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Friedrich Julius Stahl: Conservative Theory of the State and Historical Development

Both the spiritual and the material are mutable and the passage of time unceasingly sweeps along the forms which constitute the clothing of outer life and of the life of the spirit. The subject of history, then, is to show the two identical fundamental tendencies and to demonstrate, first of all, that everything spiritual, whatever the sphere in which it is discerned, has a historical aspect by which it appears as change, as contingent, as a passing element which is part of a larger, to us infinite, whole and secondly that everything that happens has a spiritual side which renders it part of what is imperishable. For the spirit is mutable but not transient. - Jakob Burckhardt

In the course of the battle of ideas and of the political battle of recent years in Germany there has repeatedly been heard a call, and from the most diverse camps, for a new "living Conservatism". Yet it was usually unclear even to those who raised this call what was to be understood by it and what the tasks of this Conservatism should be. Sufficient reason surely to justify a concern with the last great Conservative system of European history – and indeed the only Conservative system within Protestantism: the theories of Friedrich Julius Stahl. There is, further, the consideration, that it is only now, after we have established some political distance to Bismarck, that we are able to appreciate the intrinsic value of the epoch of German history which preceded him and consequently it is only now that we are also able to do justice to Stahl, the period's most significant political thinker. And finally it is perhaps only now, when Germany has once again, as after 1815, been plunged from a supreme national effort to the depths of international impotence, that we can understand the mood of those years - mistakenly considered (until the pioneering works of Friedrich Meinecke) as unpolitical and uneventful – the years "before March", in which the explosive force accumulated to finally detonate in 1848. Stahl's work can only be understood in terms of the political tasks of this period. It attempted to transcend the sterile and inflexible antithesis of Restoration and Revolution by means of a living Conservatism and thus avoid the catastrophe although, admittedly, he failed to gain attention in time. Stahl looked for alternatives to Restoration in four areas of intellectual life: in metaphysics through overcoming the antithesis of unity and plurality by way of the first principle of the creative personality of God. This simultaneously marks an overcoming of Hegel's dialectic by way of a principle we shall call polarity. In the field of ethics, Stahl dissolved and overcame the antithesis of inner and outer-directed will, of authority and freedom by way of the "moral kingdom". In the philosophy of history the antithesis of natural law and Historical School, of Reason and heavenly disposition by way of a "philosophy of law from a historical perspective", i.e. by grounding free human actions in the restraints of the [divine] world plan. Finally in politics this leads to the overcoming of the antithesis of Revolution and Restoration, of levelling Democracy and feudal or absolute Monarchy by way of the construction of "genuine constitutional monarchy".

It may at first sight appear surprising to introduce a work, whose significance lies above all in political science and in politics, by reference to metaphysics, ethics and the philosophy of history. That corresponds, however, to the importance of philosophy - a philosophy strongly colored by religion - in Stahl's system, despite the quantitative predominance of political science and politics in his later years. There is not a word of Stahl's - not even in his political speeches and writings on specific questions - which is not rooted in his fundamental philosophical perceptions and is thus comprehensible and meaningful only in terms of them.

The task which Stahl had to solve called for the following. He had to find a form in which all the living forces of the age are united in a common purpose, instead of being engaged in sterile combat - destroying themselves and the world. This task can only be solved

through the incorporation and grounding of all forces in a higher, immutable order, in a system whose furthest ramifications exist with reference to the supreme principle. Without this orientation of every single part to a higher order, without its subordination to an eternal purpose and meaning, then instead of a living form there is a dead machine, instead of a new unity there is compromise, instead of a new community only a new constitution.

For Stahl this supreme principle had to be a religious one. Of decisive importance to him was the religious experience which in 1819 caused the then 17 year-old Bavarian Jew, born in the ghetto, to convert to Protestantism. His whole life and his whole doctrine are founded on this step and the obligation it imposed. The religious experience opened up the path for him to the Historical School, the one determining force of his doctrine. It forced him to take issue with the second determining force, the teaching of Hegel, and dictated the lines along which this had to proceed. It is probable that without this fundamental religious experience Stahl would have become a Hegelian just like Lassalle or Marx, since Hegelian panlogism must have exerted a very great attraction on his mind, clear and averse to everything Romantic. This is also evident from the fact that Stahl wrestled with Hegel for many years, was for a long time unable to distance himself from this great edifice of ideas and took a great deal from it. When he finally did free himself from Hegel, he was only able to do so by drawing an entirely one-sided picture of Hegel, seeing in him no more than the Rationalist who brought the period of the Enlightenment to an end and so by no means did justice to his true greatness. The critique of Hegel became for him a great intellectual struggle between two eternal forces: irrationalism and rationalism. He recognised that it was impossible to get the measure of rationalism with the tools of the Historical School, which had voluntarily renounced the weapons of reason and of philosophy. The resulting task, the incorporation of philosophy in religion, grounding it in faith, rendering it meaningful through faith, is the starting point of his work and from here he advances step by step to political science and politics, never losing sight of his starting point. He therefore necessarily saw every force and current as issuing from these two highest principles. That is what gives his system its great cogency and unity. But it is also responsible for its one-sidedness; Stahl paid no attention to the problem of foreign policy nor to the social question. It was just these failings, however, which simplified his system even further and thus increased its effect, admittedly at the cost of its capacity for development.

