

Constitutionalism as a force of popular loyalty: Constitutional and unconstitutional Württemberg in the early nineteenth century

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Nationalism and the theories that govern it are difficult to the point of being impenetrable. While nationhood is best defined quite simply as a «concept of unity», that concept – after Michael Hughes – is «something of a quagmire, deep and muddy, frequently not worth the struggle»¹. In Benedict Anderson's immortal phrasing, the nation is little more than an «imagined community», defined less by geography and more by the creative and sometimes inscrutable means by which people feel as though they belong². Often, these feelings take the form of the equally slippery idea of shared values. This is a staple of modern political rhetoric; «make America great again», for example, works as a concept only if there is a general consensus of what America is and what made (and will make) it great. Additionally, the shift towards an anti-migrant «love it or leave» mentality regarding citizenship in the Anglosphere and elsewhere implies a certain immutability: a country or nation demonstrates characteristics that should not change for newcomers or critics.

These national characteristics are, of course, comfortable (and, sometimes, uncomfortable) fictions, though their role in creating an identity consciousness (the community aspect of Anderson's «imagined communities») is indisputable. But they are predicated upon a sort of eternity or longevity, of an identity stretching back into history. On the other hand, the upsurge in nationalist sentiment that was catalysed by and resulted from the Revolutionary and Napoleonic Wars (1792-1815) occurred within a context in which such longstanding identity markers were impossible. With the post-1815 central European map redrawn beyond pre-1789 recognition, Restoration governments in the German hinterland sought to harness burgeoning national consciousnesses in order to supplement and bolster state loyalties among their subject populations, even while the complexion of those populations remained in flux³. In many cases, they were singularly unsuccessful. However, as this paper argues, the southwestern Kingdom of Württem-

berg was one of the few German states for whom the invention — or reinvention — of the state identity was successful in capturing the spirit of the population as a whole. Particularly in the crucial years between the collapse of Napoleon's reign in Europe and the end of the revolutions of 1848-9, a succession of Württemberg state governments, and indeed the crown itself, refashioned Württemberg identity, engendering its subjects not with a patriotism based on the coincidence of territory (*Territorialpatriotismus*), but rather a patriotism based on a commonly-held idea that was portrayed as unique to Württemberg, in this case its constitutional history and heritage. It was this «constitutional patriotism» (*Verfassungspatriotismus*) that maintained a genuine popular faith in the institutions of state and crown during the tumultuous years between the end of the Napoleonic Wars (1815) and the formation of the German Empire (1871). It was also, conversely, the liberties afforded by this constitutionalism that permitted prominent Württembergers to become leading figures in the liberal-nationalist unification movement that presaged the 1871 *Reichsgründung* and argued for the foundation of a unitary German state. In the final analysis, a good Württemberger could also be a good German — but to be a good constitutionalist was central to being a good Württemberger.

1. Introduction to Württemberg constitutional history

The history of Württemberg constitutionalism as a whole is actually the history of *two* constitutions — the *Tübinger Vertrag* (Treaty

of Tübingen, 8 July 1514), and the *Ludwigsburger Verfassung* (Ludwigsburg Constitution, 25 September 1819). Both documents were, for their times, extraordinary in word as well as spirit, not only because they afforded rights and liberties heretofore unparalleled upon the citizenry, but also because they embodied a concrete check and balance upon royal prerogative. Both were initiated during crisis points in the state's history, and both were intended to provide stability in the context of regional uncertainty. Furthermore, the earlier Treaty of Tübingen acted as a blueprint for the later, and far more modern, Ludwigsburg example. Yet they were fundamentally different in both their intentions and their results.

Codified in 1514 as a power-sharing arrangement between Duke Ulrich of Württemberg and the landed estates (*Landstände*), the *Tübinger Vertrag* followed the English *Magna Carta* by some three centuries. Even so, it stood largely alone in early modern Europe as an example of a treaty and agreement between the duke and the occupants of the land he governed. To each Württemberg citizen, it guaranteed certain fundamental rights and privileges, including freedom of movement and migration, rights to ordinary justice, and the right to bear arms. At the same time, it determined that the duke's ability to harness the resources of his state were curtailed by the requirement that these be coordinated in conjunction with the agreement of the estates. Thus, no tax could be imposed by the duke unless it was agreed to by the assembled estate representatives in the Stuttgart State Assembly (*Landtag*). In times of emergency and for the purposes of the «salvation of the state», the duke could call upon the citizenry for military service, but only «with the advice,

knowledge and will of the general estates» (*mit rat, wissen und willen gemainer landschaft*)⁴. What this meant in practice was not adequately expressed; as James Allen Vann notes, much of it was formulated in order to address specific issues relevant to the context of 1514 and, in other cases, the document was frustratingly vague⁵. Nevertheless, the spirit of the contract was one of balance. The *Landtag* of 1584, at which the question of balancing state budgets was a key issue, provides an example of this. At the conclusion of this assembly, Duke Ludwig III thanked the estate representatives for their «willing readiness» to accept and elevate him as the «rightful father of the land» (*rechter Landesvater*), but also insisted that they were bound by the laws of the state and would be encouraged to limit their expenses. «The estates accepted this address “thankfully and with joy”», we are told, «but they reminded the duke at the same time that it would not be enough for them to have appropriated the debts [of the state], he himself would also have to rightfully save»⁶.

Financial issues were often at the forefront of estate concerns, and were a frequent source of tension between the ducal house and the *Landtag*. In 1692, for instance, Friedrich Karl, Duke of Württemberg-Winnental and regent of Württemberg since 1677, attempted to raise a standing army by activating the emergency military duty clause in the Treaty. In spite of the fact that Württemberg was, indeed, in the midst of a regional emergency, he was repudiated by the estates. The legal advisor to the *Landtag*, Dr. Johann Heinrich Sturm, argued forcefully that the raising of a permanent Württemberg army was a gross violation of the traditional liberties and rights guaran-

teed by the Treaty of Tübingen, would place an unreasonable financial burden on the estates, and was nothing less than a mockery of «all legitimate Christian, German, non-Machiavellian polity»⁷. On much the same issue, one of Sturm’s successors, Johann Dietrich Hörner, argued in 1724 that a standing army would require the hiring of foreign mercenaries, who would be able to influence state politics and, potentially, undermine the authority constitutionally guaranteed the estates⁸.

It is true that the constitution was an asymmetric application of power distribution. That is to say, while the constitution conferred rights upon the ordinary citizenry, it did not concentrate power in those citizens’ hands. That was left to the members of the so-called *Ehrbarkeit* (worthies). This was a socioeconomic group consisting of select, close-knit, and intertwined families, from which representatives were selected for the Württemberg *Landtag*. Theoretically, Württemberg historically lacked enduring traditions of primogeniture, which in turn precluded the development of the noble houses found elsewhere. In practice, the *Ehrbarkeit* dominated the estates and therefore the political process entrusted to the estates. Its monopoly of power had the added effect of closing the *Ehrbarkeit* to outside influences; as Peter H. Wilson notes, by the 1680s «it was almost impossible for any individual to join them either from the lower social orders within the duchy, or from other groups outside it»⁹.

The implication with regards the actual implementation of the Treaty of Tübingen was twofold. Firstly, it conditioned the Württemberg political process towards an inherent institutional defence of vested es-

tate interests. This occasionally brought the estates into conflict with the duke, as in the example of Friedrich Karl's appeal to expand the standing army. The *Landtag's* reticence may have forsaken prudent security in favour of vested financial interests. But this does not entirely do justice to Dr. Sturm and his contemporaries, who had reason to hold the regent under suspicion. The *Ehrbarkeit* represented itself as the defender of constitutionalism, and in some respects it was correct. The Württemberg dukes were frequently overambitious in their aims, often at the expense of the duchy. In 1688, Friedrich Karl he had attempted to raise three cavalry regiments to lend to William of Orange against the French. This he did without consulting the *Landtag*, a flagrant breach of the Treaty of Tübingen made even worse by the fact that the French responded by invading Württemberg and imposing financial reparations upon the estates. Successive dukes' attempts to fulfil Friedrich Karl's ambition to transform Württemberg into a regional military power also failed on the estates' refusal to approve new taxes and conscriptions and, when they were given free reign, the results were invariably financially ruinous¹⁰. This also meant that the *Ehrbarkeit* became a lightning rod for public opinion. After all, the same provisions that guaranteed the representation of the estates in the *Landtag* also provided for the judicial rights of the public at large. Estate reluctance to approve any new taxations or levies, while probably motivated out of self-interest, also had positive consequences for non-*Ehrbarkeit* citizenry.

