use of space for housing and industry."

16. K. Littmann, *Zunehmende Staatstätigkeit und wirtschaftliche Entwicklung* (Köln, 1947), 164. Here we shall not consider costs for armaments, since military protection already belonged among the classical functions of the state.

17. Since the capitalist system tended to restrict the private sector as little as possible, at the expense of the sector of public services, a disequilibrium between the two arose which has been recently analyzed by Galbraith; see his study, *The Affluent Society* (Boston, 1958). Also A. Downs, "Why Government Budget Is too Small in a Democracy," *World Politics* 12 (1960): 541-63.

18. E. Forsthoff, *Die Verfassungsprobleme des Sozialstaates* (München, 1954). W. Friedmann, in *Law and Social Change* (London, 1951), 298, distinguished five functions: "... they result from the activities of the State: Firstly, as Protector; secondly, as Dispenser of Social Services; thirdly, as Industrial Manager; fourthly, as Economic Controller; fifthly, as Arbitrator."

19. See Strachey, *Contemporary Capitalism*, 155-81.

20. J. M. Clark, "The Interplay of Politics and Economics," *Freedom and Control in Modern Society*, ed. P. Berger et al. (New York, 1954), 192ff; A. Berle, *Power without Property* (London, 1960).

21. See A. Menger, *Das bürgerliche Recht und die besitzlosen Volksklassen*, 2nd ed. (Tübingen, 1890).

22. K. Renner, *Die Rechtsinstitute des Privatrechts und ihre Funktion*, 2nd ed. (Tübingen, 1929).
23. J. W. Hedemann, *Einführung in die Rechtswissenschaft*, 2nd ed. (Tübingen, 1927), 229.
24. Huber, *Recht, Staat und Gesellschaft*, 34.
25. F. Wieacker, "Das Sozialmodell der klassischen Privatrechtsgesetzbücher und die Entwicklung der modernen Gesellschaft," *Juristische Studiengesellschaft Karlsruhe*, Heft 3 (Karlsruhe, 1953), 21ff.
26. Huber, *Recht, Staat und Gesellschaft*, 33.
27. *Ibid.*, 37f.
28. Spiros Similis, *Die faktischen Vertragsverhältnisse* (Frankfurt, 1958).
29. German law contains the fiction of the *Fiskus*, which qualifies the state as a subject of private law and hence as a possible partner for contractual relationships with private people. At one time, under absolutism, the good reason for this was that it granted a certain measure of legal security to the subjects even without the guarantee of a share in legislation. Similarly, French law distinguishes between the state as a subject of private law involved in *gestions privées* from the state as a subject of public law involved in *gestions publiques*. The two functions were relatively transparent in the liberal era and hence easily separable; however, the distinction becomes harder the more the state takes over functions in the private sphere of society itself and regulates its relationships with private economic subjects by contract: "Predominantly industrial, commercial, and managerial operations, such as the provision of transport, electricity, or gas, or the management of health services, are now normally carried out by incorporated public authorities, which are subject to the rules of private law, although responsible to ministers and parliaments for the general conduct of the operation." Friedmann, *Law and Social Change*, 63.
30. Huber, *Recht, Staat und Gesellschaft*, 40.
31. On the following, see W. Siebert, "Privatrecht im Bereich der öffentlichen Verwaltung," *Festschrift für Hans Niederweyer*, ed. Universität Göttingen, Rechts- und Staatswissenschaftliche Fakultät (Göttingen, 1953), esp. 223f.
32. Spiros Simitis, *Der Sozialrechtsgrundsatz in seinen Auswirkungen auf das Recht von Familie und Unternehmen* (Manuscript: Habilitationsschrift der Juristischen Fakultät, Frankfurt, 1963) provides an exhaustive analysis of this whole complex.
33. H. Schelsky, *Schule und Erziehung in der industriellen Gesellschaft* (Würzburg, 1957), 33.
34. It is uncertain whether a strong position of the industrial bureaucracy vis-à-vis the shareholders has also been accompanied by a prevalence of management-specific interests, say, in the expansion of the enterprise at the expense of a possible increase in the amount of profits, and whether this has already diluted the private capitalist form of accumulation.
35. Then it played a role in the reformist ideology of the unions as well as in the fascist practice of the so-called Labor Front. In both cases, although opposite in political intent, the isolation of the institutional elements of large enterprise from their eco-

conomic functions led naturally to illusions concerning the extent to which an enterprise that operates in a capitalist way in accord with the principles of profit maximization also has to serve private interests. It fails to acknowledge, therefore, that the purpose of the enterprise cannot *eo ipso* coincide with the interests of the personnel or even of society as a whole.

36. H. P. Bahrdt, *Öffentlichkeit und Privatheit als Grundformen städtischer Sanierung*, 43ff.

37. L. von Friedeburg, *Soziologie des Betriebsklimas* (Frankfurt, 1963).

38. In the German Federal Republic more than three-fourths of the population are entitled to social security and pension benefits; at present, every other household contains at least one member receiving such payments.

39. "The question of how the individual manages his life has become an object of uninterrupted *public* concern only in our age. If one wants to bring into relief the changes that resulted from this in the forms of life of individuals, or more precisely, of private households, one has to look at all the forms of insurance, public aid, and welfare benefits predicated on social welfare considerations as they arrive in individual households." H. Achinger, *Sozialpolitik als Gesellschaftspolitik*, 79f.

40. *ibid.*

41. H. Schelsky, *Wandlungen der deutschen Familie in der Gegenwart* (1953), 20, esp 253ff.; Schelsky, "Gesellschaftlicher Wandel," *Auf der Suche nach Wirklichkeit* (Düsseldorf, 1965), 337ff.

42. R. König, *Materialien zur Soziologie der Familie* (Bern, 1946); Burgess and Locke, *The Family* (New York, 1953); Winch and Ginnis, *Marriage and Family* (New York, 1953).

43. See H. Marcuse, "Trieblehre und Freiheit," *Frevel in der Gegenwart* (Frankfurt, 1957), 401-24. "For the younger generation the reality principle is supplied less by the family than outside the family; they learn the socially normal behavior and reactions outside the protected sphere of the family," p. 413.

44. For more details, see my essay: "Pädagogischer Optimismus vor Gericht einer pessimistischen Anthropologie," *Neue Sammlungen*, vol. *Elternhaus und Schule* (Stuttgart, 1963).

45. W. H. Whyte, *The Organization Man* (New York, 1956), 280.

46. *Ibid.*, 352.

47. *Ibid.*

48. *Ibid.*, 353.

49. H. P. Bahrdt, "Von der romantischen Grossstadtkritik zum Urbanen Städtebau," *Schweizer Monatshefte* (1958): 644f.

50. Helmuth Plessner, *Das Problem der Öffentlichkeit und die Idee der Entfremdung* (Göttingen, 196#), 9: "Since the increasingly intensified means of mass communication are open to all kinds of propagandists influence and create a public sphere inside the house itself, as newspapers and books were never capable of doing, the insecurity of



the private sphere approaches crisis proportions, at least emotionally." In the same vein: M.J. Goldschmidt. "Publicity, Privacy, Secrecy," 404ff.

51. See my study, "Zum Verhältnis von Arbeit und Freizeit," *Konkrete Vernunft. Festschrift für E. Rothacker*, ed. C. Funke (Bonn, 1958), 219(1).

52. See H. Marcuse, *Eros and Civilization*.

53. L. L. Schücking, *Die Soziologie der literarischen Geschmacksbildung* (München, 1923), 60.

54. B. J. Fine, *Television and Family Life: A Survey of Two New England Communities* (Boston, 1952), defined the televising family as a "unity without conversation." On the basis of her case studies, E. E. Maccoby, "Television: Its Impact on School Children," *Public Opinion Quarterly* 15, no. 3 (1951): 421f, came to the conclusion that in nine out of ten families no conversations took place: "It appears that the increased family contact brought about by television is not social except in the most limited sense: that of being in the same room with other people. Whether the shared experience of television programs gives family members a similar perceptual framework with which to view the world, so that there are fewer differences in point of view among family members and fewer grounds for conflicts, is a matter which cannot be appraised with the data on hand."

