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«Constitutional Fever»?
Constitutional Integration in Post-Revolutionary France, Great Britain and Germany, 1814–c.1835

«La fièvre des constitutions travaille la France depuis 1789, et elle paraît être, en ce moment, en quelque sorte épidémique dans l’Europe» – declared the French royalist Ducancel in 1814. On the other side of the Rhine and with a more positive undertone, the German liberal Friedrich Christoph Dahlmann praised the constitution of the «Vaterland» as the most important of all worldly things. Indeed, few subjects dominated political discourse in post-revolutionary Europe as much as the constitutions of the traditional and newly emerging states or political bodies. Constitutions were a main answer that European societies developed while facing the insecurity and instability of political authority following the revolutionary upheaval in France, which directly or indirectly affected the whole of Europe.

This article proposes a comparative look at the role of constitutions in European political cultures between the downfall of the Napoleonic Empire and the 1830s. Analysing the cases of France, Great Britain as well as the German states, the leading questions of this article are as follows: First, how were constitutions interpreted and imagined by contemporaries, and which alternative models were opposed to the then-existing constitutions? The comparative approach sheds light upon the variations of constitutional discourse among the European states, and also helps to highlight mutual influences and transfers. Secondly, can constitutions be considered as a means of legitimisation for the European monarchies, and a means of integration for the divided societies following the revolutionary wars? The differences and similarities amongst the European states that are brought forth by this comparison will allow for a deeper and more nuanced understanding of the chances and perils of constitutional integration in post-revolutionary Europe.

In addressing these questions, this article builds upon newer approaches in institutional theory and history. Those approaches consider constitutions not only as purely technical arrangements for decision-making, but also as symbolic expressions

of political values and beliefs. As such, they can become a point of reference and a means of integration for political society. These symbolic aspects should not be considered to be inferior or simply additional to a foremost «technical» institution.\(^2\) As German political scientist Hans Vorländer has pointed out, these two dimensions are inextricably connected: Constitutions as textual documents claim to order political society without being able to fulfil this claim by and through themselves; thus they also need to be symbolic representations of their inherent political values and beliefs. To put it simply, in order to function properly, a constitution has to be believed.

Given the stability of a constitution’s content, which usually reaches back to its proclamation, the necessity of its constant (re-)enactment seems all the more striking. Against this background, it becomes obvious that, within a modern constitutional history, the analysis of a constitution cannot be separated from an analysis of the surrounding political culture and its actors, who struggle with its often ambiguous meanings.\(^3\) The American historian Keith Baker defined political culture as «the set of discourses and practices characterising the activity through which individuals and groups in any society articulate, negotiate, implement, and enforce the competing claims they make one upon another».\(^4\) The concept of constitutional culture was developed from these premises and can be seen as a part of political culture, comprising the discourses on and practices of a constitution.

Analyses of constitutional culture focus on common expressions of political discourse such as parliamentary debates, political writing and newspapers, as well as iconographic and ritualised representations of constitutions and constitutional practices – for instance elections, petitioning movements and the behaviour of parliamentarians – that have been neglected in more traditional historiographical approaches. Whereas comparative studies on constitutional culture, especially with the geographical scope provided here, are still lacking, this article can draw on several studies of German\(^5\) and British\(^6\) constitutional culture as well as on the analysis of classical sources of political discourse, such as pamphlets, parliamentary debates, newspapers

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or constitutional and historical writings. In the case of France, where constitutional history mainly remained traditional, the focus will be placed before all other things on primary sources: In addition to the sources of political discourse mentioned above, the study will include short analyses of electoral culture, political iconography and political festivities or rituals.\(^7\)

These three cases seem well-suited for an analysis using parameters of the concept of constitutional culture. They allow for an overview of the various ways in which constitutions were imagined and used as an «answer» to the challenges of the post-revolutionary situation in Europe. In France, the return of the dethroned Bourbons in the spring of 1814 was a difficult undertaking against the background of the revolutionary experience. However, the Restoration was not a simple attempt to reverse the social and political outcomes of the last two and a half decades, but a compromise that took the interests and beliefs of the post-revolutionary society into account. The *Charte constitutionnelle* is a striking expression of this compromise. With a reference to a glorified *ancien régime* in its preamble that was further strengthened by its use of promulgation as a unilateral *octroi*, the constitution’s articles guaranteed many achievements of the moderate Revolution of 1789, from freedom of the press and religion to a decisive «national» participation in the legislative process via an elected parliamentary chamber.

In the German states, the high hopes created by the «national» victory against Napoleon were quickly shattered in the wake of the Congress of Vienna. Against the backdrop of a rally for national unification that had already been ardently debated in its «constitutional» dimensions during the *Befreiungskriege*, the loose German Confederation of 1815 seemed to pale in comparison. The constitutional question, however, gained momentum on the level of the individual German states in the years to follow. Whereas Austria and Prussia remained absolute monarchies, even neglecting...
the somewhat ambiguous promise of the *landständischen Verfassungen* that had been enshrined in Article 13 of the *Bundesakte* for all the members of the confederation, several German states, most notably the larger southern states of Baden, Bavaria and Württemberg, introduced modern representative constitutions. Following the example of the *Charte constitutionnelle*, those constitutions were presented as unilateral *octroi* by monarchs of «divine favour» – only the constitution of Württemberg was the result of a pact between the ancient *Landstände* and the monarch. The articles of the constitutions, however, contained declarations of rights as well as bicameral parliaments with lower houses fully (Baden) or at least in large part elected in electoral districts and not by traditional corporative bodies. The constitutions were in many regards a defensive «tool» used by the monarchs either to legitimise their claims to newly gained territories in the wake of the dissolution of the Holy Roman Empire, or to better the sometimes catastrophic fiscal situation of their states; however, they were at the same time extremely popular among an emerging liberal public as a progressive answer to the challenges of the revolutionary era.