It would be glib, perhaps, but still not entirely incorrect, to suggest that Württemberg constitutionalism continued in much this vein until the early nineteenth centu-

ry¹¹. In spite of the efforts of some of the Württemberg dukes who, in the mould of Friedrich Karl, attempted to exert a greater monarchical influence over the state than the constitution allowed, the Treaty of Tübingen remained in force (though its boundaries were periodically tested). However, the process by which Württemberg's constitutional history and identity were transformed began in 1797, upon the death of Duke Friedrich II Eugen. His successor — his eldest son Friedrich II — was, by most accounts, coarse, vulgar, and given to a violent temper; in 1785, his first wife, Augusta von Braunschweig-Wolfenbüttel, had sought sanctuary in St. Petersburg, on the grounds of frequent and violent abuse. Friedrich was also deeply suspicious of the estates and, in particular, their constitutional ability to rein in his own exercise of power. The most obvious example of this was Friedrich's withdrawal of the Treaty of Tübingen in 1806, shortly after his elevation to kingship by Napoleon Bonaparte in return for Württemberg's alliance with the French of 5 September 1805. This, he argued, was a result of the complicated relationship between the traditional territories of Württemberg (*Altwürtemberg*) and the new acquisitions — territories annexed by virtue of Friedrich's bond with Napoleon (*Neuwürttemberg*). It would be difficult, perhaps impossible, Friedrich argued, to extend the constitutional guarantees of the Treaty of Tübingen to populations who had never been subject to it. In light of «the altered state of things», the king argued, it would be both foolish and manifestly unfair to apply a state constitution to only half of Württemberg¹². With this pretence, nearly three centuries of constitutionalism came to a close, with the constitution itself sus-

pended indefinitely. However, Friedrich had never made a secret of his disdain for the Treaty and its checks and balances. As crown prince, he has written (albeit anonymously) a novel, *Schach Baham*, in which he dismissed the *Landtag* as «the eternally and completely meaningless Assembly of High Cattle [being the *Ehrbarkeit*] and representatives of individual towns»¹³. After his ascension to the throne, Friedrich's relationship with the estates became more and more strained, as he attempted to wrest more legislative oversight away from those empowered by the 1514 constitution¹⁴. In 1803, coinciding with his elevation to the role of elector of the Holy Roman Empire, Friedrich began to extend his influence over local politics. This he did by directly appointing the district scribes (*Schreiber*). These scribes, typically «unsupervised and unregulated», fulfilled something akin to a *de facto* role of local administrator and arbiter within regional towns and districts, while maintaining autonomy from the state centre. By 1803, Friedrich had begun eroding this local institutional independence, ultimately doing away with it completely after the repudiation of the Treaty of Tübingen.

Friedrich's anti-constitutional movements coincided with significant developments with regards his power relationships on the geopolitical stage. His ascension to electorship in 1803 afforded him a greater degree of prestige than his dukedom; his elevation to king, facilitated and supported by the arrival of French troops in Württemberg territory, did likewise. Moreover, whatever pretensions Napoleon might hold in the historiography as a «symbol of lost liberty», or the totem of «liberal Bonapartism», he had little need or use for an

indigenous constitution — especially not one already defunct — in a state that, while theoretically an ally, was hardly more than a vassal¹⁵. Thomas Nipperdey's path-breaking survey of German history of the nineteenth century begins with the prosaic words: «*Am Anfang war Napoleon*» («In the beginning there was Napoleon»)¹⁶. While the Franco-Württemberg Alliance of September 1805 was not, in fact, the starting point for the destruction of Württemberg constitutionalism, it did provide impetus to both internal and external forces that hastened the dismantling of the edifice of the *Tübinger Vertrag*. The privations forced upon the citizenry soon outstripped anything that even Friedrich Karl had attempted when Sturm had criticised him as «Machiavellian». The immediate levies imposed by the French — to the tune of some eight million francs and 2,000 horses — were soon outstripped by their demands on Württemberg manpower¹⁷. Between 1805 and 1813, for instance, more than 80,000 French troops were stationed in Württemberg, in what was essentially an occupation in all but name. Just as French soldiers arrived, Württemberg men were dragooned into service in the *Grande Armée*. In the Russian campaign alone, beginning in 1812, some 15,800 Württembergers took to the field. Of these, approximately 500 returned. The casualties suffered in the Russian campaign made up the lion's share of the roughly 27,000 Württembergers killed during the Napoleonic Wars¹⁸.

It would, of course, be spurious to suggest that a more constitutionally dedicated king than Friedrich would have been able to keep the *Tübinger Vertrag* intact in the years of Napoleonic subservience. Had it survived, the constitution would certainly

have offered no resistance whatsoever to Napoleon's designs. Even so, its absence was keenly felt. Whatever Friedrich's true power in his relationship with the French — negligible at best¹⁹ — the advent of the French alliance had permitted Friedrich the occasion to rid himself of the very constitution he had been railing against for years. Moreover, while it would have offered no *realistic* protection against the privations suffered between 1805 and 1813, the fact that these would have been deemed unconstitutional under the letter and spirit of the Treaty of Tübingen afforded the dissolved constitution a further measure of theoretical (or emotional) relevance, as a symbol of hypothetical, anti-Napoleonic and anti-despotic resistance. Gradually, as the war and public opinion turned against Napoleon, Friedrich began looking for means to extricate himself from what had become an unpopular conflict. The occasion of this defection was the Battle of Nations, outside Leipzig, in 1813. From this point until Napoleon's final defeat at Waterloo, Württemberg counted itself a member of the allied Sixth Coalition.

The end of the Napoleonic Wars left Württemberg in a precarious political position. Externally, Friedrich faced a complex diplomatic situation. The major victorious powers of the Sixth Coalition were hardly well-disposed towards him, given his role as one of Napoleon's allies for the best part of a decade. To this end, the Congress of Vienna became a curious mixture of Federician bravado and atonement, as the Württemberg king tried to consolidate and even expand the gains he had made under Napoleon, while at the same time mending fences with his once-foes. In this regard, he was at least partially successful, though on

the surface he appears to have been wholly inept at currying favour. In spite of numerous entreaties to the Russian delegation, for example, he was dismissed by Maria Nesselrode, the wife of the Russian diplomat Charles de Nesselrode, as a despot, and by the Prussian statesman Karl vom und zum Stein (then in Russian service) as «the Württemberg tyrant or sultan»²⁰. On the other hand, and in spite of the personal opprobrium that he attracted, Friedrich was at the very least able to secure the territories, resources, and population that Württemberg had gained by 1806 (although his proposal to annex a portion of eastern Baden met with no success at all).

Having safeguarded Württemberg's continued external existence — which had hardly been a given when the Congress convened — the crown now faced an internal crisis. The ratification of the German Confederal Acts (*Deutsche Bundesakte*) on 10 June 1815 stressed the requirement that «in all confederal states an estate-based constitution will be enacted»²¹. Even before this, however, Friedrich had surprised many, both within his state and those sitting on the German Committee in the Congress, by announcing his intention to draft a new constitution. This constitution, provisionally announced on 18 January 1815, appeared on the face of it to contradict most of Friedrich's established behaviour as a neo-absolutist king. After all, he had been quick to grasp any opportunity to minimise the constitutional borders imposed on him by the Treaty of Tübingen, and one of his first acts as king had been to do away with the constitution completely. But with his newfound constitutional interests, Friedrich was attempting to maintain control of a process that was beginning to slip

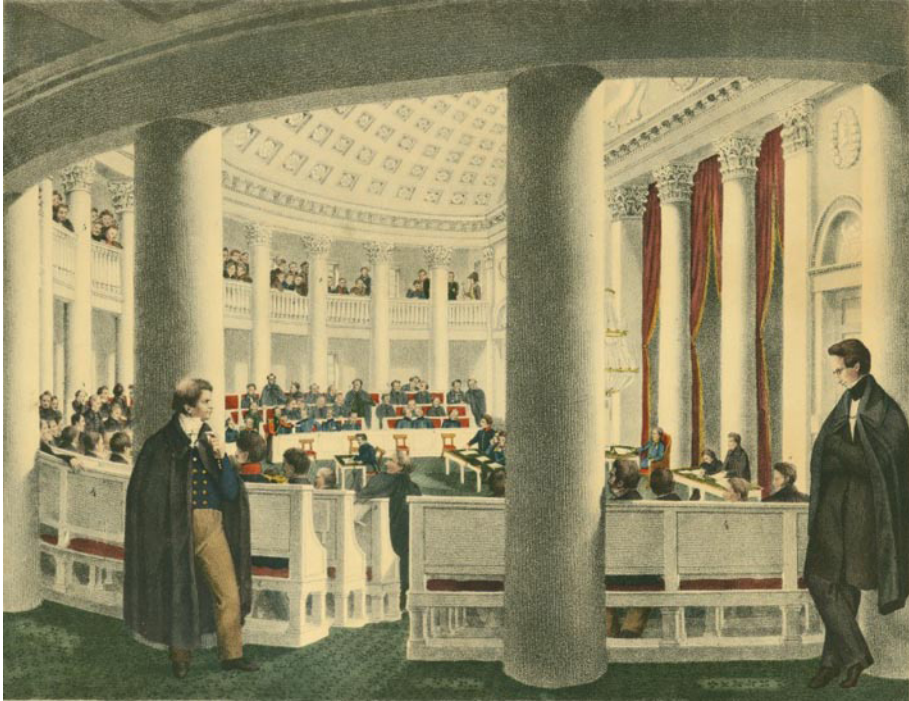
away from him. Certainly, he could not afford to alienate his allies in the Congress, nor ignore a groundswell of estate-based opposition at home, led by the Stuttgart mayor Heinrich Immanuel Klüpfel and the prominent lawyer and poet Ludwig Uhland. However, by this point, Friedrich himself was ailing and, on 30 October 1816, he died. Undoubtedly Württemberg's most successful king in terms of territorial acquisition and the accumulation of power, Friedrich nonetheless passed unlamented by a population almost universally alienated by its king. His successor, Crown Prince Friedrich Wilhelm, adopted both the throne — as King Wilhelm — and the unresolved and complex constitutional rivalry.