55. D. Riesman, "The Tradition, the Written Word, and the Screen Image," *Antioch Founders Day Lecture* (Yellow Springs, Ohio, 1955).

\* 56. On modern art's need for commentary, see A. Gehlen, *Zeitbilder* (Bonn, 1960).

57. A study of the sociological aspects of the conferences organized by the Evangelische Akademien is still needed. For some hints, see H. Schelsky, "Ist die Dauerreflexion institutionalisierbar?", *Zeitschrift für evangelische Ethik* 4 (1957). Heft 4, pp. 153ff.

58. According to a contemporary source, there were about 200 in Germany around 1800. J. A. Weiss. *Ober das Zunfthwesen* (Frankfurt, 1798). 229.

59. R. Meyersohn, "Commercialism and Complexity in Popular Culture." (Paper presented at the fifty-fifth Meeting of the American Sociological Association, New York, 1960).

60. Meyersohn, "Commercialism and Complexity," 5: "The average American has by now watched television for perhaps eighteen hours a week for ten years, but this enormous buildup of time has had no apparent consequences for his performance in front of a television set."

61. On this see T. W. Adorno, "Über den Fetischcharakter in der Musik und die Regression des Hörens," *Dissonanzen* (Göttingen, 1956), 9ff.

62. H. M. Enzensberger, "Bildung als Konsumgut. Analyse der Taschenbuchproduktion," *Einzelheiten* (Frankfurt, 1962), 110ff.

63. W. Kayser, *Das literarische Leben der Gegenwart*, ed. Kayser (Cöttingen, 1959), 22.

64. *Ibid.* Kayser reckons a membership of about 3 million for the book clubs in West Germany; they purchase about 30 million books a year—far more than half the entire yearly production in the field of *belles lettres*.

65. In 1955 there were no books in more than a third of all West German households; 58 percent of all households *owned* at least one book. See *Jahrbuch der öffentlichen Meinung* (Allensbach, 1957), 102.

66. On the sociology of book consumption, see recently: R. Escarpit, *Das Buch und der Leser* (Kiln, 1961), esp. 120ff.; for an economist's analysis: P. Meyer-Dohm, *Der westdeutsche Büchermarkt* (Stuttgart, 1957).

67. R. E. Park, "The Natural History of the Newspaper," *Mass Communication*, ed. W. Schramm (Urbana, 1944), 21: "It was in the *Sunday World* that the first seven-column cut was printed. Then followed the comic section and all the other devices with which we are familiar for compelling a dull-minded and reluctant public to read. After these methods had been worked out, they were introduced into the daily. The final triumph of the Yellow Journal was Brisbane's Heart to Heart Editorial—a column of predigested platitudes and moralizing, with half-page diagrams and illustrations to reinforce the text. Nowhere has Herbert Spencer's maxim that the art of printing is the economy of attention been so completely realized." On the German mass newspapers of the nineteenth century, see: J. Kirchner, "Redaktion und Publikum," *Publizistik* 5 (1960): 463ff.

68. W. G. Bleyer, *History of American Journalism* (Boston, 1927), 184.

69. According to a study done a few years ago in Germany, of the adults whose daily papers contain such contributions 86 percent read the local section but only 40 percent read the editorial; 52 percent read the political news inside the paper and 59 percent the featured political article. At the end of 1957 more than 70 percent of the adult population in West Germany read at least one newspaper daily: 17 percent read a tabloid regularly, 63 percent read a local newspaper, 2.4 percent one of the great super-regional daily newspapers. Almost half the adults read illustrated weeklies regularly, and another quarter read chiefly entertainment magazines, weekend magazines, magazines for women, and radio and television guides. DIVO, *Der westdeutsche Markt in Zahlen* (Frankfurt, 1958), 145ff.

70. W. Schramm and D. M. White, "Age, Education, and Economic Status as Factors in Newspaper Reading," *Mass Communication*. 402ff.

71. G. Seldes, *The Great Audience* (New York, 1951).

72. H. M. Hughes, "Human Interest Stories and Democracy," *Public Opinion and Communication*, ed. Berelson and Janowitz (Glencoe, 1950), 317 ff.

73. "Television and radio, because they appear, among all of the media, to have the most direct line of communication to individuals are perhaps the most influential. At its best the newspaper exerts a tremendously powerful influence. But it is less personalized than the broadcast media, and certainly less intimate in concept. The press, however, allows for privacy of thought, for only one person can read a speech in the newspaper, but several may watch and listen to it. . . . A televised speech is directed electronically 'to you,' the listener. The same speech reprinted in the morning paper is one step removed from immediacy and directness." C. S. Steinberg, *The Mass Communicators* (New York, 1958), 122.

74. On this see G. Anders, *Die Antiquiertheit des Menschen* (München, 1957); also L. Bogart, *The Age of Television* (New York, 1958).

75. D. Riesman, *The Lonely Crowd* (New Haven, 1950), 356ff. See also the contributions

on this in the volumes: White and Rosenberg, eds., *Mass Culture* (New York, 1955); Larabee and Meyersohn, eds., *Mass Leisure* (New York, 1959).

76. L. Löwenthal, "Die biographische Mode," *Sociologica* (Frankfurt, 1955), 363ff.; and *idem.*, *Literatur und Gesellschaft* (Neuwied, 1964).

77. On the basis of empirical studies, Elisabeth Noelle reported on the astonishing influence of "advice" columns in newspapers: "Die Wirkung der Massenmedien," *Publizistik* 5 (1960): 532ff., esp. 538f.: "When there was advice given in an issue of the magazine *Constanze* on how to repair damaged shirt collars, a million readers of this issue tried it out. . . . Nearly two and a half million readers propped their legs up for five minutes each hour for several days or weeks because this was suggested in an issue of *Constanze*."

78. H. J. Knebel used the example of group tourism to analyze the similar complementarity of trends toward a 'de-interiorization' on the one hand, and toward a differentiation and individualization on the other, which reactively created the illusion of a "Väcy Soziologiefic, u Strukturwandlungen im modernen Tourismus (Stuttgart, 1960), 24f."

79. DIVO, *Der Westdeutsche Markt in Zahlen*, 145ff. and *Jahrbuch der öffentlichen Meinung*, 51 ff. The frequency of moviegoing, of course, depends primarily on age level. On the whole matter, see also G. Kieslich, *Freizeitgestaltung in einer Industriestadt* (Dortmund, 1956).

\* 80. C. E. Swanson and R. D. Jones. "Television Owning and Its Correlates," *Journal of Applied Psychology* (October 1951): 352ff.

81. This is R. Meyersohn's interpretation; cf. his "Social Research in Television," *Mass Culture*, 347.

82. Hauser, *The Social History of Art*, 2:838.

83. R. König demonstrates this in the case of sociologists, in "Wandlungen in der Stellung der sozialwissenschaftlichen Intelligenz," *Sozialsign und moderne Gesellschaft. Verhandlungen des 14. Deutschen Soziologentages* (Stuttgart, 1959). 53ff.; in general, see T. Geiger, *Aufgaben und Stellung der Intelligenz in der Gesellschaft* (Stuttgart, 1949).

84. T. W. Adorno, "Das Altern der neuen Musik," *Dissonanzen*, 102ff.

85. See A. Gehlen, "Bemerkungen zum Thema 'Kulturkonsum und Konsumkultur,'" *Tagungsbericht des "Bundes"* (Wuppertal, 1955), 6ff.