Even the apparently stable British monarchy was, to a certain degree, (re-)invented in the face of the challenges caused by the continental revolution and its transnational ramifications. Already during the years of the revolutionary wars, British governments had presented the «ancient constitution» as a distinct feature of domestic politics that secured the traditional British liberties and provided a means of evolutionary reform, thereby rendering revolutionary change unnecessary. The victory of 1815 and the economic and military distress that was inflicted upon the British population during the wars against Napoleon, however, made the «openness» of the British constitution even more prominent in political discourse after 1815, and they further demanded change in the unreformed electoral system of the lower house.

This study analyses the central topoi of post-revolutionary constitutional discourse that marked all three cases of inquiry in a distinct fashion, and which sometimes even enabled mutual influences amongst and transfers of constitutional concepts. The first section deals with the nexus between constitution and revolution, and the various ways in which constitutions were imagined either as a means of preventing revolutionary change in post-revolutionary Europe, or, on the contrary, as a dangerous and «hidden» gateway for revolutionary ideals to traditional monarchical states. The second section examines the contemporary perspectives on constitutions and political parties. The inevitable development or existence of political groups within and without representative institutions, and especially the «constitutional legitimacy» of said groups, marked discourse in all European countries after 1815. The contemporary «solutions» to these questions of «legitimacy» were a decisive factor for the integrative force of the constitutions. This holds true especially because the further constitutional development towards democratisation was usually carried out by the opposition parties, and the renouncing of the «legitimacy» of those groups therefore oftentimes led to a sclerosis of post-revolutionary constitutions. The differ-
ent constitutional paths that were taken by Great Britain, the German states and France during the early 1830s can be explained by this nexus among constitutions, political parties and reform.

1. Constitution and Revolution

In comparing these three European political cultures, the idea of a constitution as a means of preventing (another) revolution was the most clear-cut in Great Britain. Throughout the whole of the eighteenth century, it was more or less commonplace in British political discourse that the «ancient» and «unwritten» constitution of the island was the best possible regime throughout the world. This constitutional complacency was especially a result of the praises sung by continental authors about the British institutions. In works such as Montesquieu’s *Esprit des lois* and Delolme’s *Constitution de l’Angleterre*, which were translated and read throughout the whole of Europe, the British constitution was proposed as the ideal model for European monarchies.  

At first, the French Revolution seemed to have cast some doubts on British constitutional certainties. The French idea of a radical break from the ancien régime, which was, among other things, characterised by the lack of a fixed and written constitution, also found its proponents on the other side of the channel. In his influential *Rights of Man*, Thomas Paine argued that the «ancient constitution» was not only faulted by corruption and needed to be reformed – an argument that was also used by the radical politicians of the time –, but that Great Britain in fact did not have a constitution at all and needed a contractual foundation in the vein of France or America.

Even if Paine had found his proponents among the radical politicians, the reception of his ideas in Great Britain was also a testament to the dominance of the «ancient constitution» in British political discourse. During the years of the French Revolution, the Pitt government and its supporters seized every occasion to justify the harsh repression of the «inner enemy» as a necessary defence of the «ancient constitution» against the revolutionary subversion. The impact of this argument is particularly underlined by the behaviour of its very victims. In a study of the trial defence of Joseph Gerrald before the High Court of Edinburgh, where the radical stood accused of having participated in the *London Corresponding Society* and the *Convention of the Delegates of the Friends of the People*, James Epstein demonstrated that a recourse on the «ancient constitution» was inevitable even among actors who had clearly been

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influenced by «paineite» language: «To speak effectively was to speak according to the conventions of trial defence and within the contested unstable boundaries of «our real constitution»».\textsuperscript{10}

The victory of 1815 further strengthened the omnipresence of the «ancient constitution» in British political discourse. In a revision of E. P. Thompson’s seminal work, \textit{The Making of the English Working-Class}, James Vernon dubbed «the debate over the meaning of the constitution’s past, present and future» as the «master-narrative» of British politics in the years after 1815.\textsuperscript{11} For the traditional British parties, it was clear that the «ancient constitution» had once more stood the test of time and was still to be considered a model to be emulated by all civilised countries. As the Whig historian Henry Hallam put it: «The constitution [...] of England must be to inquisitive men of all countries, far more to ourselves, an object of superior interest; distinguished, especially, as it is from all free governments of powerful nations which history has recorded, by its manifesting, after the lapse of several centuries, not merely no symptom of irretrievable decay, but a more expansive energy.»\textsuperscript{12} This superiority of the constitution could be derived from political principles that had already been established at the time of the Norman Conquest in the vein of the Tory narratives or in a Whig interpretation as a result of the reestablishment of traditional «Anglo-Saxon Liberties» during the Glorious Revolution.\textsuperscript{13}

With a different undertone, this perspective of a British constitutional Sonderweg that rendered revolutionary change unnecessary was also common among post-war radicals. Notwithstanding the bitterness of the struggles between the growing popular radical movement and the Liverpool government that culminated in the Peterloo Massacre of 1819, the former never stopped to draw on constitutional language in order to voice their demands for a radical reform of the injustices of the parliamentary system. This is not to say that the «paineite» language, which called for a radical rupture and a new foundation, had completely lost its appeal; but again, the common topoi of British constitutional history offered a higher chance of having their reform agenda heard by a wider public. William Cobbett, one of the most influential radical pamphleteers after 1815, for example, legitimised universal manhood suffrage with the Bill of Rights, which declared «that the Laws of England are the birthright of the people». John Belchem has also demonstrated a similar importance of the constitutionalist arguments in the influential speeches delivered by Henry «Orator» Hunt at public meetings.\textsuperscript{14}

\textsuperscript{13} Vernon, \textit{Politics and the People}, 297–304.
The usage of the constitutionalist language by politicians, who were prone to radical changes within the existing political system, was certainly not devoid of strategic considerations. In the long run, however, the constitutionalist language proved to be more than a mere «instrument»; it also retroacted on «revolutionary» actors, whose positions necessarily lost their appeal to the public, at least as long as the British political system showed signs of openness towards evolutionary reform. The innocuous and non-revolutionary character of the radical demands was most notably stressed by the «philosophical radicals» led by Jeremy Bentham and the Westminster Review. George Ensor was one of their proponents who placed the most emphasis on a constitutionalist and historical approach to the reform agenda. A pamphlet entitled Radical Reform is one of the most striking examples of this discourse. Whereas the main title at least hinted at the possibility of a rupture, the subtitle Restoration of Usurped Rights set the tone of the work – even radical changes to the current state of the British institutions, such as universal manhood suffrage and annual parliaments, were to be legitimised by a recourse to a glorified constitutional past about to be rediscovered.15