This inquiry is devoted solely to Stahl's teachings. Nevertheless a few words have to be said about his political activities, not least because in the past this is precisely what has usually prevented a just appreciation of Stahl's importance – and with some justification. We, however, would wish to use the above mentioned characterisation of "living Conservatism" for Stahl's teaching alone, not for his political efficacy. Stahl the politician does not deserve it; rather he presents an altogether unbalanced picture which appears to justify the description of reactionary usually bestowed on him by both contemporaries and posterity. He was a great doctrinaire, a man of strict legal concepts, of pared-down formulations and antitheses. Such people usually fail in active politics, but above all in parliaments, since by nature they never recognise an "either - or" always only an "all or nothing". They perceive and construct inflexible, insuperable oppositions, where in reality only nuances are present. Their doctrinaire attitude induces them to hunt down the higher principle in each and everything and to turn debates on points of order into questions of world view.- But in order to ruin Stahl entirely, the gods had richly endowed him with all the outward gifts of the great parliamentarian. He was a sparkling, fascinating orator, certainly one of the best and most elegant in all of German parliamentary history. Even when their subject-matter is today utterly out of date, the reader of his speeches still finds them fresh, spirited and without false pathos. To that was added an extraordinary authority over men, which instantaneously made him the leader of every assembly, as was already evident in his youth at the Streitberger Burschenschafts Meeting. Given the glittering role which inevitably fell to him, his failings were naturally especially conspicuous.

What plays an even greater part in his failure than his personal inadequacies, however, is perhaps the circumstance that we always judge Stahl's politics by his success in the decade between 1850 and 1860, when he was the recognised leader of the Prussian Conservatives, whereas previously he was still in the background and at any rate had no decisive influence on Prussian politics. This decade is the most barren and dreary period of German history in the 19th century. A mood of paralysis affected everything. German Liberalism which had sprouted powerfully in 1848, had come to grief thanks to its own weakness and disunity. The moderates among the Liberals had observed with alarm, as in Paris, in Berlin, in Hesse-Darmstadt and in the Palatinate close behind the bourgeois revolution there already stood the vanguard of the proletarian masses who, not satisfied with a mere change of masters and of passing from the rule of "throne and altar" to that of the "moneybags", were themselves demanding a share in political power and economic wealth. The Conservatives' prophecy of the unremitting spread of revolution, once it had been kindled, was thereby confirmed. At the same time Napoleon III's coup d'etat demonstrated that the Conservatives were also right, when they saw "levelling" inevitably leading to despotism. German Liberalism broke under the pressure of these insights. It was then that its inner decomposition began; political and moral demands were sacrificed and only the economic ones retained, which soon enough was to lead to the alliance with the "monarchical principle" which appears so unnatural to us today (the principle of Stahl, who was decried as a reactionary), in which "throne and altar" and "private enterprise" came together for mutual protection.