The Ludwigsburg Constitution, enacted by Wilhelm in 1819, was neither universally praised nor condemned; throughout its existence, it remained a battleground of opinion both within and outside the state. Yet its importance can hardly be doubted. With its introduction, the constitutional struggles (*Verfassungskämpfe*) in the aftermath of the Napoleonic Wars came to an end; in comparison to the other states around Württemberg, however, this caesura was not a false dawn but a true beginning of consensual, holistic governance. Only once, in the latter part of the maelstrom of the 1848-9 revolutions, was the constitution suspended by the crown (and then only briefly). Otherwise, from 1819 until the foundation of the German Empire in 1871, Württemberg remained an oasis of relative political and social calm. At a base level, the reason for this can be found in the manner by which Württemberg political identity intermixed with that of social identification. The end result was a society that was unusually politically aware, permissive in its abil-

ity to express that awareness, and conscious of the relationship between constitutional mechanisms and a political milieu that made this awareness and engagement not only possible, but desirous.

2. *Fostering pride in constitutionalism*

A constitution is unlike any other legislative document, and it holds a special place within the pantheon of laws and statutes. Gladstone's famous commentary on the United States Constitution — that it is the «most wonderful work ever struck off at a given time by the brain and purpose of man» — interests us here less because of the specific constitution it praises, and more because of what it tells us about the nature of constitutions as a whole. Gladstone's meaning becomes more intelligible once his point on the American example is taken within the context of its preamble, which claimed that the «British Constitution is the most subtle organism which has ever proceeded from progressive history». Here, Gladstone was not criticising British constitutionalism in favour of American, but rather comparing two superlatives of the different methods by which constitutions could be realised: either through an artifice of conscious genius (as in America), or else through a quasi-organic process that developed gradually over time, embodying a synthesis of acquired and assembled knowledge and rights²². The necessary addendum to this point is that a constitution's genius (whether artificial or organic) is of little relevance if it is not recognised to be such. In other words: constitutional guarantees of rights and liberties



1833 lithograph showing the Halbmondsaal, the Plenary Hall of the Second Chamber of the Württemberg Landtag, opened in 1819

mean very little unless the population subject to them recognise their importance.

In Württemberg, constitutional heritage and its requisite guarantee of the rule of law became a totem of cultural state identification. This identification was already well-established in the years between Duke Ulrich's founding of the Treaty of Tübingen in 1514, and King Friedrich's abrogation of it in 1806. But the establishment of the Ludwigsburg Constitution in 1819 initiated a new phase of constitutional appreciation, in which Württemberg constitutional history in its totality became a point of distinction and pride. This distinction was encouraged by the state; because of this, while most German state apparatuses suf-

fered existential crises after the Napoleonic Wars, Württemberg's remained for the most part intact and secure.

This stability was all the more surprising, given the relatively disparaging view of the state from the outside. Indeed, visitors tended not to think kindly of Württemberg. In the 1760s, Giacomo Casanova's brief but typically scandalous stay in the capital, Stuttgart, led him to write that Stuttgart was «wretched», the state populated by «dull peasants and workmen of the lowest class», and the duke given to indulgence and debauchery — a curious charge for Casanova, of all people, to level against him, but perhaps representative of many prevailing opinions of the time. Around the

same period, the journalist Wilhelm Ludwig Wekherlin agreed that Stuttgart was «a mass of ugly buildings», while the inhabitants were «uncivilised». The English novelist Frances Milton Trollope, writing in the 1830s about her travels through the south of Germany, thought the Württemberg capital was much like «any other [...] ordinary village»²³. The Prussian brothers Jacob and Wilhelm Grimm, meanwhile, included in their collection of German folktales the story of the «Seven Swabians», a band of dim-witted and cowardly Württembergers who ended up drowning in the Moselle when they mistook the croaking of a frog for a command to ford the river²⁴.

While the apparent view of Württembergers was one of backwardness and a lack of sophistication, within the state this was not the case, though a distinct identity had indeed developed. This identity was recognised in 1781 by the author and publicist Friedrich Nicolai who, like Casanova and Wekherlin before him, and Trollope afterwards, had undertaken a tour of the south German provinces. After returning to Berlin, he published a volume of his travel reports shortly before the outbreak of the French Revolution. These reports, collectively entitled *Unter Bayern und Schwaben*, offer a glimpse of Württembergers fundamentally different to that offered by the jaded Casanova, the acerbic Trollope, or the comical fairy-stories of the Grimms. Perhaps expecting the coarse-mannered and poorly-educated yokels reported years earlier by Wekherlin and Casanova, Nicolai found instead a population unusually well-versed in the state's body politic. Central to this was a core belief in and understanding of the state's unique constitutional heritage. Much to Nicolai's amusement, this

pride was reflected in the Württembergers' piteous attitude towards this Prussian visitor. «Many Württembergers not only have a special confidence in their country's constitution, which is very laudable, but also a very high opinion of its benefits», Nicolai wrote. «With a smile I noted that these free citizens, while praising their unique constitution, look upon us poor Brandenburgers as though we were slaves»²⁵. Nicolai sought to explain why the Württembergers seemed to be so cheerful and contented that they «cause in me [...] such a comfortable feeling». This feeling he contrasted with «those who complain about their situation, which is sure to [be heard by] any stranger in Ulm or Nuremberg»²⁶. Later, the English Whig statesman Charles James Fox would remark that Württemberg's was one of only two 'genuine' constitutions in Europe (the other being Britain's)²⁷. In fact, this observation predated both Fox and Nicolai, the latter of whom cited the «naïveté» of «the editor of the *Geographie Württembergs* for claiming that «the form of government in Württemberg is like the English in miniature»²⁸.

The observations of Nicolai, Fox, and others are important here for a number of reasons. Firstly, they demonstrate that a discourse already existed that prized the constitution as something that, on the Continent at least, was different to any other. Perhaps the unnamed author of the *Geographie* was naïve, as Nicolai suggested, but the fact that his search to find a comparator for the *Tübinger Vertrag* took him across the Channel and to the vaunted pages of the *Magna Carta* shows the «special» nature of this document. More relevant to our purpose here, Nicolai showed that the Württembergers were aware of this legislative

uniqueness, and cherished it. Indeed, the general contentedness of the people, which Nicolai contrasted sharply to the dissatisfaction he found in other states and the imperial cities, was — in his estimation — the fundamental result of constitutionalism.

This was also evident during the period in which the constitution was withdrawn. In general, the prevailing attitudes in 1806 followed two trends. The first was embodied by the *Schreiber* Heinrich Bolley, from the town of Waiblingen. It will be remembered that Friedrich had already intruded upon the political autonomy of the *Schreiber* tradition. But the total removal of the constitution inspired Bolley and his fellow Waiblingers to write a petition addressed to the king, demanding its reinstatement²⁹. The other response to the end of constitutionalism was characterised by the Stuttgart publisher Johann Friedrich Cotta. Cotta, himself a liberal, continued to espouse the beliefs and opinions that many others in and around his circle of intellectuals had held upon the outbreak of the French Revolution: namely, that French intervention in the German hinterland might herald a sociopolitical renaissance. Even after Napoleon had changed the course of the revolution, and even as late as 1808, Cotta wrote to Johann Wolfgang von Goethe, predicting that Napoleonic influence on the House of Württemberg would compel Friedrich to grant a further liberalisation of domestic politics, broaden the rights and liberties enshrined in the constitution, and countenance a greater degree of direct popular engagement in the *Landtag*³⁰. Neither of these branches of thought had any chance of coming to fruition. In the first case, the Waiblingen complaint was a constitutionally-bound measure that, in order to be

effective, presupposed that the constitution to which it adhered was still in force. In effect, it acted as a complaint against a *breach* of the constitution. The fact that it was actually a protest against the *dissolution* of that same constitution adds a level of farce to proceedings; Friedrich was playing from a different set of rules than the Waiblingen constitutionalists. As for Cotta and his hoped-for liberalisation, his was an unfortunate misreading of the meaning of Bonapartism, which he soon recognised. By 1813, Cotta was acting as a confidential courier between the courts of Austria and Württemberg, and helped to facilitate Württemberg's defection to the Sixth Coalition.

The «special confidence» in the Treaty of Tübingen, as remarked upon by Nicolai, was also, as F.L. Carsten notes in his seminal *Princes and Parliaments in Germany* (1959), «a marked pride» on the part of the citizenry as a whole³¹. Because of this, its abrogation was seen not as a transaction of state, but as a tremendous stain upon the honour of the state as a whole, and a reflection on Friedrich himself as untrustworthy and shameful. Such was recognised by an anonymous pamphleteer who, writing his essay *Württembergs Rechte* as the «first word of an appeal to the high liberators of Germany», asked his readers how much Friedrich's kingly crown had cost, and then provided the answer: «an outrageous breach of an oath, many thousands of people coerced, exercises of force innumerable, suppressions of the [public] will and exuberance. The purchase of the crown cost: human blood of 30 to 40 thousand of the most hopeful youths of the children of the land». The responsible party, and the act that facilitated this calamity, are

also identified: «Friedrich the First, the first tyrannical lord of Württemberg [sic.], through the *breach of the oath of his sovereign word*»³². Other voices of protest soon followed. Politically, the most prominent of these was Karl August von Wangenheim. As the chancellor of the University of Tübingen, Wangenheim had been a state appointee. But Wangenheim, an intellectual in his own right, was also heavily influenced by one of his philosophy professors, Karl von Eschenmayer, who himself closely followed the humanistic philosophical tenets of Friedrich Wilhelm Joseph von Schelling³³. Wangenheim's 1815 treatise, *The Idea of the State Constitution (Die Idee der Staatsverfassung)*, is one of the most prescient masterpieces of Restoration-era political thought, made even more remarkable by Wangenheim's relationship to the crown that he was criticising both obliquely and acutely. Wangenheim's work was essentially a demand to return to constitutionalism, arguing that the basis of the ideal civil society was «three principles», namely freedom, equality, and security, which were established and expressed through property, the sociopolitical contract between state and *Volk*, and the maintenance of popular representation in politics via electoral suffrage. To the treatise's author, these were the self-same principles that were enshrined in the Treaty of Tübingen, which had guaranteed «the personal and political freedom of the Wirtembergers [sic.]»³⁴. Moreover, though the king was afforded powers, these were «law-given», and constrained by «the constitutionally accepted agreement with the representatives of his people»³⁵.