In France, the revolution and its legacy were omnipresent in political discourse after 1814. The relationship between constitution and revolution, however, was far from being as unanimously imagined as in Great Britain. Especially in the short moment of constitutional uncertainty in the spring of 1814 when the actual intentions of the returning Louis XVIII were unclear, several ultra-royalist theorists reinvigorated an old counter-revolutionary argument that had been prominently developed by Joseph de Maistre during the revolutionary era. For Maistre, together with Louis de Bonald, probably the most influential theoretician of the ultras, the revolution, which was considered to be a divine punishment for the sinful French, carried the seeds of its own downfall through a regenerated ancien régime.16 A written constitution was part of the sins of the revolutionaries because it profaned the divine right of the king by linking it to the will of the people. Thus, the ultras’ conclusion for the year 1814 was that it was impossible to reach a constitutional compromise. France therefore had to return to an idealised ancien régime that was characterised by an unwritten constitution, which was considered to be advantageous compared with the inevitably ephemeral human documents and which should not be mistaken with the «historical» and «parliamentary» concepts of the British.17 The later président du conseil Joseph de Villèle, who was still a largely unknown provincial nobleman from Toulouse in 1814, merged Maistre’s constitutional critique with an ardent plea to the returning monarch not to give in to the public demands for a constitution that Louis had already rather positively addressed in his 2 May Declaration of Saint-Ouen.18

18 J. de Villèle, Observations sur le projet de constitution.
With the proclamation of the *Charte constitutionnelle*, Louis XVIII ultimately put these interpretations of constitutional change on the back foot. On the one hand, the *Charte*, at least in its preamble, tried to render the written document acceptable to the proponents of the «ancient constitution» by including allusions to the monarchical tradition in the text – the *chambre des députés*, for example, was regarded as a successor to the Franconian assemblies and the Third Estate – and especially by demonstrating the royal prerogative with the *octroi*. On the other hand, the articles of the constitution made it pretty clear that the monarch considered it necessary to base his rule upon the guarantee of basic revolutionary acquisitions that were no longer negotiable in post-revolutionary France, such as the fundamental freedom rights, equality before the law and representative government.

Some ultra-royalists like Bonald left no doubt that they considered the *octroi* at best as the constitution’s potential. The return of the Bourbons had brought the end of the detested revolutionary age within grasp. The new institutions were a mere relic of this age, doomed because of their apparent contradiction to the divine will: «Il est vrai que le nouveau système monarchique est mêlé de quelques institutions qui le sont un peu moins; mais si ces institutions ne convenoient pas à la société, elles en disparoîtroient tôt ou tard, et particulièrement de la France où rien de contraire à la nature de la société ne sauroit s’affermir.» For Bonald, the *Charte* was not an expression of the «ancient constitution» despite all the claims of the preamble. This eternal constitution subsisted beneath the inevitably ephemeral human document. With his power only limited by God, (as expressed in the preamble) the monarch could revoke the *Charte* at any time.

Interpretations in the vein of Bonald, however, lost their appeal quite quickly in Restoration France, even if the possibility of revival remained, as the constitutional crisis of 1829 would show. After the second Restoration in the wake of Napoléon Bonaparte’s return from Elba and his defeat at Waterloo, the ultra-royalists received a crash course in constitutional politics. The elections of 1815 had yielded a right-wing majority in the lower house and quickly led to the emergence of a self-confident parliamentary leadership, which now demanded the withdrawal of the king’s moderate royalist ministry under the Duke of Richelieu, or at least staunch policies in the sense of the ultras. Among those policies were a new electoral law and, more particularly, an intransigent legal course against the revolutionary «traitors» that had cooperated with the returned Corsican «usurper».
In an influential pamphlet, Vitrolles, an intimate of the later Charles X, had laid the intellectual groundwork for «ultra-parliamentarism». Besides the obvious tactical reasons for its publication, Vitrolles’s work also contained a meticulous analysis of the functioning of a parliamentary monarchy and a politically responsible ministry. Whereas this monarchy, unlike those imagined in more liberal interpretations, was not imagined as a fulfilment of a moderate revolutionary agenda, it was at least declared a political system that would have been capable of preventing the revolution. As an alternate legitimisation for his monarchy, Vitrolles brought the British monarchy to the fore, an example that had been mostly rejected by ultra-royalist authors during the first Restoration: If the revolutionaries, in the vein of the British opposition, had only fought for the ministry and not for sovereignty, a lot of suffering could have been prevented, and many lives saved.

While a regular functioning of representative institutions in France was always in peril because of the intransigent stance that the «parties» took against each other (see part two), the ultras’ positions of 1816 were not without long-term effects. Well into the 1820s, overt right-wing attacks on the provisions of the constitution were no longer commonplace in the political discourse of Restoration France.

For liberal authors, the stability provided by a new constitution after 1814 was mainly to be found in this constitution’s ability to guarantee the key achievements of the «moderate» Revolution of 1789. A guarantee that was to be combined with a threefold rejection: of an «absolute» ancien régime monarchy, of republican «anarchy», and of imperial «despotism». While the Charte found its ardent critics in the remaining Bonapartists, and because of the insult towards the sovereignty of the nation that was included in the preamble, it also found its admirers from the very beginning of the Restoration onwards. The hopes that a constitutional Bourbon monarchy would finally end the turmoil of the revolutionary era and set down a starting point for institutionalised politics within a framework that was open to evolutionary changes were particularly based upon the example of the British monarchy and the «constitutional» settlement of the Glorious Revolution. For liberal thinkers such as Benjamin Constant, the French in 1814 were not only about to imitate but also to improve upon the British example as the French Revolution now came to a close without the rupture of a dynastic change: «Combien l'Angleterre fière d'être libre...»