The opposing party, however, the Conservatives, had also lost their previous basis because of the events of 1848. Admittedly, the internal weaknesses of their opponents encouraged them to make attempts at political restoration. But even inflexible reactionaries felt these to be both unnatural and ephemeral. Restoration was carried on more out of perplexity than out of conviction. For something had to be done, after all, and another means of unravelling the inextricably tangled knot was nowhere apparent. If one adds the hangover of the sad awakening from the dream of German unity, then one has a picture of those grey and dreary years. We can still detect it today, in the desperate appeal made in Mommsen's History of Rome which appeared at the time. These years, in which Stahl, as has already been mentioned, was politically at his most influential, were especially unfavourable to him. For, in fact, his teachings had been fulfilled in 1848. He could develop neither them nor himself any further, since the image of the state projected by him, and held up by him to Liberalism on the one side and the forces of Reaction on the other, had already become political reality, even if this was not so obvious as it was to become a few years later. In so far as Stahl continued to cling to his teaching and presented it as what had to be achieved, he presumed to halt historical development and thereby turned from a Conservative into a Reactionary. On top of that there was the profound shock caused by the 1848 Revolution, which appeared to confirm the fears of his ultra-Conservative friends and drove him to retreat towards an increasingly hard and uncompromising Protestantism. Whereas before 1848 an inflexible Conservative like Leopold von Gerlach had often enough suspected him of being part of the "Left Opposition", after 1848 he became the most orthodox leader of the orthodox group. When he died in 1861 his own ideas, developing powerfully of their own accord, had already swept past him.

That, however, is precisely what allows us to distinguish Stahl as politician from Stahl as philosopher. We can condemn the former and admire the latter, if we bear in mind that Stahl as political philosopher existed only until 1848 - more precisely until 1850, until the failure of the Unification Parliament at Erfurt. In fact, after 1850 Stahl virtually fell silent as a scholar. Essentially he did no more than revise older works and bring them up to date. Consequently, in what follows, where we are concerned with his teaching, we shall restrict ourselves to the years before 1848 and shall have to measure the value and significance of his work against the conditions and demands of this period.

As already noted, Stahl's point of departure was the struggle with Hegel, a Hegel as he saw him. This explains why the young Stahl, very greatly concerned with theological

speculations, did not, as might have been expected, take as his starting point the dualism of good and evil, but placed Hegel's central problem, the dualism of unity and multiplicity at the heart of his system. Hegel overcame this dualism by representing it as an antithesis and then dissolving it dialectically, i.e. in reason. It is Stahl's deepest insight and his most important philosophical achievement, that he was the first to dismiss the rational solution not only on grounds of faith, but also on grounds of reason. He regarded the dialectical method as a purely mechanistic and rationalist procedure. Consequently it could perhaps deny, but never dissolve a conflict present in nature, that is, an irrational conflict - a "concrete" conflict, as Stahl put it. Perhaps it cannot be cancelled, solved or overcome at all, for these are all rational, mechanical approaches. Indeed, even formulating the question of a solution is mistaken, because a solution is something that is logically sequential, whereas the point is to describe and explain how the dualism might have come into being. The dialectical, i.e. the rationalistic solution can therefore demonstrate "analytical imperatives" and "give evidence" of what exists. But who stands surety, who provides the higher sanction, who shows the first cause? A rationalist solution can never do that, because it can do no more than demonstrate the conclusions already logically inherent in the postulated concept and must therefore, when the question as to the explanation of the world arises, always appeal to trust in reason. It must give the assurance: cogito, ergo sum, or "as sure as I'm standing here" which, as Stahl crushingly and ironically comments, "is a poor assurance for a finite being to make". The first principle of the world must consequently be something pre and supra-rational. Overcoming antitheses through reason cannot explain the world, only its grounding in and guarantee by a higher, living whole is sufficient to explain the world. Against the omnipotence of reason Stahl sets the irrational first principle of the creative personality, against the dialectical dissolution of dualism into contradiction and synthesis he sets its grounding in polarity, as we shall call his method. Stahl built up his whole system from this starting point.

This first principle is the personal, creative God, in whom "the fullness of being" is contained from the outset. In his higher, living, infinite oneness he represents the first principle, which encloses oneness and multiplicity with a single bond. Only outside it are oneness and multiplicity opposites; but both are contained in the creative personality of God, are "emanations" of the same personality, are its outward forms, which have their centre and cohesion in it, are polar therefore. The bond which joins oneness and multiplicity is the creative act. The being of personality is manifested through it. Thanks to the creative act, a multiplicity of new unities, each in itself both one and creative personality, emerges from the oneness of personality, since the personality of God pervades all of creation. Not in a pantheistic sense, however, since God always retains His own personality independent of His creations and does not simply become their sum. Consequently His creations have their oneness in Him, but since they themselves are unities, that is, creative personalities, so they too, by virtue of their own personality, are capable of the creative act. The human act is distinguished from that of God only in its finiteness. Otherwise it is "likewise creation". The human act is therefore determined by the nature of man as God's creation, but is simultaneously "absolutely free" on account of man's own creative personality, of man's oneness. As a result the world and man have a "creature" side and an "independent" side. The individual springs from a supreme principle and is bound to it. But his acts are free, he must make his own way on his own responsibility.