86. H. M. Enzensberger, "Bewusstseinsindustrie," *Einzelheiten*, 7ff.

87. See W. Thomssen, *Zum Problem der Scheinöffentlichkeit, inhaltsanalytisch dargestellt an der /i/dzeitung* (Manuscript, Frankfurt, 1960). This study was based on 69 daily issues of the Hamburg national edition, of which 23 issues covered the half-years 2/1953, 1/1956, and 2/1958 respectively. This study gives an indication of the magnitude of the trend under discussion in terms of an extreme example: The newspaper selected for this purpose, i.e., the *Bibizeitung*, was quite suitable from a diagnostic point of view because within the daily press (which is to say, the classic genre of journalism) it represented a stage of development in which the daily paper already took on the form of a magazine that appeared every day. The diversification of the page makeup has advanced to such an extent that only 40 percent of the column total was devoted to the text itself, while roughly one-fourth was reserved for headlines and another fourth

for pictures; advertising took up the rest of the space. About half of the total text was divided between news and reportage, about a fourth went to entertainment; sports news got 12 percent and editorial statements 7 percent. The latter were certainly not devoted to critical reflection but to direct contact with readers through advice columns, prize competitions, questionnaires, etc. Of the news and reportage hardly more than a fourth covered areas that could be considered politically relevant—in the broadest sense. Politics (including the main editorial) got 19 percent and clarifying information 8 percent. The remaining area was divided among crime, accidents, and reports about everyday life (32 percent), trials (13 percent), "society," film, fashion, beauty contests, etc. (21 percent), advice concerning problems of life and instruction (7 percent). These articles were done in such a style that in one half, text was predominant, in the other, illustration. Only a third of the total news columns was taken up by contributions that provided straightforward factual information; two-thirds provided such information incidentally through the vehicle of "human-interest" stories; among the front page articles, the proportion of articles made up as human-interest stories increased to 72 percent. Hence, the final conclusion of this study comes as no surprise. The news and reports of all categories that could be classified as "publicly relevant" (reports or assessments of events that by reason of their significance in the life process of the society attained importance beyond the single instance), got no more than a quarter of the area devoted to news; this corresponded to about one-third of the total number of all reports and news. Among the front page articles, the proportion of contributions classified as "not publicly relevant" increased to 73 percent; only 18 percent could be considered "publicly relevant" while not distracting the reader from the material content through packaging as human-interest stories. Table 6, p. 50 gives a total overview.

88. The "generality" of the norm in the strict sense of the bourgeois concept of law was not bestowed solely by the *formal* criterion of universality. This sense was only met adequately if the universal formulation, which excluded dispensations and privileges, was also, under the given social conditions, factually not addressed only to some specific group within the society. The legal effect of a law that was universal according to substantive criteria was not to be selective. It had to be "elementary" or a matter of "principle" in such a fashion that it applied to the foundations of the social order as a whole and, to that extent, to a circle of persons that might possibly include *all* members of society. Legal norms that regulated not mere principles of social intercourse as a whole but concrete states of affairs within the framework of the total order were called "specific" (in contrast to the general ones), no matter whether or not they were formulated in a universal form. Only during the liberal phase of capitalism was civil society a sphere of private autonomy "separated" from the state to such an extent that legislation tended to be confined to a system of general norms; and only in this phase did the universality of the formulation also necessarily imply the generality of the actual effect of the law as well. See F. Neumann, *Der Funktionwandel des Gesetzes im Recht der bürgerlichen Gesellschaft*; see also my essay, "Natural Law and Revolution." *Theory and Practice*, 82-120.

89. On the conceptual distinction see (among others) H. Schneider, "Über Einzelfallgesetze," *Festschrift für Carl Schmitt*, ed. H. Barion, E. Forsthoff, and W. Weber (Berlin, 1959), 197ff.

90. E. Forsthoff, *Lehrbuch des Verfassungsrechts* (München, 1955), 1:9f.; on this, see F. Neumann, *Der Funktionwandel des Rechtsgesetzes*, 577. Neumann also analyzed the political function of Carl Schmitt's efforts to restore the exclusive validity of the classical concept of law for the legislation in the Weimar Republic. Today the preoccupations of the Carl Schmitt School have the *analogous* function of restoring the exclusive validity, at the level of constitutional law, of the classical concept of the constitutional state. See, for instance, E. Forsthoff, "Begriff und Wesen des sozialen Rechtsstaates,"

*Veröffentlichungen des Vereins Deutscher Staatsrechtslehrer* Heft 12 (Berlin, 1954) "Thesis 15: "The social welfare state and the constitutional state cannot be fused at the point of the constitution. The field of action of the social-welfare state is legislator and administration. "Constitutional social-welfare state" is the typological characteristic of a state, and it encompasses constitution, legislation, and administration. It is not a legal concept."

91. G. Leibholz, "Strukturwandel der modernen Demokratie," *Strukturprobleme der Demokratie* (Karlsruhe, 1953), 94f.

92. See *fiockenfürde. Gesetzgebende Gewalt*, pt. 3, pp. 21 ff.

## VI Transformation of the Public Sphere's Political Function

1. See the schema above, p. 30.

2. K. Bücher, "Die Anfänge des Zeitungswesens." *Die Entstehung der Volkspresse* (Tübingen, 1917), 1:257.

3. D. P. Baumert, *Die Entstehung des deutschen Journalismus* (München-Leipzig, 1921).

4. U. DeVolder, *Soziologie der Zeitung* (Stuttgart, 1959), 22.

5. Groth, *Die Zeitung*, 4:8ff.

6. In Germany in 1848 this was a matter of the *National Zeitung*, the *Kraizzeitung*, and the *Neue Rheinische Zeitung*. See F. Lenz, *Werden und Wachsen der öffentlichen Meinung* (München, 1956), 157.

7. Earlier than that stock exchange interests, especially under the aegis of rapidU-grow'ng capital investment in industrial stock, had already motivated the Parum. Charles Havas, who between 1830 and 1840 united older correspondence services on one hand, to institute mail services by carrier pigeon. He distributed above all London stock exchange news to banks, firms, and newspapers. In 1849 he could use the first telegraph line. At the same time, the head of the Berlin *Nationalzeitung*, Bernhard Wolff, attempted to lower the telegram expenses for his paper by reselling the messages to subscribers; thus originated, after the Agence Havas, the Wolffsche Telegraphenbüro; following both in 1857 was the famed Reuters Ltd. in London. These three, initially organized as private economic enterprises, dominated the European market for over half a century. First they provided economic news exclusively and then political news as well. See E. Dovifat, *Zeitungslehre* (Berlin, 1955), 1:62ff. The stimulus provided by these agencies for the stock market interests, and not just their great need for capital, quickly led to the interlocking of telegraph offices with the most important banking institutions. Wolff joined with Bleichröder and Delbrück, Schickler & Co., Havas with the Crédit Lyonnais, and Reuters with the Union Bank of Scotland as well as with the London and Provincial Bank. Thus, under certain circumstances, the insiders who came into the possession of important news with a headstart or who for their part channeled reports into the public sphere could gain advantages in speculation. Just as importantly, the intimate informal ties of the agencies with their governments also proved important; they could from case to case be utilized for propaganda purposes.

8. See Groth, *Die Zeitung*, 4:14 ff.

9. Reports are available about the Berlin newspaper market at this time which emphasize the weakening in the position of the editor in relation to the publisher. "It is no longer the editor who determines the character of the paper, not even the so-called editor-in-chief, who earlier had been in daily intimate contact with the publisher and exchanged views with him. In his place is the publisher's director or department head who looks at the whole enterprise only in terms of the business aspect, with an eye to sales or to general propaganda purposes, or even to considerations regarding the advertising business. The publisher's representative presides over staff conferences, criticizes the latest issues, and gives directives for upcoming ones." Karl Mischke, "Der Berliner Zeitungsmarkt," *Das Ruchgewerbe in der Reichshauptstadt* (Berlin, 1914), 129.