La France de la Restauration (1814–1830). L’impossible retour du passé, Paris 2012, 140–50. See E.-F.-A. A. Baron de Vitrolles, Du Ministère dans le gouvernement représentatif, par un membre de la Chambre des députés, Paris 1815; the other and more famous ultra «teacher» of a parliamentary monarchy was Chateaubriand. His work, however, appeared only in Spring 1816: F.-R. de Chateaubriand, «De la Monarchie selon la Charte», in: Grands écrits politiques, Paris 1993, 301–525; for an in-depth analysis of these debates: Rosanvallon, La monarchie impossible, 65–89.

See, for example, the already cited Villèle, Observations sur le projet de constitution, 9.

Vitrolles, Du Ministère dans le gouvernement représentatif, 67.

Influential pamphlets in this vein were: H. Grégoire, De la Constitution française de l’an 1814, Paris 1814; F. J. F. Durbach, Encore un mot sur la constitution, par un membre du corps législatif, Paris 1814.
sous Guillaume III, eut été plus heureuse encore, si la pensée d’un pacte rompu et d’une succession intervertie, n’eût troublé, dans beaucoup d’esprits, la jouissance de la liberté, [...]».26

Whereas it is misleading to speak of a direct constitutional transfer from Great Britain to France in the years of 1814/15, the importance of the British example in political discourse, especially in the first years of the Restoration, should not be underestimated. The historical «evidence» that was delivered by the neighbour state ultimately lent credibility to the project of a constitutional monarchy in France and its supporters. In this regard, the openness of the unwritten British constitution was far more an advantage than a hindrance, especially when its interpretation as a «mixed constitution» made it susceptible to the claims to power by a variety of actors. While it is difficult to ascertain the exact influence of the different members in the commission that was appointed by Louis XVIII to draft the Charte, it is safe to say that the British example also played a considerable role in the secret and unpublished debates of this body in May 1814: Especially during the development of the first constitutional draft, which was carried out before the assembly of the actual commission on 22 May by Louis and his advisors Beugnot and Ferrand, the monarch referred extensively to the British constitution – with an extreme emphasis on the «salutary» influence of the crown concerning the elections for the lower house.27

Despite all the comparisons that the liberal politicians had made between the Charte and the British constitution, it was also due to an interpretation of the events following the promulgation of the Charte – which compared it to a contract between king and nation – that the unilateral octroi of the constitution did not discredit the document in the liberal public in the long run.28 The acceptance address of the «new» chambre des députés (which was in fact Bonaparte’s former corps législatif) already bore witness to this interpretation by linking the new constitution to the constitutional project of Napoleon’s rebellious senate, which was presented before the Charte, and to the «tacit» consent of the French. Louis himself further strengthened those contractual interpretations just less a year later. Facing the returned emperor’s troops who were approaching Paris, Louis XVIII evoked the Charte constitutionnelle as a distinctive feature of his rule and pledged to defend it, if necessary, with his life. This vow of the king, which was publicly made in a séance royale with both legislative chambers, became a point of reference for many Restoration liberals, especially after the Second Restoration. Popular prints as well as treatises on constitutional law declared 16 March 1815 the real founding moment of the new institutions.29

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26 B. Constant, Réflexions sur les constitutions, la distribution des pouvoirs et les garanties, dans une monarchie constitutionnelle, Paris 1814, fol. xiv.
27 For further discussion of the Charte and especially Louis’s influence, see Sellin, Die geraubte Revolution, 225–274; see also Rosanvallon, La monarchie impossible, 29–49.
29 On the prints, see: ibid., 233; An example for a judicial interpretation of the séance royale is J.-D. Lanjuinais, Constitutions de la Nation française avec un essai de traité historique et politique sur la Charte, Paris 1819, vol. 1, 193.
In the German states, the debates on a new constitution of a restored *Reich* or a confederation of German states, which had been prominent in the resistance against the Napoleonic Empire, were soon cut short by the disappointing provisions of the Congress of Vienna and the Act of the German Confederation of 8 June 1815. Falling short of creating a German federal state, the Confederation that had been created in 1815 was not much more than a pact of sovereign monarchs: It was potentially effective in defending its borders and effective in repressing the national agitation that existed within the states, but it was unable to actually implement national policies. The constitutional question, however, persisted at the level of the individual states, where several rulers had already expressed the will to implement a *landständische Verfassung* in the vein of Article 13 of the Act of the German Confederation, which was a movement closely and euphorically followed by the liberal elites all across Germany. The constitutionalisation of the individual states was not necessarily deemed a contradiction to a «national» programme. On the contrary, thinkers such as the Baron vom Stein put high hopes in the benefits of having «liberty» in the individual states that would prepare the Germans for national liberty. As Reinhard Blänkner stated, constitutionalism can even be considered a hegemonic discourse in the German states after the wars against Napoleon. The creation of a constitution or the development of the existing institutions became by far the most important concern of the middle-class liberal movement.

Similar to its French and British counterparts, German constitutional discourse revolved much around the relation between constitution and revolution and it was to a great extent concerned with the imagination of a distinctly German way of preventing the latter. The new constitutions of the German states were therefore glorified at the same time as the dawn of a new «constitutional age», and also as an expression of a distinct loyalty that the German people expressed to its traditional monarchs, thereby rendering revolutionary change unnecessary. These sometimes contradictory aspirations were also embodied in the usage of the term *landständische Verfassung*. Even if the *Landstände* were originally corporative bodies in *ancien régime* monarchies, the term *landständische Verfassung* soon became a catch-all phrase that was also used to demand and describe modern representative constitutions in the vein of the Badenese case, where the second chamber was exclusively elected by a «modern» (censitary) electorate. The usage of this term was above all else a means to «Germanising» constitutional concepts that had been visibly marked by the French example of the *Charte constitutionnelle*. As Markus J. Prutsch has shown, the *Charte* was far more popular among the authors of the southern German constitutions, who belonged to the inner circle of the monarchical administration than within a wider