Wangenheim's defence of the Treaty of Tübingen as a vital component to the state's legitimacy was therefore an assault on the

lack of constitutional rule in Württemberg such as it existed when he wrote his treatise. But if this was extraordinary from the political-philosophical perspective, it was soon matched by one more accessible to the public outside of Wangenheim's academic community. In a series of «Fatherland Poems» (*Vaterländische Gedichte*), first published in 1816, Ludwig Uhland mourned the «old good law» (*altes gutes Recht*) that had been stripped away by the withdrawal of the constitution. Much as the anonymous author of *Württembergs Rechte* saw the abrogation as the moment of rupture that suppressed the «exuberance» of the public, Uhland recognised it as the event that sullied all of Württemberg's otherwise praiseworthy physical beauty and cultural richness³⁶. Uhland spared no blushes in his works, and his anger towards the crown for abrogating the Treaty is palpable from the very opening poem of the *Vaterländische Gedichte*. Entitled «Am 18. Oktober 1815», this honoured the mayor of Stuttgart, Heinrich Klüpfel, who had become the totemic figurehead of estate opposition to Friedrich, and the leading voice in the calls to reinstate constitutional law. Here, Uhland delivered an impassioned (albeit implicit) criticism against the king by hailing Klüpfel as a «forever faithful» representative of Stuttgart, who «guards that most precious to us», and as a result became the man «to whom we are most closely bound»³⁷. Uhland took Klüpfel to be the embodiment of the spirit of the *altes gutes Recht*, and thus of the Treaty of Tübingen; the ties between poet, people, and politician suggested a close popular relationship with and will for the reinstatement of the constitution.

Friedrich's death in 1816 came at a vital moment. With the ascension of King

Wilhelm, Württemberg now had a younger monarch, who had emerged from the Napoleonic Wars with his image relatively unsullied (he had, after all, led the Württemberg 'liberation army' against the French in late 1813 and 1814). Wilhelm inherited a state bordering on both a crisis of identity and an even more pressing, material catastrophe. In the first place, a divide between the inhabitants of *Altwürttemberg* and *Neuwürttemberg* remained. Indeed, the only thing that bound the New Württembergers to the old state (beyond the bureaucratic realities of annexation) was a shared history of recent suffering in the Napoleonic Wars. If ever the suspension of the constitution had helped to ameliorate the problems of absorption, as Friedrich had claimed in 1805, then this was certainly no longer the case. This was hardly a question of minor importance; annexed territories in other states were hotbeds of insurrection and unrest. During the Napoleonic Wars, for example, a rebellion against the Bavarian government was carried out by a band of Tyrolean guerrillas led by Andreas Hofer³⁸. In Baden, the political situation was best described as incendiary. In coming years, public disorder was so endemic that, on several occasions, it verged on civil war. Deadly clashes swept throughout the major population centres in 1819, with further violence experienced in Tauberbischofsheim, Heidelberg and Pforzheim in 1832, 1838 and 1839 respectively. This was something to be avoided and, as opposed to what Friedrich had argued in 1805, some argued that the only solution was not only a reinstatement of the constitution, but also an extension of its competences. Before Friedrich's death, this argument had already been tendered by the protagonists of the

constitutional movement. Wangenheim, for example, had conceived of unity both embodied in and encouraged by constitutionalism. He conceived of the ideal state as a «spiritual organism» characterised by «freedom» rather than «excessive force» – which, without the Treaty of Tübingen in force, was not what the Kingdom of Württemberg represented to the New Württembergers who had seen their own states involuntarily absorbed in the name of Friedrich. Finally, Wangenheim insisted that there was a necessity of the state to promulgate loyalty, both for its own good and the common good of the public and the individual: «If Man is to love the state more than he loves himself – and this he must do, for this is to him a matter of culture – then he must himself help to build the state»³⁹. More publicly, on the streets of the capital, the mayor Heinrich Klüpfel led a demonstration 8 July 1816, the three hundred and second anniversary of the Treaty. This demonstration had two objectives. The first was the familiar appeal to the *altes gutes Recht*. The second was to raise concerns that New Württembergers might be relegated to the status of second-class citizens, without protections built into whatever constitution eventually resulted. «May the differentiation between Old and New Württemberg cease», one of the catch-cries of the demonstrators ran, «and every New Württemberger become an Old Württemberger!»⁴⁰. In this way, Klüpfel tied the concept of the *altes gutes Recht* to the equalisation of Old and New Württemberg rights. His prominent supporters, including Uhland, only served to popularise the issue.

On top of these issues, the beginning of Wilhelm's reign was marked by a deep existential crisis. No fighting had occurred

in Württemberg since 1805 and the state had not been laid waste by the privations of war. However, having accrued major public debts during the war, the government had pursued aggressive trade policies from 1814 onwards; in a state founded largely on agrarian commerce, this largely meant the exportation of surplus grain. Initially this policy found some success, but 1816 was a poor year for agricultural yields, and the state not only suffered a shortfall in its export market, but also endemic food shortages that resulted in malnutrition and widespread related illness⁴¹. A combination of government malaise under Friedrich and jealous protectionism by the landed gentry resulted in the state reacting only belatedly to the crisis. Because of this, in spite of the universal privations of the «Year without Summer», Württemberg stood alone among the German states in terms of mortality, with the death rates exceeding those born in the same period⁴². However, Wilhelm's initial attempts to alleviate the hardships of this *Hungerzeit* met with little success. He was unable to convince the Diet of the German Confederation to lift or ease tariff barriers, which would allow economically viable importation of emergency food supplies, the representatives from Prussia and Austria both contended that this would impinge on their sovereign rights to set their own taxes, tariffs, and duties. At home, Wilhelm sought means by which a future *Hungerzeit* could be avoided. To this task he appointed Ferdinand Heinrich August von Weckherlin, a state councillor, prominent figure within the treasury and, later, Wilhelm's finance minister between 1821 and 1827. Weckherlin was a forward-thinking economist with a keen eye for detail. He was also no respecter of privilege, and he saw

the traditional landed estates as a financial millstone around Württemberg's neck. The vested agrarian interests of the gentry were antiquated, he decided, and in the present crisis unconscionable. Württemberg now had double the mouths to feed, but the majority of the casualties from the wars had come from the young, able-bodied men who usually tilled the fields. Coupled with the inclement weather, Württemberg's dependency on agriculture was simply too unreliable. A much better proposition was to follow the example of Great Britain, in particular with regard to its emphasis on mechanised industry. The appropriation of steam power and other facets of industrialisation could revitalise some sectors of the Württemberg export market (such as the textile centres of Calw and Heidenheim), and perhaps open new ones, such as metal production. This, however, would necessitate a large state investment in industry, which in turn would require a decrease in crown subsidies in agriculture. For these reasons, the estates responded with vehement opposition, deeming Weckherlin's proposed reforms to be yet another assault on whatever remained of the *altes gutes Recht*. Consequently, only a handful of innocuous reforms were enacted⁴³.

These events, however, brought into sharp relief the problems facing both Wilhelm and the state that he now helmed. It was in this context that he launched an ambitious programme of political reform which, in September 1819, resulted in the introduction of a new constitution⁴⁴. This «Ludwigsburg Constitution» clearly used the *Tübinger Vertrag* as its foundation, but elaborated considerably upon it in matters of the rights of the citizen and the manner of the balance between crown and *Landtag*.

The «General Relationship of Rights of the State Citizens» (chapter III) assumed a particular significance, directly following the chapter «of the King, of the Heir to the Throne and the Imperial Administration» (chapter II), and appearing well before the discussion of the privileged rights of the estates (chapter IX). Furthermore, the new constitution realigned the role of the king. True, the constitution began with the customary salutation «Wilhelm, by the Grace of God King of Württemberg», and Article 4 articulated that «[the king's] person is holy and inviolable». But the same article placed restrictions on the king's behaviour. In particular, it stipulated that «[t]he king is the head of state, unites in himself all rights of the state executive, and exercises them in accordance with the regulations set through the constitution». The rights of the citizen, too, were expanded under this legislatively-bound protection. «All Württembergers have the same state civil rights», Article 21 specified, followed by Article 24's guarantee that «the state guarantees to every citizen individual freedom, freedom of belief and thought, freedom of property, and movement freedom», and Article 25's reassurance that «serfdom remains forever annulled». Of particular interest, too, was Article 28, which guaranteed «freedom of the press and the book trade [...] to its fullest extent».