10. Groth, *Die Zeitung*, 2:335ff.

11. On present conditions in the United States and Great Britain, see the studies by the Commission on the Freedom of the Press, *A Free and Responsible Press* (Chicago, 1947); also R. B. Nixon, "Concentration and Absenteeism in Daily Newspaper Ownership," *Public Opinion and Communication*, ed. Berelson and Janowitz (Glencoe, 1950), 193ff. and the Royal Commission on the Press, the so-called *Ross Report* (London, 1949). Comparable analyses are lacking for France and Germany, in general, however, conditions are unlikely to differ fundamentally from those in Anglo-Saxon countries. In 1932 there were 2,483 daily papers in the Reich; in 1956, 1,479 in the Federal Republic; see the manual, *Die deutsche Presse 1956*, ed. Institut für Publizistik der Freien Universität (Berlin, 1956), 30.

12. Havas, Reuters, Wolff, and the Associated Press soon set up an international cartel which divided up the world into four spheres of interest and inside national borders permanently granted to one agency the distribution of the news reports of the other agencies.

13. In 1956 there were 1,479 daily papers in West Germany; of these almost half, accounting for 28 percent of all copies printed, were organized into 62 joint networks. At that time the regional and branch editions of the 693 major papers accounted for 53 percent of total copies printed (whereby 2.3 percent of the central papers, each having more than ten different local editions attained a share of 16 percent of total copies). In 1954 only 225 papers were not connected with either a major paper or with one of the joint networks. See *Die deutsche Presse 1956*, SOft.

14. Dovifat, *Zeitungsslehre*, 1:69ff.

15. Beyond censorship in questions of taste, the various organizations concerned with self-control had not yet obtained any central supervisory rights on behalf of the public interest.

16. This development has been confirmed most recently in West Germany by the Bundesverfassungsgericht's so-called "television verdict."

17. Dobb, *Studies in the Development of Capitalism*, 360.

18. From more recent positions one can discern that even the advertising business distanced itself from the institutional ideology that advertising promoted the transparency of the market. See *Jahresbericht 1962*, Zentrallausschuss der Werbewirtschaft (Bad Godesberg, 1963), 13.

19. Galbraith, *American Capitalism*, 46ff.

20. H. Wuttke, "Die Reklame." *Die deutschen Zeitschriften und die Entstehung der öffentlichen Meinung*, 3rd ed. (Leipzig, 1875), 18ff.

21. W. Sombart, *Der Bourgeois*, 204.
22. G. Topfer. "Mittler der Werbung," *Der Volkswirt* 55 (1952); supplement *Die deutsche Werbewirtschaft*, 40iT.
23. F. Greiser, "Die Kosten der Werbung." 82ff.
24. Between 1880 and 1948 advertising expenditure per capita in the United States increased sevenfold. See Schramm, *Hamburg, Deutschland und die Welt*, 548.
25. DIVO, *Der westdeutsche Markt in Zahlen*, 156.
26. *Jahrbuch der öffentlichen Meinung*, 53.
27. *Handbuch: Die deutsche Presse 1956*, 47. On this type of periodicals, see the analysis of H. J. F. Kropff, "Synthese von Journalismus, industrieller Publizität und Public Relations," *Publizistik*, 5 (1960): 491 ff.
28. D. Riesman, *The Lonely Crowd*, 81.
29. E. L. Bertiays. *Crystallizing Public Opinion* (New York. 1923); see also S. Kelley, *Professional Public Relations and Political Power* (Baltimore, 1956).
30. C. S. Steinberg, *The Mass Communicators*, 16ff.
31. "Industry, business, and labor realize that they cannot survive in a healthy state and meet their competitive problems without some means of achieving and maintaining the good will of the public" *Ibid.*, 19; also ch. 3, pp. 115ff.
32. H. Gross, *Moderne Meinungspflege* (Düsseldorf, 1952); for a summary, cf. C. Hundhausen. *Industrielle Publizität als Public Relations* (Essen, ) 957).
33. Steinberg, *The Mass Communicators*, 92; also ch. 3, pp. 115ff.
34. Ranging from the usual organized affair (reports, talks, meetings, the formation of committees and conventions, etc.) to the skilled exploitation of suitable vehicles (such as vacations or holy days with which special campaigns can be associated) to publicity-attracting endowments, contests, gifts, stipends and all the way to the systematic arranging of news events (parades, exhibitions, bicycle races, vacation camps, gardening contests, beauty contests, etc.). *Ibid.*, 237ff.
35. "The press ... has two major sources of news: its own reporters and the public relations man. The press also has two related audience potentials: the number of readers in the receiving audience who form opinions based on the content in the newspaper and the number of peiMJns in the receiving audience who are motivated to buy the products advertised in the newspaper." *Ibid.*, 137.
36. *The Engineering of Consent*, ed. E. L. Bernays (Oklahoma, 1955).
37. Steinberg, *The Mass Communicators*, 74.
38. A 1953 report names far more than 100 institutions in West Germany engaged in publicity work, whereby it is at times difficult to distinguish between civic education and advertising. H. E. Jahn. *Verantwortung und Mitarbeit* (Oberlahnstein, 1953).
39. *Verhandlungen des 7. Deutschen Soziologentages. Schriften der deutschen Gesellschaft für*

*Soziologie*, vol. 3 (Tübingen, 1931). A few years earlier F. Tönnies had summarized the studies of the older German sociology on this topic: *Kritik der öffentlichen Meinung* (Berlin, 1922).

40. C. Brinkmann, "Presse und öffentliche Meinung," *Verhandlungen*, 27ff.

41. *Ibid.*, 30.

42. Administrative operations became increasingly independent from general political programs; under the guise of rational technical adaptation to changing situations, government was replaced by administration to the extent that conservatives complained about a "thinning out of the element of rulership."

43. Forsthoß, *Lehrbuch des Verwaltungsrechts*, 1:65.

44. W. Weber, *Spannung und Kräfte im westdeutschen Verfassungssystem* (Stuttgart, 1951), 38 and 53; on the abundant literature about interest groups, see O. Stammer, "Interessenverbände und Parteien," *Kölner Zeitschrift für Soziologie und Sozialpsychologie* 9 (1957): 587ff.; on the historical side: G. Schulz, "Über Entstehung und Formen von Interessengruppen in Deutschland seit Beginn der Industrialisierung," *Politische Vierteljahresschrift* 2 (1961): 124ff.

45. O. Kirchheimer, "Changes in the Structure of Political Compromise," *Studies in Philosophy and Social Science* 9 (1941): 456.

46. R. A. Dahl, "Hierarchy, Democracy and Bargaining in Politics and Economics," *Research Frontiers in Politics and Government* (Washington, 1955), 47ff.

47. H. Ridder, *Zur verfassungsrechtlichen Stellung der Gewerkschaften im Sozialstaat nach dem Grundgesetz für die Bundesrepublik Deutschland* (Stuttgart, 1960).

48. See J. M. Kaiser, *Die Repräsentation organisierter Interessen* (Berlin, 1956).

49. This incidental mobilization of "public" opinion for the purposes of supporting or securing compromises negotiated nonpublicly also reacts back on the structure of the compromises themselves. In a "genuine" compromise both parties typically reserve the right to maintain the goals that reflect the unreconciled interest situations and interest directions of a continuing basic conflict of interests. To abandon this sort of reservation renders the compromise ideological, for it reduces it to a status contract within the fictive framework of an order in principle free from conflict. With regard to the verdict of the Federal Labor Court, these tendencies have been analysed by Abendroth, Ramm, Ridder, et al.: "Innengewerkschaftliche Willensbildung, Urabstimmung, und 'Kampfmassnahme,'" *Arbeit und Recht* 7 (1959): 262ff. Just as remarkable as the legal critique is the sociological fact (documented by the criticized verdict) brought to light by it: the obligation of the bureaucracies of umbrella organizations to achieve cooperative integration within the framework of a substantively fixed order while at the same time abandoning all consciousness of a compromise involving merely temporary adjustment of divergent interests in a situation of continuing conflict of interests. Analogous to this were the phenomena of the "vanishing opposition" inside the parliament, as noted by O. Kirchheimer; "The Waning of Opposition in Parliamentary Regimes," *Social Research* 24 (1957): 127—56. This state of affairs was symptomatic not only of the political ambivalence [neglected in our context] of the development of the welfare state in general [on this see my introductory chapter to *Staat und Politik* (Neuwied, 1961), 34ff.] but specifically of the structural transformation of the public sphere. For that kind of integration-bound cooperation of organization bureaucracies that tended to become independent from their member-



publics could only win out to the extent that the forms of a critically debating public in the political realm—in this case, the organization-internal public of organization members—were replaced by the depoliticized sphere of a mediatized public whose explicit acclamation or implicit toleration was brought about by a manipulative or staged publicity issuing "from above."