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political public still marked by the anti-french discourses of the revolutionary wars.\textsuperscript{33}

Against the background of this «nationalisation» and despite its popularity in general, the British «unwritten constitution» – the other influential constitutional example in the years after 1814 – was also rarely used as a yardstick to measure or to make sense of the new constitutional arrangements in the southern German states. The idea that the historical character of the British constitution made transfers to «foreign soil» almost impossible was far more dominant in Germany than it was on the other side of the Rhine.\textsuperscript{34}

The blend between the constitution as a historical novelty and its traditional foundation also found its expression in iconographical constitutional representations, which were a common feature of southern German constitutional culture.\textsuperscript{35} Most of these representations were actually not initiated by the monarchical governments; they were instead the results of local initiatives of the liberal Bürgertum, which would however later find monarchical support. An example of such cooperation is the architectural programme that was carried out by the mediatised Franconian Prince Franz Erwein von Schönborn-Wiesentheid in his palace in Gaibach. This project consisted of a constitutional column in the surrounding park as well as of a pompous «constitutional chamber» in the building. The laying of the foundation stone of the column on 26 May 1821 (the third anniversary of the constitution) took place in the presence of the Bavarian Crown Prince. Besides a copy of the constitution, a Verfassungsthaler was descended into the stone. This government-issued coin depicted the constitution as a cube, which was inscribed with «CHARTA MAGNA BAVARIAE» and surrounded by a verse from Virgil (Eclogues 5, Verse 5) that set the tone for the visual programme: «Now starts at new the centuries’ glorious order.» The link between the new constitution and the traditional monarchical rule was further strengthened through the inscription on the column’s stylobate, which dedicated the column to the monarch as a «constitution-giver» and to his son as the constitution’s future «warden». Contrary to the situation in France, an interpretation of the constitution’s enactment, which rendered the document a pact between monarch and nation, was not a common feature in early German constitutionalism.

Despite these liberal claims to an interpretation of the constitution cooperative with the preferences of the monarchs, the traditionalist critique of the too «modern» southern constitutions followed shortly after their proclamations. The southern monarchs themselves considered the constitutions above all else a means of securing their newly acquired territories and the financial means of their states. They had already emphasised during their opening speeches before the lower chambers that they would not tolerate any systematic opposition, and that they counted on their

\textsuperscript{33} Ibid., 74–120.  
\textsuperscript{34} Ibid., 53–56.  
\textsuperscript{35} M. Knauer, «Embodiments of Ideal Order: Visualisations of Constitutions in Early Southern German Constitutionalism», in: Hensel et al., Constitutional Cultures, 251–271.
subjects’ «good will». Against this background, even the modest opposition in the first parliamentary sessions in Baden, Württemberg and Bavaria was somewhat shocking to the monarchs. It also led to a hardened stance on the constitutional question in the two largest German states of Prussia and Austria. While the «constitutional promise» of Frederick William III was increasingly cast aside in Prussia,\(^36\) the Austrian government even launched an attack on the acquisitions of the southern states at the Vienna Conference of 1819, which was occupied with the redaction of the Schlussakte that complimented the treaties of 1815. In the treatise published before the conference, *Ueber den Unterschied zwischen den landständischen und Repräsentativ-Verfassungen*, Friedrich von Gentz, an intimate of Metternich, had pre-emptively fulminated against the representative constitutions of the German states. The electoral parliamentary chambers in those states always represented, at least theoretically, the whole people and therefore contained in nuce the principle of popular sovereignty.\(^37\) The Austrian delegation then attempted to «fix» the landständische Verfassungen in the Act of the German Confederation in the vein of von Gentz’s interpretation. In the end, this attempt failed due to the protest of the constitutional states that finally repudiated an intervention in their domestic affairs, despite their very own monarch’s doubts about the constitutions. Article 57 of the Schlussakte, however, contained a compromise that was all too agreeable for the distressed rulers: the compromise reaffirmed the so-called «monarchical principle», stating that the whole of sovereignty essentially resides within the monarchs. The landständische Verfassungen could only tie the monarch to the participation of the Stände in the exercise of «certain rights».

In conclusion, putting forth a constitution as a means to preventing or at least «closing» a revolution can be discerned as a common feature of political discourse throughout several European states in the years following 1815. The ways in which this prevention or «closing» of revolution was imagined to happen, however, varied to a certain degree, not only amongst the different political bodies but also within those bodies. These differences point to another feature of constitutional culture to be analysed in the following chapter: In one way or another, the constitutional actors had to deal with the emergence of a plurality of political groups or even parliamentarian proto-parties.


2. Constitutions, Political Parties and the Possibilities of Reform

The imperatives of party politics had the most problematic consequences on constitutional integration in France and the German states. Even if France had already made its experiences with the emergence of competing political groups in the revolutionary era, and even if the Charte constitutionnelle was invested with the hopes to put an end to the violent political conflicts among those groups with functioning representative institutions, the French constitutional culture was soon caught in aporias. The wish for «normal» constitutional politics collided time and again with the «insight» that the post-revolutionary parties and the «danger» that they incorporated were not fit for these politics. According to this logic, the constitutions oftentimes were not only seen as a means to institutionalising the party struggle, but also as a means to overcoming this very struggle in an age of national unity. These aporias also explain why a «pluralist» strand of Restoration political thought, elegantly outlined by John Gunn, was repeatedly cast aside in favour of the «defence» of the Charte or the Bourbon Monarchy.

The discussion on the premises of a parliamentary monarchy also brought these characteristics of French constitutional discourse to the fore. Even if many liberal politicians agreed in principle with the positions of ultra-parliamentarism, they hailed the king’s unwillingness in 1816 to appoint an ultra-ministry and his decision to dissolve the chamber as an imminently constitutional act. His actions were deemed to be protective of a document that was first and foremost a guarantee of the revolutionary accomplishments and a future of «national unity» against a potential counter-revolutionary reaction.