Other innovations, too, made it clear that the Ludwigsburg Constitution was a different beast from its 1514 predecessor. Indeed, if the king's privileges were to be regulated by constitutional articles, then so too were those of the estates. Specifically, Wilhelm introduced a bicameral *Landtag*. The First Chamber (*Kammer der Standesherren*; Chamber of the Estate Lords), ful-

filled a function similar to that of Britain's House of Lords, and comprised the leading members of the *Stände*. The Second Chamber (*Kammer der Abgeordneten*; Chamber of Representatives) comprised twenty-three «privileged» members (nobles, the highest officials of the Lutheran and Catholic Churches and the chancellor of the University of Tübingen) and seventy «people's representatives», made up of seven from Stuttgart, Tübingen, Ludwigsburg, Ellwangen, Ulm, Heilbronn and Reutlingen, and another sixty-three from the remaining electoral districts. Also, the *Landtag* enjoyed new vested powers. While the old Treaty of Tübingen, for example, had provided the estates with the ability to veto new taxes, its successor gave them the right of approval or disapproval for both direct and indirect taxation, as well as the three-yearly government budget (chapter VIII). This also required that ministers explain in detail their budgetary requirements, and that a yearly accounting of the state treasury be prepared by a commission jointly appointed by the crown and the estates; this report would then be made available publicly (Article 123). In effect, the estates now had near-total oversight over the crown's financial affairs.

These alterations were hardly accidental. It is clear to see Wangenheim's influences on Wilhelm's formulations; this is not surprising, as Wangenheim was (briefly) Wilhelm's education minister, and thereafter took up Württemberg's representative seat in the Frankfurt Diet. In keeping with Wangenheim's *Idea of the State Constitution*, Wilhelm had expressly laid a groundwork for the expansion of rights to the citizenry, the representation of that citizenry in the political process to a degree

that far exceeded the Treaty of Tübingen, and the voluntary binding of the crown to permissive constitutionalism. The estates had gained new powers, but these were expressly not limited to the Old Württemberg powers-that-were; indeed, the privileged positions afforded the traditional power centres of Württemberg (such as Stuttgart, Tübingen and Ludwigsburg) were now extended to New Württemberg towns, such as Reutlingen. Moreover, the requirement of the public treasury reports, as well as the ministerial justifications, introduced a measure of transparency; to put it bluntly, taxpayers could now see precisely where their florins went, and why. This, coupled with the expansive rights of the citizens as stipulated in chapter III, afforded the Ludwigsburg Constitution an air of anti-absolutism heretofore unprecedented in central Europe in general, and among the states that now made up the German Confederation in particular.

The reaction to the introduction of the Ludwigsburg Constitution, both domestically and outside Württemberg's borders, also demonstrates the degree to which it was a liberalising document. At home, it did much to repair much of the damage done by Friedrich the decade before. Uhland, who had been so vocal in his demands for the return of the *altes gutes Recht*, now took his place in the *Landtag* as a representative. Klüpfel's protestations also faded into the background. Wangenheim, who had argued that the state enjoyed no legitimacy if it were not backed by fair constitutionalism, continued to serve that state in a conspicuous capacity as its spokesman in the Confederal Diet. At the ministerial conference in Vienna in March 1820, Wangenheim showed the esteem in which he held Wil-

helm by greeting him as «the king of the Germans»⁴⁵. But perhaps the most telling response was from reactionary Austria. On the eve of the constitution's approval, Clemens von Metternich wrote to the emperor, Franz, expressing his fear that «the balance of the Württemberg assembly may perhaps decide the destiny of Germany»⁴⁶. Franz, evidently moved by Metternich's fears, warned Wilhelm in a letter that a constitution as liberal as the Ludwigsburg Constitution would likely encourage a «scourge of revolution». In response, Wilhelm employed an argument straight from the pages of Wangenheim's *Die Idee der Staatsverfassung*: liberal constitutionalism would not foment rebellion, he wrote, but would instead bind the people, the estates, and the monarch, in a holistic and symbiotic relationship that could only serve the wellbeing of the whole⁴⁷.

3. *Maintaining constitutional identification in an era of crisis*

Wilhelm and the Württemberg state apparatus conceived of the Ludwigsburg Constitution as a twofold mechanism. The first aspect of it was the «ordinary» function of constitutive legislation: it acted as concrete regulation for the rights and liberties afforded Württemberg citizens. The second aspect, however, was arguably more important. As Wangenheim had argued in 1815, and as Wilhelm reaffirmed to Emperor Franz in 1819, the constitution was the medium through which a loyalty between the leadership of the state and the subjects of that leadership could be formed and encouraged. Friedrich Nicolai had already noted the importance

of this role when he claimed that, by virtue of the Treaty of Tübingen, «the Württembergers have always loved their dukes, even when they were not particularly satisfied with some decrees»⁴⁸. In Vienna, both Metternich and Franz feared that the danger of the Ludwigsburg Constitution lay in the fact that it was more permissive than its predecessor, and that it introduced greater regulations on state power in relation to the citizenry. Moreover, it was explicitly so. In other words, the Ludwigsburg Constitution was not only liberal, but it could be *seen to be* liberal. This, they feared, would weaken both the state in fact as well as in perception. The result of this would be an undermining of the state's legitimacy to govern and, inevitably, the outbreak of revolution. Wilhelm and Wangenheim, on the other hand, believed that the very opposite would be the case: the more the state surrendered to the oversight and jurisdiction of the people, the more the people would, in turn, trust the state.

The Austrian fears were not without some grounding. Indeed, permissive constitutionalism in and of itself was no guarantor of safety. The Grand Duchy of Baden, for example, faced similar challenges to Württemberg and, in 1818, it introduced a constitution that was arguably «Germany's most advanced and liberal document» at the time, as well as also being intended as a glue to meld the New Badenese with the Old⁴⁹. Yet, as we have seen, Baden was habitually a hotbed of revolutionary sentiment. Its most dramatic examples of this were yet to come; in 1848, for instance, the Badenese *Landtag* deputy Gustav von Struve formed a «revolutionary army» in the Black Forest, with the intention of marching on the capital, Karlsruhe, and thereafter the seat of the Confederal Diet in Frankfurt

am Main⁵⁰. But even in 1819, there were strong indicators that Baden would continue to suffer public disorder and unrest, the constitution notwithstanding. Six months before Wilhelm unveiled the Ludwigsburg Constitution, the New Badenese city of Mannheim was the site of the assassination of August von Kotzebue by the student liberal-nationalist Carl Ludwig Sand, the act which had prompted Metternich to introduce the anti-nationalist Karlsbad Decrees⁵¹. The fact that Württemberg actively opposed these decrees, in spite of the apparent danger of what Baron vom Stein called «this accursed sect», further caused concern amongst the more conservative reactionaries in the German Confederation, which turned to alarm when Wangenheim refused to ratify the Verona Circular. This was a proposal denouncing radicalism in general and, though it did not specifically mention Germany, Wangenheim opposed it on the grounds that it could be used not just as an instrument of law and order but also of oppression. As a result, in 1823 both Austria and Prussia demanded he be recalled to Stuttgart, leaving Wilhelm little choice but to acquiesce. In 1824, fearing the influence of radical liberalism, and perhaps remembering Wangenheim's significant influence there, the Prussian government further issued an edict banning Prussian students from attending the University of Tübingen. Other observers, such as the British diplomat Edward Cromwell Disbrowe, denounced the nature of the electoral franchise, which allowed «unprincipled Agitators», «factious Demagogues», and «very considerable numbers» of liberals to be elected to the Second Chamber⁵².

For all these fears, however, Württemberg neither erupted into violence nor be-

came a staging post for revolution. Indeed, even though the period in between the introduction of the Ludwigsburg Constitution and the outbreak of the 1848 revolutions was one of general regional unease, Württemberg was almost singularly unaffected. Indeed, one of the most dramatic acts in 1848 was more reminiscent of Heinrich Bolley's civil attempts to protest the end of the Treaty of Tübingen; on 2 March, 1,000 citizens of Tübingen signed a petition, addressed to the Landtag, requesting that the electoral laws be liberalised to allow for greater direct participation in the constitutionally-regulated political process⁵³. To be sure, there were some public demonstrations, but none of these came close to resembling the genuine unrest experienced in Baden, Bavaria, Prussia, Austria, and the Rhenish states. The reason for this can be seen in the very constitutionalism that Metternich and others feared would lead to disaster. Württemberg had a constitutional history on which to fall back, and the Federician years could be interpreted as an interregnum in an otherwise consistent special path. Such could be seen even in the response to Friedrich's authoritarianism, whereby opponents to the king's reign, such as Uhland and Klüpfel, consistently referred back to the Treaty of Tübingen as the solution to the problems they had perceived. From the outset, Württemberg constitutionalism was presented by its proponents as inclusive; Klüpfel, while promoting the *altes gutes Recht*, stipulated that its renewal should dissolve the barriers between Old and New Württembergers, while Wangenheim (and Wilhelm, following Wangenheim's argumentation) saw the state constitution as a measure to unify the country and create a holistic organism comprising crown, parliament, and

population. No equivalent to Carl Ludwig Sand emerged in Württemberg, nor any similar outrage to the Kotzebue assassination, in spite of Württemberg's marked intransigence when it came to following the letter of the Karlsbad Decrees. On only one occasion in these years did public violence of any significance erupt, and then it was still relatively minor. In 1846, Württemberg once more suffered food shortages. Though this was significantly less severe than the 1816-17 *Hungerzeit*, this event nevertheless sparked bread riots in Ulm, where two people were killed, and Stuttgart, where the king himself was attacked with stones. Yet even this demonstrates the stable nature of the state; as the British *charge d'affaires* in Stuttgart noted in a telegram to the Foreign Office, this thunderclap of «anger and discontent» was quite remarkable because Wilhelm «had always been regarded with adoration by His People»⁵⁴. This was hardly the revolutionary violence of liberal «Agitators» that Disbrowe had warned against, but rather a brief and spontaneous expression of popular discontent in the face of specific hardships.