Important in this context were the tendencies we have analyzed above in relation to the process of concentration of the press: first, the centralization of the political press along with an increased dependence of the newspaper on party bureaucracies; and, second, the weakening in the position of the partisan political press as such: and finally, the depoliticization of the press as a whole. Abendroth confirmed this as far as the Social Democrats' press was concerned, in connection with a remark in Hermann Heller's *Staatslehre* (Leiden, 1934), 137: "When Heller points to the fact that the workers remain intellectually capable of resistance only by means of their own newspapers, it must not be forgotten that in the Federal Republic the characteristic element of the partisan press set up by the democratic parties, which was of tremendous significance in Germany in the period before 1933, no longer exists; and for economic and technical reasons it is unlikely to arise again to the former extent." Sultan and Abendroth, *Bürokratischer Verwaltungsstaat und soziale Demokratie* (Hannover, 1955) p. 92, n. 45. In 1933 about half of all German daily newspapers were politically committed. In the Federal Republic by 1956, their share had fallen to about a quarter: 65 percent of all newspapers declared themselves to be nonpartisan; 10 percent were undefined. These two categories comprised over 32 percent of the total output of copies (see *Die Deutsche Presse 1956*, 35ff).

50. R. Altmann, "Zur Rechtsstellung der öffentlichen Verbände," *Zeitschrift für Politikwissenschaft*, 2 (1955): 214.

51. Ibid., 226.

52. Schelsky, *Familie*, 357.

53. R. Altmann, *Das Problem der Öffentlichkeit und seine Bedeutung für die Demokratie* (Ph.D. diss., Marburg, 1954), 72.

54. M. Weber, "Politics as a Vocation," *From Max Weber*, ed. H. H. Gerth and C. W. Mills (New York, 1946), 77-128; see 100ff.

55. Weber spoke of the quite limited number of those participating directly on account of the mechanism of the selection of dignitaries, but then went on to admit: "However, the number of those who indirectly had a stake in the management of politics, especially a material one, was very large. For all administrative measures of a ministerial department, and especially all decisions in matters of personnel, were made with a view to their influence upon electoral chances. The realization of each and every kind of wish was sought through the local delegate's mediation. For better or for worse the minister had to lend his ear to this delegate. . . . The single elector controlled the patronage of office, and, in general, any kind of patronage in his electoral district. In order to be reelected the deputy, in turn, maintained connections with the local notables." *Ibid.*, 102.

56. A. von Rochau, *Grundsätze der Realpolitik* (Stuttgart, 1853), 91 f.; on the entire topic, see T. Schieder, "Die Theorie der Partei im älteren deutschen Liberalismus," *Am Geschichte und Politik. Festschrift zum 70. Geburtstag von Ludwig Bergshäuser*, ed. Kommission für Geschichte des Parlamentarismus und der Politischen Parteien (Düsseldorf, 1954), 183ff.

57. H. von Treitschke, *Parteien und Fraktionen* (1871); cited by Schieder, "Das Verhältnis von Staat," 194.

58. In *Die Hilfe* 10, no. 2 (1904).

59. D. Hilger, "Die demokratischen Parteien und Parteiendemokratie," *Hamburger Jahrbuch für Wirtschafts- und Gesellschaftspolitik* 1 (1956): 176ff., with reference ID the text prepared by W. Mommsen. *Deutsche Parteiprogramme vom Varman bis zur Gegenwart* (München, 1952), drew attention to the change of formulation: considerations, occasionally of a wide-sweeping nature, addressed to small, highly educated strata gave way increasingly to political clichés.

60. H. Plessner, *Das Problem der Öffentlichkeit*, 8.

61. Here we neglect this type, which was representative for the Social Democrats of the Wilhelminian era. It was no longer characteristic of the contemporary party system. On the typology of modern parties, see: M. Duverger, *Les Parties Politiques!* (Paris, 1951), and S. Newmann "Towards a Comparative Study of Political Parties," *Modern Political Parties* (Chicago, 1956), 395fr.

62. "The common voter, who does not belong to any organization and is wooed by the parties, is completely inactive; the parties take notice of him mostly during the elections, otherwise only through propaganda directed at him." M. Weber, "Parliament and Government in a Reconstructed Germany," *Economy and Society*, ed. G. Roth and C. Wittich (New York, 1968), 1381-1469; see 1445.

63. Blackstone, *Commentaries of the LAWS of England* (London, 1783).

64. *Grundgesetz*, an. 38.

65. The two protective clauses, right to immunity and the foregoing of financial compensation, were simply more extreme versions of specifications which generally qualified participation in the bourgeois public sphere. For the latter was understood as a sphere emancipated from public authority and protected from private force. The protective clauses were intended to preserve for delegates the status of private people who were part of the public, even on the parliamentary level; their purpose was definitely not to endow them with the additional qualities of lords whose office was to represent authority—parliamentary publicity was exactly the contrary of "representative" publicity.

66. Leibholz, "Strukturwandel der modernen Demokratie," 97.

67. O. Kirchheimer, "Majoritäten und Minoritäten in westeuropäischen Regierungen," *Die Neue Gesellschaft* (1959). 256ff.; also *idem.*, "Parteistruktur und Massendemokratie in Europa." *Archiv für öffentliches Recht* 79 (1954); 307fr.; and *idem.*, *The Party in Mass Society* (New York. 1958).

68. This was precisely the state of affairs invoked by the parties to support their (legally unfounded) demand that a delegate who refused to vote according to the party line resign from his mandate.

69. C. Schmitt. *The Crisis of Parliamentary Democracy* (Cambridge. MA. 1985).

70. E. Friesenhahn, "Parlament und Regierung im modernen Staat," *Veröffentlichungen des Vereins deutscher Staatsrechtslehren* Heft 16 (Berlin, 1958), 31.

71. Just how much the connection between parliamentary discussion and critical reasoning about political issues by private people *extra muros* has been severed is demonstrated, with reference to the trends in parliamentary reporting, by H. Haftendorn,

*Das Problem von Parlament und Öffentlichkeit, dargestellt am Beispiel der Parlamentsbencherstattung* (Ph.D. diss., Frankfurt, 1960). 146ff. The work of the parliament itself, as is well known, is nowadays taking place in the party offices and caucuses as well as in the specialized parliamentary committees. These negotiations cannot be considered substitutes for public critical parliamentary debate because they do not compensate for the latter's disjunction from the public. Even where the committees are declared by the rules of order to be publicly proceeding institutions, they are not established as substitutes for a parliamentary publicity. Symptomatically, precisely "a growing interest on the part of the public in their proceedings makes it necessary to find opportunities for confidential contacts. Publicity seeps into the proceedings of the committees only to witness the relocation of the object of its interest to ever new levels of noil publicity." *Ibid.*, 89; see also B. Dechamps, *Macht und Arbeit der Ausschüsse* (Meisenheim/Glan, 1954); on the historical aspect, see W. Steffani, "Funktion und Kompetenz parlamentarischer Untersuchungsausschüsse," *Politische Vierteljahresschrift* 1 (1960): 15Sff.