The omnipresence of this discourse on the «danger» posed by the respective political adversary was also visible in Restoration electoral practice: From the behaviour of the prefects and the presidents of the electoral colleges – who relentlessly and sometimes even fraudulently campaigned in favour of the current ministry – to the candidates’ professions de foi (individual electoral proto-programmes), a conception of the election as a decisive battle against an opponent about to bring about the end of the monarchy and Charte was common to all political actors. In a report to the prefect of the Bouches-du-Rhône on the occasion of the disputed 1827 elections, the mayor of Marseille painted the picture of a city plagued by a horrible disease – a disease of an eminently political character by the name of libéralisme. «Examining» various «classes» that were sometimes defined as socio-economic categories and other times simply as professional distinctions, the mayor discovered several degrees of «conta-
region» with the political disease. The prefect all too eagerly used the categories of his political ally in a report that was filed to the Ministry of the Interior in Paris, demanding for possible actions to be taken in order to stop the disease.\footnote{\textsuperscript{41} See the correspondence of the prefect and the ministry in: A(archives)N(ationales), F/7/6767.}

Given their conception of political dispute similar to their royalist adversaries, it might at first glance be surprising how liberals came to accept the long period of fundamental opposition that followed the four years of sometimes difficult cooperation with the centrist to centre-left ministries under Richelieu, Desolles and Decazes. Indeed, the sudden shock of political change after the assassination of the Duke of Berry in 1820 was interpreted as a broken contract by some left-wing liberals such as Manuel and Lafayette; it even resulted in some attempts at a putsch in the early 1820s. What finally kept most liberals on the legalist course, however, was the Charte and the chances that it still provided for liberal politics. In the elections of 1827, these chances even manifested to a certain degree in a successful fight against the well-oiled administrative election-machinery of the Villèle ministry.\footnote{\textsuperscript{42} For an in-depth analysis of the heterogeneous «liberal opposition» in the Restoration: R. S. Alexander, \textit{Re-Writing the French Revolutionary Tradition}, Cambridge 2003.} Those elections, however, were also a testament to the rootedness of the liberals in the aporias of the French constitutional culture: The «fulfilment» of the Charte was still imagined as some sort of dissolution of all political differences, as the \textit{Journal des débats}, a former moderate royalist paper that had «converted» to the liberal cause, put it in an article on the elections: «Nous n’avons plus que deux partis, celui de la fidélité aux institutions que nos rois nous ont données, et celui du parjure. De là vient que l’opposition marche avec ensemble à la conquête d’un avenir qui ne lui peut échapper: […] C’est la France entière, moins les gendarmes et les ignorantins.»\footnote{\textsuperscript{43} \textit{Journal des débats}, 11.11.1827.}

The problems of this liberal anti-pluralism should, however, only become manifest in the early 1830s. At first, it was Charles X’s turn to show that his acceptance of the constitution, which was solemnly sworn at his coronation in Reims in 1825, did not mean the acceptance of open political competition within this constitution. His unwillingness to abide by the lower house’s wish for the withdrawal of his ultra-royalist ministry, which was appointed in 1829, resulted in a new election that yielded a clear moderate to left-wing majority. This was followed by the camouflaged \textit{Coup d’État} of the four ordonnances that caused the Revolution of 1830. At first glance, this revolution did not seem to change the integrative force of the Charte for the political left. Instead, the revolution was fought and ended in the name of a slightly reformed Charte-vérité that was prominently evoked by Louis Philippe in his acceptance speech as freshly nominated lieutenant général du royaume on 31 July. It soon became obvious, though, that for the more conservative part of the revolutionary coalition in 1830, the Charte was far less a starting point for further evolutionary change than an «end of history» that rendered any protest against it inevitably «traitorous». These positions
resulted in a virtual civil war with a soon-to-become openly republican opposition from 1831 to 1834, which ultimately damaged the openness of the Charte de 1830 for a reform of the extremely restricted franchise well throughout the 1840s. The ambivalent stance of the constitution in post-revolutionary French political culture, which was visible throughout the Restoration, therefore continued at least until the definite installation of the Third Republic: Constitutions were held highly as a means of «ending» the Revolution in almost every political group; however, the oftentimes anti-pluralist approach to this «end» made the constitutions more of a mot de ralliement that was specific to its respective political camp than a means of integration for the whole of the political society.

In Germany, the emergence of party politics also posed problems for constitutional integration, which were, however, slightly different from those in France. On the eastern side of the Rhine, constitutions were far less imagined to be a means to coping with an existing struggle amongst the competing political parties. Instead, they were perceived as an ultimately conflict-free and smooth way to political and social «progress» that united the former absolutist monarchs with their «educated» and «politically-able» subjects. Especially among the early liberals, this vision of constitutional politics was extremely prevalent. In an early attempt at historicising the liberal movement, the professor of philosophy in Leipzig, Wilhelm Traugott Krug, brought exactly this character of liberalism to the fore. It was the very right of liberalism to demand restriction to arbitrary rule in a «repräsentativen Konstitution». This restriction, however, was not to be understood as an active determination of the political agenda of the state; it was instead solely a cooperative role in the improvement or the prevention of potentially «bad» laws: «[D]enn es wäre sonst leicht möglich (wie es denn auch oft wirklich gewesen), daß aus Mangel an Einsicht oder gar an gutem Willen schlechte Gesetze gegeben oder die guten schlecht gehandhabt und überhaupt die Privatinteressen dem allgemeinen Wohle vorgezogen würden.»