In many ways, the crown appropriated even radical liberalism for its own ends. In 1820 and 1821, two pamphlets were published, under the names «George Erichson» and «Karl Heinrich Kollmanner». Both publications — the *Manuscript from South Germany* (1820)⁵⁵ and *About the Current Situation in Europe* (1821)⁵⁶ — followed similar lines; the future peace and prosperity of the German region, they argued, were at risk from the authoritarian tendencies of the great powers (Austria and Prussia). The solution to this was to follow the lead of Württemberg, which had «more for the cause of freedom and independence of the

Germans than all of the lovely words at the Congress [of Vienna] did». This it had done by adopting a «contemporary constitution [...] as [...] fundamental law»⁵⁷. In the event, both «Erichson» and «Kollmanner» were revealed to be Friedrich Ludwig Lindner, an infamous ultra-liberal agitator. Circumstantial evidence suggests that Lindner may have been commissioned by Wilhelm for the purpose of writing the documents. Either way, however, they are landmark publications, solidifying (either with secretive official backing or otherwise) a legislative narrative, in which the crown, the constitution, and the people's well-being were all explicitly linked. This link provided for reciprocal obligation, much as Wangenheim had intended when he argued for the holistic «spiritual organism» of the state through constitutional law-making. In 1843, for instance, Wilhelm interceded with the Prussian government on behalf of the Württemberg poet and liberal-nationalist activist Georg Herwegh. Herwegh was hardly a darling of Württemberg state-bureaucratic opinion; a deserter from army service, he had taken to wandering through the German hinterland espousing radical political opinions and generally making a nuisance of himself. Somehow, he had managed to secure an audience with King Friedrich Wilhelm IV of Prussia, in whose presence he spouted such «obnoxious» republican sentiment that Friedrich Wilhelm had ordered him immediately expelled. While Herwegh was hardly a likely figure for Stuttgart's sympathy, the incident earned Friedrich Wilhelm an official complaint from the Württemberg capital on Herwegh's behalf. This was especially surprising given Wilhelm's continuing attempts at the time to maintain good diplomatic re-

lations with Berlin; nevertheless, the Ludwigsburg Constitution afforded Württemberg citizens rights and protections under Württemberg law and Herwegh remained a citizen worthy of protection under constitutional law.

It is a tribute to the enduring vitality of the Ludwigsburg Constitution (and its forebear, the Treaty of Tübingen) that opposition, when it manifested, generally followed a pattern of remaining within the constitutional bounds. In other words, while Wilhelm had his critics, by and large they retained enough of the 'special confidence' that Friedrich Nicolai had identified at the end of the eighteenth century to trust that the constitution — whatever its flaws might be — could be positively reformed. While Disbrowe and others concerned themselves with «considerable numbers» of «factious Demagogues», the Ministry of the Interior was able to confidently claim in a retrospective report that, before the 1848 revolutions, «there was no talk of a republican movement»⁵⁸.

One must be careful regarding the use of the term «republican» or «republicanism». Here, the ministry correspondent cannot have meant the term in the sense used among German late-Enlightenment and early Idealist circles, in which the concept of a republic was synonymous with popular representation and liberty⁵⁹. Indeed, taking Kantian conceptions of republicanism as the baseline, it is immediately apparent that the Ludwigsburg Constitution was (broadly speaking) «republican» in intent, in turn effectively defining the Württemberg state apparatus and the crown itself as «a republican movement». If, instead, the ministry intended «republican» as a euphemism for «reformative»,

then here, too, its report was misleading. The opposition in Württemberg, beginning with the three liberals whom Disbrowe considered «very considerable number» in the 1831 *Landtag*, was indeed willing and intended to enact sweeping changes. Yet here, we can perceive the wisdom of the ministry's unnamed reporter, insofar that, while these liberals pushed for change, they did so within the confines of the constitution; the aim, it seems, was to improve a constitution rather than scrap it, since it had become central to what it meant to be a Württemberger. The prominent liberal-nationalist Robert von Mohl was one of the most frequent and ardent critics of the Ludwigsburg Constitution, arguing that its emphasis on representation denied the people «the right to govern themselves»⁶⁰. Nevertheless, not only was he also a frequently elected member of the *Landtag*, but he also entered the government of the so-called «March Ministry» (*Märzministerium*) appointed by King Wilhelm during the crisis of the outbreak of Europe-wide revolutions at the end of February 1848⁶¹. Prior to this, during his tenure as a professor at Tübingen he had also been the personal tutor of Crown Prince Karl. Other highly visible opposition figures, including Paul Pfizer (one of the original «factious Demagogues») and David Friedrich Strauß, were no less influential but again, unlike frustrated and disenfranchised radicals like Struve in Baden, their opposition was aimed not to undermine their state but to invigorate, support, and strengthen it⁶². They, like Mohl, also joined the *Märzministerium*. So, too, did the liberal republican Friedrich Römer, who was invited by Wilhelm to form the *Märzministerium* and act as *de facto* state minister on 9 March 1848.

Yet here, too, we see the profound confidence in and loyalty to the constitution. The *Märzministerium* was made up of political radicals with an unprecedented degree of political agency. Nevertheless, the most they agreed on was that the Ludwigsburg Constitution required some amendments, and these took the form of relaxed regulations in electoral franchise and property laws. At the same time, popular loyalty was expressed in surprising ways. When Römer called elections to the Frankfurt National Assembly, and ran for the seat of Göppingen, some twenty-six voters appear to have believed that they were in fact voting in a referendum on the future of the monarchy, and scribbled in Wilhelm's name in support of the king's governance⁶³.

Conclusion

In 1850, the official state-run *Staats-Anzeiger* (*State Gazette*) ran the first of a series of articles that would continue to appear regularly in the paper's pages for more than a decade. These articles focused on the constitution as an institution of Württemberg political identity. This constitutionalism, the newspaper's editors insisted, was far more advanced than anything else to be found in Germany and was the product of a singular heritage that dated back to 1514. What this meant for Württembergers was that the state enjoyed a «healthy political life» that resulted from the joint powers of the «prudence and wisdom» of the monarch, and the protections afforded his subjects in the word and spirit of the Ludwigsburg Constitution⁶⁴.

These articles go some way to demonstrating the importance of the constitution; it is notable, for example, that they began to appear in print so soon after the revolutions of 1848 and 1849, as well as the constitutional crisis that developed in Hesse-Kassel (in which Württemberg took part). In a period of profound political uncertainty and instability, the *Staats-Anzeiger* (and, by extension, the state) could point to a constitutional history that began with the *Tübinger Vertrag* and continued, albeit with some interruption, into the contemporary era. They acknowledged that Württembergers were, in general, politically engaged, and that this was a product of both of monarchical sagacity and constitutional progressiveness. What the articles also demonstrate, in taking such a prominent position within the pages of the state media apparatus, is how central the constitution was, or had become, in the conceptualisation of Württemberg, Württembergers, and «Württemberg-ness». Throughout the preceding decades (and, indeed, centuries), Württembergers had turned in times of crisis and uncertainty to the constitution as a form of sociopolitical «safety valve» and identifier. Consistently, both internal and external commentators reflected on the vitality of the Württemberg constitutional heritage. Charles James Fox and the author of the *Geographie Württemberg* may have been overly simplistic in considering the Treaty of Tübingen as the equivalent of the *Magna Carta*, but with respect to the centrality of the document within the state's conception of self, their understanding of the uniqueness and importance of Württemberg *Verfassungspatriotismus* was repeated time and again. The happy Stuttgarters Friedrich Nicolai met on his travels in 1781 attributed

their satisfaction to it, just as Wangenheim, Lindner, and eventually the *Staats-Anzeiger* newspaper would do. Ludwig Uhland would immortalise Württemberg constitutionalism in the same verses that would make his name as a poet. Liberal activists of a type feared in other states regularly took part in public life. Lindner's claims of the unique desirability of Württemberg constitutional heritage was echoed elsewhere by non-Württembergers; Philipp Jakob Siebenpfeiffer, among others, saw Württemberg as a potential unitary nucleus for German nationalism for just this reason⁶⁵.

At the crux of this understanding of Württemberg constitutionalism was the realisation that the constitution was designed specifically to provide a positive, binding mechanism of identification. A measure of the success of this mechanism can be found in the fact that Fox, Nicolai, Wangenheim, Siebenpfeiffer, and others believed it to be so, as well as the fact that a succession of liberals of various stripes saw the constitution not as document to be replaced, but rather to be reformed and improved. Another, more prosaic indicator was provided by Karl Julius Weber who, in 1826, visited former territories of the Duchy of Swabia. Afterwards, he reported that, having asked whether the people he met identified with their old *Territorialpatriotismus*, as Swabians, the response he received, albeit in the broad Swabian dialect, was invariably: *Noi, i bin a Wirtaberger*⁶⁶.