72. C. T. Welcker, *Die vollkommene und ganze Pressefreiheit, nach ihrer sittlichen, rechtlichen und politischen Notwendigkeit, und ihre Übereinstimmung mit dem deutschen Fürstenwort, und nach ihrer völligen Zeitgemässheit* (Freiburg, 1830); A. Feuerbach, *Betrachtungen über die Öffentlichkeit und Mündlichkeit der Gerechtigkeitspflege* (Siegen. 1821).

73. E. Schmidt, "Öffentlichkeit oder Publizität," *Festschrift zum 70. Geburtstag von Walter Schmidt-Rimpler*. ed. Rechts- und Staatswissenschaftliche Fakultät der Universität Bor.n (Karlsruhe, 1957), 351ff.

74. Ridder, *Stellung der Gewerkschaften*, 27.

75. O. Stammer and H. Schelsky, "Über die 'Organisationswirklichkeit.' A discussion," *Neue Gesellschaft* 2, no. 2 (1955): Heft 3, 4, 6; for relevant references, O. Stammer, "Politische Soziologie- und Demokratie-Forschung," *Kölner Zeitschrift für Soziologie und Sozialpsychologie* 8 (1956): 380ff.

76. T. Ramm, *Die Freiheit der Willensbildung* (Stuttgart, 1960), 108: "The threatening collapse of society into countless, practically uncontrollable special orders can be counteracted relatively simply by a public opinion that is informed about, and has a critical impact on, what is going on inside organizations."

77. On questions regarding party finances in West Germany, see T. F.schenburg, *Probleme der modernen Pmrteifmunzierung in Deutschland* (Opladen, 1962); for the United States, A. Heard, *The Costs of Democracy* (University of North Carolina. 1960); on the legal aspect, W. Grundmann, "Die Finanzierung der politischen Parteien," *Zeitschrift für die gesamte Staatswissenschaft* 115 (1959): 113-30.

78. Altmann, *Rechtsstellung der öffentlichen Verbände*, 225.

79. H. Ridder, "Meinungsfreiheit," *Die Grundrechte*, ed. Neumann, Nipperdey, and Scheuner (Berlin, 1954), 2:257. See also M. Löffler, "Der Verfasungsauftrag der Publizistik," *Publizistik* 5 (1960): 517ff.; H. Copic, "Berufsverbot und Pressefreiheit," *Juristische Zeitschrift* (1963): 494ff.

80. U. Lohmar, *Innerparteiliche Demokratie* (Stuttgart, 1963); on this, W. Abendroth, "Innerparteiliche und innerverbandliche Demokratie als Voraussetzung der politischen Demokratie," *Politische Vierteljahresschrift* 5 (1964): 307ff.

81. Ridder, *Stellung der Gewerkschaften*, 26f.

82. Kitzinger. 67f.

83. See my essay on the concept of political participation in Habermas, von Friedeburg, et al. *Student und Politik*, 13 if.

84. *Public Opinion Quarterly* 16 (Fall 1952): 329.

85. See the collections: Burdick and Brodbeck, *American Voting Behavior* (Glencoe, 1959); Eulau, Eldersveld, and Janowitz, *Political Behavior* (Glencoe, 1956); further, the studies of Lazarsfeld, Berelson, and McPhee, *Voting* (Chicago, 1954); Campbell, Gurie, and Miller, *The Voters Decide* (f.vanston. 1954); lazarsfeld, Berelson, and Gaudet, *The People's Choice* (New York, 1944). The voting behavior of populations in England, France, and Germany, as comparable studies in these countries show, is by and large similar to that in America: McCallum and Readman, *The British General Election of 1945* (London, 1947); H. C. Nicholas, *The British General Election of 1950* (London, 1951); D. E. Butler, *The British General Election of 1955* (London, 1955); Nicholas and Williams, "The French Election of 1956," *Political Studies* 4 (1956); Harrison and Kitzinger, "The French Election of 1958," *Political Studies* 7 (1959): 147ff; M. Duverger, *La participation des femmes à la vie politique* (Paris, 1955); Hirsch-Weber, *Wähler und Gewählte* (Berlin, 1957). Many of these findings have been interpreted in S. M. Lipset, *Political Man* (New York, 1960); cf. especially pt. 2, "Voting in Western Democracies."

86. J. Linz, *The Social Basis of German Politics* (Ph.D. diss., Columbia University, 1958); 208f., according to Lipset, *Political Man*, 196.

87. E. Katz and P. Lazarsfeld, *Personal Influence* (Glencoe, 1955).

88. Berelson, *Voting*, 319: "In most campaigns, whether political or informational, the people best informed on the issue are the ones least likely to change their minds. Much of this represents attitudinal stability; some of it may represent rigidity."

89. M. Janowitz and D. Marvick, *Competition, Pressure, and Democratic Consent* (Michigan, 1956).

90. Lipset, *Political Man*. 270ff., on the historical background of voting patterns.

91. S. A. Stouffer, *Communism, Conformity, and Civil Liberties* (New York, 1955), 83ff.; H. H. Field, "The Non-Voter," *Public Opinion Quarterly* 8 (1944): 175ff.; F. H. Stanford, *Authoritarianism and Liberty* (Philadelphia, 1950).

92. Janowitz, *Political Behavior*, Eulau et al., 279.

93. C. Harris, "Election, Polling, and Research," *Public Opinion Quarterly* 2 I (1957):

94. Janowitz. *Political Behavior*, 280.

95. *Ibid.*

96. R. Aron, "Fin de l'Age Ideologique?" *Sociologica* (Frankfurt, 1955); see also O. Brunner, "Das Zeitalter der Ideologien." *Neue Wege der Sozialgeschichte* (Göttingen, 1956), esp. 200ff.

97. T. W. Adorno, "Beitrag zur Ideologienlehre." *Gesammelte Schriften*, vol. 8 (Frankfurt, 1972) 457-77; see 476-77, cf. also Horkheimer and Adorno, "The Culture

Industry Enlightenment as Mass Deception," *Dialectic of Enlightenment*, trans. J. Cumming (New York, 1972), 120-67.

98. H. H. Floeter, "Der manipulierte Mensch und seine Freiheit," *Die Neue Gesellschaft* (1958): Heft 4, p. 272.

99. Characteristic of this was the discussion within the SPD after its election setback of 1957; see the controversy in *Die Neue Gesellschaft* (1958): Heft 1: Willi Eichir. "Wählermanipulierung oder sozialistische Politik?", 27ff. and Jens Feddersen. "Polliid muss verkauft werden," 21ff.

100. Riesman, *The Lonely Crowd*, 189-90.

101. G. Schmidtchen, *Die befragte Nation* (Freiburg, 1959), 139.

102. It is no accident that Schmidtchen, *Ibid.*, 173, presented the following case as an example for governmental behavior based on empirical findings: "The reaction of the press to certain efforts or decisions of the government may turn out to be unfavorable. At the same time a survey shows that the population has formed much more positive ideas about these events. If the government were to base its publicity work on the opinions of the press, an information campaign could cause more confusion than clarity, because for the most part its argumentation would have to appear incomprehensible to the population."

103. Kirchheimer. "Majoritäten und Minoritäten," 265.

104. Schmidtchen, *Die befragte Nation*, 166; see also his "Die Bedeutung repräsentativer Bevölkerungsumfragen für die offene Gesellschaft," *Politische Vierteljahresschrift* 1 (1963): 168ff.