The Brockhaus, the most influential encyclopaedia among the German Bürgertum, also drew upon this position when in 1830 it still declared a «true» liberalism fundamentally opposed to «Partegeist, [der] die Anhänger [...] über die Grenzen des Wahren und Guten hinausreißt».

system, the discourse of constitutional cooperation left the liberals susceptible to conservative counterattacks that could build on the very premises of liberal discourse. Conservative publications could frame the existing quarrels between the monarchical governments and the moderate liberals as a tell-tale sign that the liberal claims to evolutionary reform and cooperation were in fact only a mask that covered incorrigible revolutionaries. For the Berliner Politisches Wochenblatt, an influential newspaper for Prussian conservatism, this mask rendered the liberals even more dangerous than the overtly recognisable, true revolutionaries.\textsuperscript{46}

The second problem of the liberal discourse grew more virulent after the French Revolution of 1830, which had also sparked unrest in Germany and even led to the constitutionalisation of further states such as the Kingdoms of Saxony and Hanover.\textsuperscript{47} Not satisfied with the unpromising development of the constitutional monarchies since the 1820s, more radical political actors, who were inspired by the revolutionary movements in Europe and soon to be called democrats, also put their blame on the prudent course of the «old» liberalism – a liberalism which «zwischen der Monarchie und Republik seine gemütliche konstitutionelle Pfeife stopft».\textsuperscript{48} The positions of most democrats were by no means anti-constitutional. They were, however, marked by constitutional concepts that had departed from the liberal search for continuity and instead proposed a rupture that could finally result in a German national constitution – if necessary against the will of the ruling houses and therefore as a republic. For many liberals, these radical actors and their posing as a distinct party beyond the possible cooperation between the existing state and a progressive movement were hardly acceptable as a legitimate ally to overcome the blockade of the reform process in the German states. Instead, they were seen as dangerous revolutionaries and common enemies of both the liberals and the traditional monarchs.\textsuperscript{49}

Against the background of this two-front war, the liberal discourse of constitutionalism further lost its hegemonic position in the German political landscape.\textsuperscript{50} This was not only due to the democratic counter-discourses, but also due to the evolutions among the liberals themselves: Their newfound alliance with the state against the dangers of a «democratic» or even «social» revolution was often accompanied by a strengthening of the national programme of liberalism. The traditional question of «unity over liberty», to which the Badenese spiritus rector of liberalism, Carl von Rotteck, had still prominently answered negatively on the occasion of a liberal celebration in 1832, was now answered positively by an increasing number of liberals. As

\textsuperscript{46} «Der doctrinaire Liberalismus», in: Berliner Politisches Wochenblatt 12 (1832), 77–80.
\textsuperscript{48} K. Gutzkow, «Erklärung gegen Dr. Menzel in Stuttgart», in: Augsburger Allgemeine Zeitung 19.10.1835. Gutzkow was one of the leading figures of the literary and political movement Junges Deutschland.
\textsuperscript{49} Leonhard, Liberalismus, 366–373.
\textsuperscript{50} Blänkner, Integration durch Verfassung, 224–229.
Jörn Leonhard has shown, this positive answer often went hand in hand with a belligerent discourse that hoped for another “national war” that could lead to a breakthrough for national unity.\(^{51}\) This tendency would eventually only increase in the wake of the failed attempt at the national and constitutional revolutions in 1848.

To only state the somewhat less problematic dealings with the existing and emerging of competing political groups in Great Britain is not to say that there were no problems at all. The bitterness of the struggles amongst the radicals, their economically distressed supporters and the British political establishment, most manifest in the bloody events in Manchester in 1819, bear witness to these problems. When the focus of this study is considered, however, one point stands out: Whereas French and German constitutional culture was often somewhat detrimental to the integration of competing political groups in a common political order, the “ancient constitution” and its omnipresence in British political discourse were a decisive means to fostering a mutual understanding among the traditional parties in parliament and the extra-parliamentary radical reformers.

As Andreas Wirsching pointed out, this character of the “ancient constitution” stemmed above everything else from its relative openness to what was considered “public opinion” long before the Reform Act of 1832. This was highlighted by radicals such as George Grote, who stated a universal claim to its jurisdiction among British parties,\(^{52}\) as well as by Whigs such as John Russell: “The House of Commons however ill-constituted, must yield occasionally to national opinion; and either make itself a just representation of the people, or act as if it were so.”\(^{53}\) Even for the conservative commentators, the influence of public opinion on British politics was not to be questioned, albeit its “tyrannical” influence, which was a frequent complaint.\(^{54}\) In the name of these perceptions of the constitution, the radical movement would relentlessly petition a parliament that it judged to be a bastion of corrupt aristocrats throughout the 1820s. And maybe more importantly, these perceptions finally allowed for the formation of an alliance between the reformist Whigs and the various strands of radicalism that had brought about the widening of the franchise and the restructuration of the electoral districts in 1832.

It has been argued at length that this alliance in the name of constitutional liberties and public opinion was also a means of “cutting short” a more popular movement and its demands, and that it was made for the benefit of the aristocratic Whig politicians and the emerging capitalist middle-classes. Nevertheless, it is also worth-


\(^{52}\) G. Grote, *Statement of the Question of Parliamentary Reform*, London 1821, 125.


while to stress that the behaviour of the Whig reformers was caused by more factors than just a fully conscious exploitation of this popular movement. Adopting a stance in favour of reform was in many ways a means to taking up a topos that had marked Whig constitutional discourse since the eighteenth century: the idea of a particular «trust» that the people put into the Whig aristocracy as the «warden» of the «popular parts» of the constitution, acting, as Linda Colley put it, «not on the people's instruction, but on the people's behalf».\textsuperscript{55}

To a certain degree, the accusation of an exploitation of the popular movement by its «elite» allies was already a contemporary one. After a short summer of popular joy with massive public reform jubilees in 1832, the realisation of the still heavy restrictions on the franchise that became manifest in subsequent elections were all the more brutal, and it explained the eagerness of the working-class radicals to join the soon-to-emerge Chartist movement. For this study, a point beyond this anger, however, needs to be stressed. Despite the all-too-obvious limitations of the Reform Act, the act had a remarkable effect on British constitutional culture: The topos of the openness of the «ancient constitution» towards the public sphere received another remarkable «proof». This proof was not without its consequences for Chartism itself. Despite the menace that could be symbolically transported by massive public gatherings, the movement remained, like its predecessors before 1832, deeply rooted in a common constitutionalist language – in the words of Rohan MacWilliam, Chartism can even be seen as «essentially a struggle over the meaning of the constitution».\textsuperscript{56}