- ¹ M. Hughes, *Nationalism and Society: Germany 1800-1945*, London, Edward Arnold, 1991, p. 8.
- ² B. Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, London, Verso, 2006.
- ³ Typically, English-language histories of Germany refer to the period beginning with the fall of Napoleon in 1815 (or else the establishment of the German Confederation in 1819) as Restoration. German-language histories tend to use *Vormärz* (Pre-March), denoting that the period ended with the outbreak of revolutions throughout Germany in March 1848. See, for example, M. Fulbrook, *A Concise History of Germany*, Cambridge, Cambridge University Press, 2004, pp. 104-115; T.S. Hamerow, *Restoration, Revolution, Reaction: Economics and Politics in Germany, 1815-1871*, Princeton, Princeton University Press, 1954, pp. 1-93; J.J. Sheehan, *German History 1770-1866*, Oxford, Clarendon, 1989, pp. 389-654.
- ⁴ *Tübinger Vertrag*, 8 July 1514. Both original copies of the constitution have since been lost; one was destroyed during the Second World War, while the other's location is unknown. Duke Ulrich's confirmation of the treaty survives, and is reproduced as: Duke Ulrich von Württemberg, *Urkunde über den Vertrag zu Tübingen vom 8. Juli 1514, dessen Bestätigung und dessen Vollzug* (23 April 1515), in G. Adriani and A. Schmauder (eds.), 1514: *Macht, Gewalt, Freiheit. Der Vertrag zu Tübingen in Zeiten des Umbruchs*, Ostfildern, Jan Thorbecke, 2014, pp. 194-9.
- ⁵ J.A. Vann, *The Making of a State: Württemberg 1593-1793*, Ithaca and London, Cornell University Press, 1984, pp. 45-6.
- ⁶ K. Pfaff, *Geschichte des Fürstenhauses und Landes Württemberg*, Stuttgart, Verlag der J.B. Metzler'schen Buchhandlung, 1839, p. 164.
- ⁷ Johann Heinrich Sturm to Duke Friedrich Karl von Württemberg, Stuttgart, 3 June 1692. HStAS. A203 Bü.27.
- ⁸ P.H. Wilson, *War, State and Society in Württemberg, 1677-1793*, Cambridge, Cambridge University Press, 1995, p. 56.
- ⁹ P.H. Wilson, *The Power to Defend, or the Defence of Power: The Conflict between Duke and Estates over Defence Provision, Württemberg 1677-1793*, in «Parliaments, Estates and Representation», n. 1, 1992, p. 39.
- ¹⁰ Ivi, p. 32.
- ¹¹ This is not to say that there were not constitutional conflicts; indeed, these were prevalent particularly in the eighteenth century. None of them, however, directly threatened ducal legitimacy, nor the privileged position of the estates. For a comprehensive analysis, see F.L. Carsten, *Princes and Parliaments in Germany*, Oxford, Clarendon, 1959, pp. 123-48.
- ¹² I.U. Paul, *Württemberg 1797-1816/19: Quellen und Studien zur Entstehung des modernen württembergischen Staates*, Munich, R. Oldenbourg, 2005, pp. 370-5.
- ¹³ Cited after P. Sauer, *Der schwäbische Zar: Friedrich, Württembergs erster König*, Stuttgart, Deutsche Verlags-Anstalt, 1984, p. 128.
- ¹⁴ H. Fenske, *Der liberale Südwesten: Freiheitliche und demokratische Traditionen in Baden und Württemberg 1790-1933*, Stuttgart, W. Kohlhammer, 1981, pp. 32-3.
- ¹⁵ S. Hazareesingh, *Napoleonic Memory in Nineteenth-Century France: The Making of a Liberal Legend*, in «MLN», n. 4, 2005, pp. 747-73; Theodore Ziolkowski, *Napoleon's Impact on Germany: A Rapid Survey*, in «Yale French Studies», 1960, pp. 94-105. There is no doubting some of the liberalising effects of Napoleonic hegemony over central and southern Europe. The introduction of the *Code Napoléon*, for example, gave Feuerbach the impetus to differentiate between «moral» crimes and «human» crimes, thus paving the way for the first European decriminalisation of homosexuality in Bavaria in 1805. In Spain, the arrival of French troops swept away a repressive absolutism that hearkened back to the Inquisition, to the approval of the small number of *afrancesados*. See also A. Roberts, *Napoleon the Great*, London, Penguin, 2014.
- ¹⁶ T. Nipperdey, *Deutsche Geschichte 1800-1866: Bürgerwelt und starker Staat*, Munich, C.H. Beck, 1998, p. 1.
- ¹⁷ *Kurfürstbayerische Staats-Zeitung von München*, n. CCLIX, 2 November 1805.
- ¹⁸ L.S. James, *Witnessing the Revolutionary and Napoleonic Wars in German Central Europe*, London, Palgrave Macmillan, 2013, p. 38; J.R. Elting, *Swords around a Throne: Napoleon's Grande Armée*, New York, Da Capo, 1997, p. 387; H.-J. Harder, *Militärgeschichtliches Handbuch Baden-Württembergs*, Stuttgart, Kohlhammer, 1987, p. 62.
- ¹⁹ Prior to the signing of the alliance, and concerned that Friedrich might not agree, Napoleon and his foreign minister, Talleyrand, discussed deposing Friedrich and replacing him with Crown Prince Friedrich Wilhelm, in return for rank and honours. In the event, this was not necessary. See B.A. Ashton, *The Kingdom of Württemberg and the Making of Germany, 1815-1871*, London, Bloomsbury, 2017, p. 24.
- ²⁰ Maria Nesselrode to Hélène Gourief, Stuttgart, 14 January 1814, in A. de Nesselrode (ed. by), *Lettres et papiers du chancelier comte de Nesselrode, 1760-1850*, vol. V, Paris, A. Lahure, n.d., pp. 153-4.
- ²¹ *Die teutsche Bundesacte vom 8. Juny 1815* (1815), in E.R. Huber (ed. by), *Dokumente zur deutschen Verfassungsgeschichte*, vol. I, Stuttgart, Kohlhammer, 1961, n. 19, pp. 75 ff.
- ²² A comprehensive discussion of Gladstone's remarks can be found in *The Originality of the United States Constitution*, in «Yale Law Journal», n. 6, 1896, pp. 239-46.