105. This empirically falsified assumption lies at the basis of most of the critiques of the function of opinion research within a democracy. It leads, so the contention goes, to a disappearance of the willingness to assume leadership, see J. C. Ramney, "Do the Polls Serve Democracy?" *Public Opinion and Communication*, ed. Berelson and Janowitz, 132ff.; also R. Fröhner, "Täuscht die Meinungsforschung zur Entdemokratisierung bei?" *Publizistik* 3 (1958): 323ff.; and more recently, the controversy between K. Sontheimer and G. Schmidtchen, "Meinungsforschung und Politik," *Der Monat* 16 (April and May 1964).

106. Above all, see the studies of Schmidtchen and Kitzinger that cannot be suspected of partisan political affiliations; for an interpretation of the manipulative content of the scientifically managed Bundestag election campaign, cf. L. von Kriedenburg, "The political potential of the survey research," *Kölner Zeitschrift für Soziologie und Sozialpsychologie* 13 (1961): 201-16; for a sociological analysis of particular categories of voters, see Hartenstein, Liepelt, and Schubert, "Die Septenberderokratie," *Die Neue Gesellschaft* (1958): Heft 1; H. Faul, ed. *Wahlen und Wähler in Deutschland* (Hamburg, 1961); V. Graf Bleicher, ed., *Der Prozess der Meinungsbildung, dargestellt am Beispiel der Bundestagswahl 1961* (Bielefeld, 1962).

107. Concerning this term, see above p. 80, n. 54.

108. See above, sect. 1 I.

109. In this sense, Ramm, *Die Freiheit der Willensbildung*, 54, stressed "that the civil law in its concrete formation and articulation was itself an outcome of human and civil rights."

110. Ridder, *Stellung der Gewerkschaften*. 16ff.

111. See above p. 178 a 88; also Forsthoff, *Begriff und Wesen des sozialen Rechtsstaats*. 27f.: "With the elimination of the dualism of state and society, to which corresponded in the realm of administration an interventionist administration, society-shaping tasks have accrued to legislation and administration the accomplishment of which can no longer be assessed by means of a merely formal legal standard. For these society-shaping functions it no longer suffices that they remain within the confines of the constitution and the laws; but they must be regulated and performed in a manner just in a substantive sense." Cf. also Forsthoff, *Verwaltungsrecht*, 1:57.

112. H. P. Ipsen, *Das Grundgesetz* (Hamburg, 1950). For a survey of the literature on the discussion in constitutional law, see Gerber, "Die Sozialstaatsklausel des Grundgesetzes," *Archiv für öffentliches Recht* 81 (Tübingen, 1956).

113. Ridder, *Stellung der Gewerkschaften*, 10.

114. Art. 10 (the ordering of economic life in accord with the principles of justice and with the goal of providing everyone with an existence compatible with human dignity); art. 155 (distribution and use of land under conditions preventing their abuse); art. 156 (socialization of private enterprises and promotion of cooperative societies); art. 157 (guarantee of labor law); art. 163 (duty to work and right to work); art. 164 (employees' right to participation).

115. Arts. 22-27 (right to social security, to work, to adequate leisure, to a minimum standard of living and health care, to education and culture, and to a share in cultural goods in general). To be sure, articles concerning social policy can be found in the constitutions of many German *Länder*: Hessian Constitution, arts. 27-47; Bavarian Constitution, arts. 151 ff.; Constitution of Rhineland-Palatinate, arts. 23ff.; Constitution of Bremen, arts. 37ff.; Constitution of Northrhine-Westphalia, arts. 5ff, 24ff.

116. Forsthoff, *Sozialer Rechtsstaat*, 19.

117. W. Abendroth, *Veröffentlichungen des Vereins der deutschen Staatsrechtslehrer*, Heft 12, pp. 87ff.

118. H. Ridder, "Meinungsfreiheit," *Die Grundrechte*, ed. Neumann, Nipperdey, and Scheuner, 2:342ff.

119. *Ibid.*, 258.

120. *Ibid.*, 259. To be sure, besides the "public freedom of opinion" relating to publicist institutions, Ridder allowed for the classical freedom of expression of opinion relating to private individuals without expressly stating that the latter became dependent upon the former and hence lost the character of a liberal basic right itself.

121. The pertinent decisions of the Bundesverfassungsgericht (Federal Constitutional Court) can be interpreted in the same sense, especially the Loth/Harlan decision of 1958, the Northrhine-Westphalia press decision of 1959, the Schmidt/Schäfer decision of 1961, and the television decision of 1961. For a summary, see A. Arndt, "Begriff und Wesen der öffentlichen Meinung," *Die öffentliche Meinung*, ed. Löffler (München, 1962), Iff., esp. 11 ff.; H. Lenz, "Rundfunkorganisation und öffentliche Meinungs-bildungsfreiheit," *Juristische Zeitschrift* (1963): 338ff

122. On the freedom of parties in accord with the provisions of the *Grundgesetz*, see von der Heyde, *Grundrechte*, 2:547ff.

123. Nipperdey, "Das Recht auf die freie Entfaltung der Persönlichkeit," *Grundrechte*, 3: Iff.

124. W. Abendroth, "Zum Begriff des demokratischen und sozialen Rechtsstaats im Grundgesetz der Bundesrepublik Deutschland," *Bürokratischer Verwaltungsstaat und soziale Demokratie*, ed. Sultan and Abendroth (Hannover, Frankfurt, 1955), 97ff.

125. Forsthooff, *Soziater Rechtsstaat*. 32.

126. The antagonism between critical publicity and manipulative publicity does not extend merely to the politically relevant process of the exercise and equilibration of power; rather, within the intraorganizational public sphere of consumer associations we find the beginnings of a publicist control of the market of consumer goods, the transparency of which is shrouded over by the manipulative publicity of monopolistic competition (see above, sect. 20). The leveling of the threshold between the public and private spheres, within the private realm itself, not only leads to the employment of the public sphere for purposes of advertising but in principle makes possible, conversely, the critical-publicist penetration of the sphere of the market. These in general very weak efforts have been most successful in the United States, where the Consumer Union has about one million members and publishes monthly the extraordinarily informative *Consumer Reports*. More on this in the anniversary volume upon the occasion of the twenty-fifth anniversary of the founding of this organization: *Consumer Reports* (May 1961): 258ff.

127. See above, 129ff.

128. See especially Max Weber, "Parliament and Government in a Reconstructed Germany." The problem has taken on an even more complicated complexion today in view of a scientifically managed political economy. Nevertheless, the antinomies of decision and discussion, of bureaucracy and democratic control, although aggravated by this, are not insoluble. See F. Neumark, "Antinomien interventionistischer Wirtschaftspolitik." *Zeitschrift für die gesamte Staatswissenschaft* 108 (1952): 576-93.

129. H. Sultan, "Bürokratie und politische Machtbildung," *Bürokratischer Verwaltungsstaat und soziale Demokratie*. 32; see also C. J. Friedrich, *Der Verfassungsstaat der Neuzeit* (Berlin. 1953), 57f.

130. The model of the technocratic state (*Verwaltungsstaat*) at one time developed by C. Schmitt, the technical conditions for the functioning of which were at odds with a possible democratization, has recently been included in a sociological analysis by H. Schelsky, "Der Mensch in der wissenschaftlichen Zivilisation," *Arbeitsgemeinschaft für Forschung, Nordrhein-Westfalen*, (Köln-Opladen, 1961) Heft 96, esp 2#-32: for a critical discussion of this, cf. H. P. Bahrdt, "Helmut Schelskys technischer Staat," *Atomzeitalter* 9(1961): 195ff.

131. See K. Renner, *Wandlungen der modernen Gesellschaft* (Wien, 1953), esp. 223ff.; and K. Mannheim, *Freedom, Power, and Democratic Planning* (Oxford, 1950), 41-76.

132. Naturally, today this problem only exists within the international framework of a competition between total social systems of industrial development; see F. Perroux, *Feindliche Koexistenz* (Stuttgart, 1961).