3. Conclusion

How were constitutions imagined in post-revolutionary Europe, and were they in fact means of integration for the post-revolutionary states and political societies? What differences, transfers and similarities in European constitutional cultures can be highlighted with a comparative approach to these questions? Two major conclusions have emerged from the analysis:

1) Constitutions were in fact objects of what was ironically dubbed «constitutional fever» by the French royalist Ducancel in several European societies. After the tumultuous years of the revolutionary wars, many political groups imagined constitutions as one of the most important means to achieving a pacified post-revolutionary society, and to opening up an evolutionary way to political progress that would render further revolutions unnecessary. This perspective also had its ardent critics, most notably in the early French Restoration and in the German states, who felt that the representative constitutions remained a «revolution in disguise». Nevertheless, the constitu-

\textsuperscript{55} L. Colley, Britons. Forging the Nation, 1707–1837, New Haven, CT 1992, 344–45; for the role of «trust» in Whig discourse, see also Leonhard, Liberalismus, 224–232.

\textsuperscript{56} McWilliam, Popular Politics, 60; Schröder, Ancient Constitution, 185–187.
Tionalist arguments were not limited to one political group; instead, they were utilised in different contexts with different meanings. The European character of a constitutionalist programme was also widely noticed by contemporaries, and while it is misleading to speak of a direct constitutional transfer, the use of other foreign constitutional models as inspiration during the drafting of new constitutions was a common feature in post-revolutionary Europe. The foreign constitutions and the perceptions of their functionality were equally important as arguments in political discourse. This could include positive references to a British constitution that had at least to a certain degree regained the popularity that it had once enjoyed in eighteenth-century Europe, as well as an ostentatious insistence on the «national» character of the domestic constitutions despite their obvious rootedness in European constitutional thinking.

2) The various ways in which constitutions were imagined to «end» or prevent revolutions, however, point towards the main challenge for constitutional integration in post-revolutionary Europe: Constitutional cultures had to deal with the emergence of competing political groups, which often demanded a strengthening of certain parts of the constitution or its further reform. The problems that these groups posed for constitutional culture in all three cases of inquiry especially demonstrate the merits of a comparative perspective on European constitutional cultures: This perspective nuances claims to a national Sonderweg, as well as linear perspectives on an ideal Western way to political modernity that was visible in British and, with minor deviations, French history. At the same time, however, the common European challenges brought to the fore by all three cases of inquiry should not obscure the differences among them that are at the very least instructive on the necessary historical parameters of lasting constitutional integration.

The British case, despite all displays of elitist and violent behaviour, nonetheless shows the potentially integrative force of a constitution as a common point of reference amongst competing political groups. Even if the British political actors, not unlike their French and German counterparts, were sometimes all too eager to denounce the references to the constitution as a mere mask, the omnipresence of the «ancient constitution» still managed to foster a mutual understanding and facilitate cooperation that enabled the continuous development of the British political institutions.

The French case shows that the high level of importance awarded to constitutions, which sometimes even resulted in the «adoption» of a constitution by competing political groups, is not bound to foster mutual acceptance amongst those groups as long as constitutional concepts remained prone to a «dissolution» of political plurality. As the further development and democratisation of an existing constitution is usually a programme taken up by oppositional groups, the characteristics of the French constitutional culture often led to a sclerosis of political regimes – the first years of the Monarchy of July should show this development in its purest form.
German constitutional discourse shared an opposition to «parties» with its French counterpart, but this opposition had two facets that were intertwined with the political cultural context of the German states: Lacking the revolutionary experience of «party struggle» and rejecting the French «model», the liberal politicians often renounced to become an «oppositional party» when the differences with the crown and its supporters were already all too visible. This ambivalent stance between de facto opposition and claims to cooperation not only made them vulnerable to critics from the right; it also led to a growing opposition to liberalism on the left. This new democratic opposition was then fought on the premises of its «partisanship» and the danger that it posed for an «evolutionary progress» that was almost impossible to obtain against the obstinacy of the monarchs. In the long run, this discursive interplay even damaged constitutionalism as a political programme for German liberalism, which reoriented itself towards a «unification first»-approach in cooperation with the existing states.

The spotlight on European constitutional culture provided in this article by no means claims a complete picture of the situation; instead, it highlights challenges and mechanisms of constitutional integration that might have also been relevant in other European societies, and which are open to further comparative research. Analysing constitutions not for the mere interest in legal traditions but above all as a focal point for political culture, this study argued for a history that puts simplistic accounts of constitutional progress and liberty into perspective: Modern constitutions, however liberal and potentially progressive they might appear to be with regard to their legal provisions, need to place their roots in a political culture that is capable of handling the consequences. This premise held true in the early nineteenth century, but it can also be seen as a reminder for twenty-first century politics.
«Constitutional Fever»? Constitutional Integration in Post-Revolutionary France, Great Britain and Germany, 1814–c.1835

This article proposes a comparative perspective on the role of constitutions in European political cultures from 1814 to c.1835. Through its analysis of constitutions first as a means to legitimising post-revolutionary monarchies, and secondly as a means to integrating the divided societies in France, Great Britain as well as the German states, this article suggests two major results: 1) Constitutions were a central instrument that was imagined by post-revolutionary European societies in order to open up an «evolutionary» path to political progress and thereby finally «end» or «prevent» further revolutionary changes. 2) The major challenges to constitutional integration were posed by the emergence of competing political groups that often demanded a strengthening of certain parts of the constitutions or their further reform. The problems, which were faced by almost all political actors regarding the acceptance of these new imperatives of party politics and the different constitutional «solutions» that they had developed to meet these challenges, provide explanations for the different constitutional paths that were taken by Great Britain, the German states and France during the early 1830s. In Great Britain, a common constitutionalist language enabled a precarious understanding amongst the competing groups, whereas anti-pluralist constitutional conceptions led to constitutional instability in France and even damaged the very idea of constitutional integration in Germany thus benefitting a «unification first»-approach in the German states.

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