- ²³ See here, in lieu of many, G. Casanova, *The Memoirs of Jacques Casanova de Seingalt*, vol. III, New York, G.P. Putnam's Sons, 1961, pp. 369-84; F. Trollope, *Vienna and the Austrians; with Some Account of a Journey through Swabia, Bavaria, the Tyrol and Salzburg*, London, R. Bentley, 1838, p. 42; W.L. Wekherlin, *Anselmus Rabiosus Reise durch Oberdeutschland*, Salzburg, 1778, p. 56.
- ²⁴ J. and W. Grimm, *Kinder- und Hausmärchen*, vol. III, Göttingen, Dieterische Buchhandlung, 1843, pp. 185-8.
- ²⁵ F. Nicolai, *Unter Bayern und Schwaben: Meine Reise im deutschen Süden 1781*, Stuttgart and Vienna, Erdmann, 1989, pp. 166-7.
- ²⁶ *Ibidem*. Ulm became a Württemberg city after Friedrich's alliance with Napoleon. Nicolai could contrast it unfavourably with Württemberg as a whole because, at the time of his travels, it was an imperial free city.
- ²⁷ M. Fulbrook, *Piety and Politics: Religion and the Rise of Absolutism in England, Württemberg and Prussia*, Cambridge, Cambridge University Press, 1983, p. 67. See also F.L. Carsten, *Princes and Parliaments in Germany: From the Fifteenth to the Eighteenth Century*, Oxford, Clarendon, 1959, p. 5.
- ²⁸ Nicolai, *Unter Bayern und Schwaben* cit., pp. 166-7.
- ²⁹ I.F. McNeely, *The Emancipation of Writing: German Civil Society in the Making, 1790s-1820s*, Berkeley, University of California Press, 2003, pp. 96-7.
- ³⁰ Johann Friedrich Cotta to Johann Wolfgang von Goethe, 16 November 1808, in M. Neugebauer-Wölk, *Revolution und Constitution. Die Brüder Cotta: Eine biographische Studie zum Zeitalter der Französischen Revolution und des Vormärz*, Berlin, Siedler, 1989, p. 347.
- ³¹ Carsten, *Princes and Parliaments in Germany* cit., p. 147.
- ³² *Württembergs Rechte: erstes Wort einer Appellation an die hohen Befreyer Deutschlands*, 1810, pp. 2-3, emphasis mine. While neither the author nor the publisher are identified, the pamphlet presumably had some prominence; the extant copy in the Bavarian State Library was presented as a «present of His Majesty the King Ludwig I, from His Highness' Private Library».
- ³³ Ashton, *The Kingdom of Württemberg*, cit., p. 66. Schelling had also been a student at Tübingen, receiving his doctorate there in 1795. He was never a professor there, though in 1810 he did arrive in Stuttgart to give some lectures. At the time Wangenheim was chancellor at Tübingen, however, Schelling was based in Munich.
- ³⁴ K.A. von Wangenheim, *Die Idee der Staatsverfassung in ihrer Anwendung auf Wirtembergs alte Landesverfassung und den Entwurf zu deren Erneuerung*, Frankfurt/Main, Bernard Körner, 1815, p. 68.
- ³⁵ Ivi, p. 21.
- ³⁶ L. Uhland, «Das alte, gute Recht», *Vaterländische Gedichte* n. 2, in *Ludwig Uhlands Gedichte*, Stuttgart, Verlag der J.G. Cotta'schen Buchhandlung, 1867, p. 50. The same sentiments are expressed in other *Vaterländische Gedichte*, most notably «Württemberg» and «Gespräch» (*Vaterländische Gedichte* n. 3 and n. 4, in Ivi pp. 50-1). Of note, too, is the fact that Uhland referred to the traditional balance as the «old good law», rather than the more linguistically sound «good old law». This suggests that Uhland saw the goodness of the Treaty of Tübingen as being primarily asserted by its age and customary use; in other words, the «oldness» of the law legitimated its «goodness». Similar constructions and ideas are particularly common in English legal constructs, where the primacy of «custom» has held prominence for many centuries.
- ³⁷ L. Uhland, *Am 18. Oktober 1815; Herrn Bürgermeister Klüpfel, Landständischem Abgeordneten der Stadt Stuttgart, Vaterländische Gedichte* n. 1, in Ivi, p. 49.
- ³⁸ Hofer was killed in 1810 and, later, his rebellion was coopted into the national myth of the 'Liberation Wars' (*Befreiungskriege*) that became something akin to the proto-foundational legend of the united German nation. None of this should distract from the fact that Hofer's guerrillas fought specifically against *Bavaria*, in favour of *Tyrolean* rights.
- ³⁹ Wangenheim, *Die Idee der Staatsverfassung* cit., p. VII.
- ⁴⁰ D. Langewiesche, *Magna Charta der Württemberger — vom Kampf ums alte gute Recht zur geschichtlichen Erinnerungsformel*, in Adriani and Schmauder (eds), 1514 cit., pp. 477-8.
- ⁴¹ Ashton, *The Kingdom of Württemberg* cit., p. 39.
- ⁴² D. Krämer, «Menschen grasten nun mit dem Vieh»: *Die letzte große Hungerkrise der Schweiz 1816/17*, Basel, Schwabe, 2015, pp. 46-7.
- ⁴³ King Wilhelm I. of Württemberg, *I. Edikt, mehrfache Änderungen in Abgabewesen betreffend*, Stuttgart, 18 November 1817, in *Königlich Württembergische Staats- und Regierungsblatt*, 1817; Walter Grube, *Der Stuttgarter Landtag 1457-1957. Von den Landständen zum demokratischen Parlament*, Stuttgart, Ernst Klett, 1957, p. 511.
- ⁴⁴ All references to the Ludwigsburg Constitution relate to: *Verfassungsurkunde für das Königreich Württemberg 25. September 1819*, reproduced at Universität Würzburg, <http://www.jura.uni-wuerzburg.de/lehrstuehle/dreier/verfassungsdokumente_von_der_magna_carta_bis_ins_20_jahrhundert/verfassung_des_koenigreichs_wuerttemberg_25_sep_1819/>, 5 October 2016.
- ⁴⁵ Karl Wilhelm Heinrich du Bos du Thil to Foreign Ministry (Hesse-Darmstadt), n. 99, Vienna, 27 March 1820. Hes.StAD.G1/147/7.
- ⁴⁶ H. Brandt, *Parlamentarismus in Württemberg, 1819-1870: Anatomie*

- eines deutschen Landtags, Düsseldorf, Droste, 1987, p. 31.
- ⁴⁷ P. Sauer, *Reformer auf dem Königsthron: Wilhelm I. von Württemberg*, Stuttgart, Deutsche Verlags-Anstalt, 1997, pp. 180-2.
- ⁴⁸ Nicolai, *Unter Bayern und Schwaben* cit., p. 169.
- ⁴⁹ L.E. Lee, *Liberal Constitutionalism as Administrative Reform: The Baden Constitution of 1818*, in «Central European History», n. 2, 1975, pp. 91-2. As Lee points out, this was perhaps even more pressing than in the Württemberg example, since Badenese territory had quadrupled by virtue of the state's ties to Napoleon.
- ⁵⁰ Ashton, *The Kingdom of Württemberg* cit., pp. 78-9.
- ⁵¹ Sheehan, *German History 1770-1866* cit., p. 407. Cf. also Ashton, *The Kingdom of Württemberg* cit., pp. 43-4.
- ⁵² In fact, there were only three during the 1831 election to the *Landtag* — the subject of Disbrowe's report. Edward Cromwell Disbrowe to Palmerston, n. 8, Stuttgart, 15 February 1832. FO 82/26.
- ⁵³ Ashton, *The Kingdom of Württemberg* cit., p. 76.
- ⁵⁴ Augustus Loftus to Palmerston, n. 6, Stuttgart, 5 May 1847, in Markus Mösslang, Sabine Freitag, and Peter Wende (eds.), *British Envoys to Germany*, vol. 2, Cambridge, Cambridge University Press, 2002, p. 403.
- ⁵⁵ The edition used here is the same document, albeit printed in England the following year. F.L. Lindner [G. Erichson], *Manuskript aus Süd-Deutschland*, London, James Griphi, 1821.
- ⁵⁶ F.L. Lindner [K.H. Kollmannner], *Ueber die gegenwärtige Lage von Europa*, Frankfurt/Main and Leipzig, Friedrich Ludwig Lindner, 1821.
- ⁵⁷ Lindner [Erichson], *Manuskript* cit., pp. 236, 256-7.
- ⁵⁸ Ministerium des Innern (Württemberg), *Wochenbericht*, Stuttgart, 24 November 1851, in Wolfram Siemann (ed. by), *Der Polizeiverein deutscher Staaten: Eine Dokumentation zur Überwachung der Öffentlichkeit nach der Revolution von 1848/49*, Tübingen, Max Niemeyer Verlag, 1983, p. 210.
- ⁵⁹ It is difficult to trace the origins of this 'republic = freedom' model of political paradigm, though by the time of the Interior Ministry report the terms had largely become synonymous through usage. In literary-philosophical circles, the link was implied on many occasions by Friedrich Schiller, most notably in his second play, *Die Verschwörung des Fiesko zu Genua* (1783). Frederick Beiser has argued that Schiller's *On the Aesthetic Education of Man* (1795), which he himself described as an 'analytic of the beautiful', can only be properly understood as a political treatise rather than aesthetic one, within the republican tradition of the French political philosophers Jean Jacques Rousseau and Charles-Louis de Montesquieu. More explicitly, the link was identified by Immanuel Kant in his 1795 essay *Zum Ewigen Frieden*, and later by Friedrich von Hardenberg (Novalis) in his 1798 collection of fragments, *Glauben und Liebe, oder Der König und die Königin*. In the former, Kant defines republican constitutionalism as 'firstly, the principle of freedom for all members of a society [...]; secondly, the principle of the dependence of everyone upon a single common legislation (as subjects); and thirdly, the principle of legal equality for everyone (as citizens).' Novalis agreed with Kant that monarchical rule was not incompatible with republicanism and, in fact, that the legitimacy of a king would be marked by the fact that his society would be republican: 'The true king will be a republic, the true republic a king.' F. Beiser, *Schiller as Philosopher: A Re-Examination*, Oxford, Clarendon, 2008, particularly ch. 4, pp. 119-68; I. Kant, *Zum ewigen Frieden. Ein philosophischer Entwurf* (1795); En. tr. *Perpetual Peace. A Philosophical Sketch*, in H.S. Reiss (ed.), *Kant Political Writings*, Cambridge, Cambridge University Press, 2016, p. 99; Novalis, *Glauben und Liebe, oder Der König und die Königin* (1798); En. tr. *Faith and Love or The King and Queen*, in M.M. Stoljar (ed.), *Novalis Philosophical Writings*, Albany, State University of New York Press, 1997, p. 89.
- ⁶⁰ Robert von Mohl, *Die Geschichte der württembergischen Verfassung von 1819*, in «Zeitschrift für die gesamte Staatswissenschaft», n. 1, 1850, pp. 47-51.
- ⁶¹ It was also at this point that Wilhelm suspended the constitution. However, this was only ever intended as a temporary means in view of the extant state of emergency at the time. This can also be seen by the fact that Wilhelm's other actions at the time still reflected a commitment to liberalism.
- ⁶² Strauß, in fact, condemned Struve's actions as endangering the wellbeing of the Badenese population. *Schwäbische Kronik*, n. 109, 19 April 1848.
- ⁶³ B. Mann, *Die Württemberger und die deutsche Nationalversammlung 1848/49*, Düsseldorf, Droste, 1975, pp. 399-409.
- ⁶⁴ *Staats-Anzeiger für Württemberg*, n. 167, 14 July 1850; *Staats-Anzeiger für Württemberg*, n. 40-41, 15-16 February 1850; *Staats-Anzeiger für Württemberg*, n. 296, 14 December 1861.
- ⁶⁵ P.J. Siebenpfeiffer, in *Die Bote aus Westen*, 19 February 1832.
- ⁶⁶ K.J. Weber, *Reise durch das Königreich Württemberg*, Stuttgart, J.F. Steinkopf Verlag, 1978, p. 144.