133. The functions of the public sphere were the same for the legal relationship between states as for the legal order inside a state. Ever since Wilson attached high-hown hopes to international public opinion as a sanction at the disposal of the League of Nations, governments have actually been increasingly forced to have at least a

propagandists regard for the world public. "Peace," however defined, seems to have become a central topic of an international public opinion in the same manner as the slogans of the French Revolution did on the national level; on this see Ernst Fraenkel, "Öffentliche Meinung und internationale Politik," *Recht und Staat* 255/256 (Tübingen, 1962). Publicity has become relevant as a principle in international relations in another respect: in relation to the question of effective arms control. Years ago, in letters to the United Nations, Niels Bohr proclaimed the principle of an "Open World"; Oskar Morgenstern demonstrated the connection between publicity concerning technical-military advances and the requirements of strategy in the atomic age; see O. Morgenstern, *Strategie heute* (Frankfurt, 1962), esp. 292ff. Hanno Kestmg, in "Der eschatologische Zwang zur Rationalität," *Merkur*, Heft 179 (1963): 71ff, has the merit of being aware of the continuity, on the level of the philosophy of history, that stretches from Kant to Morgenstern. Today as then, the idea of peace is connected to the principle of publicity—formerly in the expectation of a morally responsible legalization, today with that of a strategically imposed reduction of international tension. The goal however has remained the same—the liquidation of the state of nature between nations that has become ever more precarious. See R. Aron, *Peace and War: A Theory of International Relations* (Garden City, NY: 1966).

134. At this point I neglect the new forms of communication between politics and science. In this connection the task of controlling technological progress accrues to a democratic public sphere; see H. Krauch, "Technische Information und öffentliches Bewusstsein," *Atomzeitalter* (1963): 235ff.; also, J. Habermas, "The Scientization of Politics and Public Opinion," *Toward a Rational Society: Student Protest, Science, and Politics*, trans O. Shapiro (Boston, 1970), 62-80; and *idem.*, "Wissenschaft und Politik," *Offene WeU*, no. 86 (1964): 413ff.

## VII On the Concept of Public Opinion

1. S. Landshut, "Volkssouveränität und öffentliche Meinung," *Gegenwartsprobleme des internationalen Rechtes und der Rechtsphilosophie. Festschrift für Rudolf Laun zu seinem 70. Geburtstag*, ed. D. S. Constantopoulos and H. Wehberg (Hamburg, 1953), 583; also H. Huber, "Öffentliche Meinung und Demokratie," *Festschrift für Karl Weber zum siebenzigsten Geburtstag* 23. Februar 1950 (Zürich, 1950), 34ff.; K. Lohmann, "Parlamentarismus und Publizistik," *Typos für Wilhelm Ahlmann* (Berlin, 1951), 198ff.

2. Landshut, "Volkssouveränität und öffentliche Meinung," 586.

3. Of course, "public opinion" itself is not an enacted norm and to that extent not a legal concept; but the system of norms presupposed it implicitly as a social entity, which predictably functions in the sense of certain constitutional guarantees and individual prescriptions for publicity.

4. Thus A. Sauvy, "Vom Einfluss der Meinung auf die Macht," *Ditgenes*, Heft 14/15 (1957): 253: "It appears that the least discomfiting coercive power of truth would be the coercive power of illumination, which is to say contr[adiction] by way of an entirely enlightened public opinion." The idea of rationalizing political domination is preserved; the suggested system of complete publicity "goes farther than the classical division of powers because it divides and spreads the power itself." This rationalist concept, however, remains naive in relation to the material presuppositions of a critically reflecting public.

5. W. Hennis, "Meinungsforschung und repräsentative Demokratie," *Recht und Staat*, Heft 200/201 (Tübingen, 1957): 56f.



6. *Ibid.*, 25.

7. F. G. Wilson, "Public Opinion and the Middle Class," *The Review of Politics* 17 (1955): 486-510.

8. E. Fraenkel, "Parlament und öffentliche Meinung," *Zur Geschichte und Problematik der Demokratie. Festgabe für Hans Henfeld*, ed. W. Berges (Berlin, 1957). 182.

9. Leibholz, "Strukturwandel der modernen Demokratie," 94.

10. F. von Holtzendorff, *Wesen und Wert der öffentlichen Meinung* (München, 1879), 91 f.; see E. Holzen. *Wandel und Begriff der öffentlichen Meinung im 19. Jahrhundert*, (Ph.D. diss., Hamburg. 1958).

11. A. Schäffle, *Bau und Leben des sozialen Körpers*, 2nd ed. (Tübingen, 1896), 5:191.

12. G. Tarde, *L'Opinion et la Foule* (Paris, 1901).

13. A. V. Dicey, *Law and Public Opinion in England* (London, 1905); J. Bryce, *The American Commonwealth*, 2 vols. (1889); A. L. Lowell's famous study *Public Opinion and Popular Government* (New York, 1913) stands in Bryce's tradition; he also emphasized: "Public opinion to be worthy of the name, to be the proper motive in a democracy, must be really public; and popular government is based upon the assumption of a public opinion of that kind," (p. 5).

14. Cited after P. A. Palmer, "The Concept of Public Opinion in Political Theory," *Public Opinion and Communication*, ed. Berelson and Janowitz, 11.

15. L. W. Doob, *Public Opinion and Propaganda* (New York, 1948), 35; similarly, N. J. Powell. *Anatomy of Public Opinion* (New York, 1951), 1ff.

16. W. Albig, *Public Opinion* (New York, 1938), 3.

17. M. B. Ogle, *Public Opinion and Political Dynamics* (Boston, 1950), 48.

18. Doob, *Public Opinion and Propaganda*, 35: "In this sense it might appear as though public opinion exists whenever people have attitudes."

19. H. L. Child, cited after Powell, *Anatomy of Public Opinion*, 4.

20. H. Hyman, "Towards a Theory of Public Opinion." *Public Opinion Quarterly* 21, no. 1 (Spring 1957): 58.

21. P. R. Hofstadter, *Psychologie der öffentlichen Meinung* (Wien, 1949), 53ff.

22. See D. W. Miner, "Public Opinion in the Perspective of Political Theory," *Western Political Quarterly* 13 (1960): 31-34.

23. Lazarsfeld, "Public Opinion and Classical Tradition," 39ff.

24. For a summary, see the essay of the same title by E. Katz, *Public Opinion Quarterly* 21, no. 1 (Spring 1957): 61 ff.; see too Katz and Lazarsfeld, *Personal Influence* (Glencoe, 1955).

25. Schmidtchen, *Die befragte Nation*, 225.

26. See H. Schelsky, "Gedanken zur Rolle der Publizistik in der modernen Gesellschaft," *Auf der Suche nach Wirklichkeit* (Düsseldorf, 1965), 310ff.

27. Schmidtchen, *Die befragte Nation*, 257.

28. *Ibid.*, 149.

29. *ibid.*, 149ff.

30. *Ibid.*, 265.

31. In this sense, see E. Noelle, "Die Träger der öffentlichen Meinung," *Die öffentliche Meinung*, 25ff.; see in particular the example on 29.

32. For a critical assessment of this conception, see F. Zweig, "A Note on Public Opinion Research." *Kyklos* 10 (1957): 147ff.

33. See above, pp. 231ff.

34. For another differentiation of "qualities of opinion" see K. Riezler. "What is Public Opinion?" *Social Research* 11 (1944).

35. W. Mangold, *Gegenstand und Methode des Gruppendiskussionsverfahrens* (Frankfurt, 1960).

36. C. W. Mills. *The Power Elite* (New York, 1956), 303-4.

37. On the political sociology of the "mass" see the study of W. Kornhauser, *The Politics of Mass Society* (Glencoe, 1959).

38. Mills, *The Power Elite*, 304; and *idem.* *The Sociological Imagination* (New York, 1959), 8 If.

39. H. Blumer, "The Mass, the Public, and Public Opinion," *Public Opinion and Propaganda*, ed. Berelson and Janowitz. 34ff.

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