At the same time, however, the opposition between autonomous and heteronymous will, between freedom and authority is dissolved in a higher unity, that of voluntary submission. As a result of his dependency on God, goodness for man is an "obligation", but as a result of his own personality it is also his "own disposition and aspiration". In our creature aspect, we have a moral duty to obey, but since we are autonomous, we have the freedom to love. The bond with God, but also that of individuals with one another is created through submission to an obligation, to a higher will which we voluntarily absorb. The personal will of God is a "bond above them, with the common ruling power, which encompasses everyone everywhere". This conscious rule over conscious, freely obedient

beings who are thereby spiritually unified, a governance of a highly personal, not arbitrary, but necessary character, is the center of Stahl's theory of the state; it is the idea of a "moral kingdom", the supreme ethical concept, the universal and absolute human purpose, the goal set by God for a moral world. The perfect fulfilment of the moral kingdom is the kingdom of God, a kingdom not of this world.

In this world, however, the free personality of man rules, and he faces his creator as an independent being. His act, i.e. the manifestation of his independence and originality is history, which accordingly is altogether worldly. Historical development proceeds "not in God, but outside him". For Stahl, it is the imperishable service of the Reformation, that it made human beings aware of this and thus made clear the responsibility of the individual before history.

Stahl therefore quite categorically dismisses the theocratic ideas of the Middle Ages. But he simultaneously rejects the belief that man determines the first cause and meaning of history. This, rather, is divine, irrational, is the "fulfilment of the moral kingdom". Since this, however, is closed to human comprehension, it can never be reached by man alone. The fulfilment of history is not the work of man, but salvation through God. History, therefore, does not stride forth in purely temporal terms, there is no forward progress to the moral kingdom. Hence Stahl must also reject the Enlightenment's belief in progress. Nevertheless history is not entirely de-spiritualised. Admittedly it does not represent progress, but it does take its course in the sight of God and must therefore be a preparation for the moral kingdom. Consequently whatever has come to pass historically is not sacrosanct simply for that reason, but necessarily inadequate, in need of improvement, capable of improvement and in a state of constant change. But it is something that has come into being, has grown in God's sight, is venerable and worthy of preservation. The direct conclusion of such a conception of history as equation of human deed and divine dispensation is a living Conservatism.

Even if history is something entirely earthly, men everywhere are subject to the law under which they appeared, that of the free personality. I.e that always above them there rises the supreme moral law of the moral kingdom. In its earthly, imperfect, inadequate and lowly form this moral realm bears the name of state. And since the state is a moral realm, its order must be derived from the first principle of the creative personality. Accordingly it requires an authority "placed above man as such", a power whose will is a higher one, distinguished from that of subjects. Hence it follows that state authority must lie with the rulers.

But those who obey are also free men with a free will and individual personality. They are subject to the law only as an expression and demand of their own moral nature. Consequently they have an irrevocable claim to representation of their rights and protection of their freedom through participation in legislation and setting rates of taxation. But this right has an almost entirely negative status, it is not a qualification for action against legitimate authority. No claim on state power results. But above both rulers and people there is the "law of the state" [acting] as a check on both. The state thereby becomes an institution with its own legal rules, with a life distinct from that of both monarch and people, becomes a state of law.

Logically - step by step - constitution, institutions and organs are now deduced from the concept of the state as moral realm. With magnificent vision a deductive perspective of the inner character of the state is at once summarised and brought into line with an empirically established understanding of what has come into being historically and what is required politically. In so far as Stahl, as we shall see, develops the concept of the constitutional state - i.e. for Germany, therefore, the constitutional monarchy - from the concept of the moral realm, he makes an extremely serious error (if we may anticipate the criticisms that have been made). A student of the Historical School, before whom everything that has come to pass should be equal, he nevertheless idealises a particular historical situation, claims immutable validity for something that is forever changing. His

system owes its political force, however, its practical effectiveness to just this error: recognition of the vanity of all that is earthly, Conservative resignation in other words, is certainly possible as a personal attitude, but never as a political principle. Likewise with a genuine utopia. Consequently we cannot reproach Stahl, not least as he always remained Conservative, that is, always remained aware of the deficiency of every condition, even of the best possible one which can be achieved by human powers. Hence he always retained a deep respect for what had been historically shaped and, for example, always spoke with admiration of the English polity, although his sharp eye for the essence of things revealed it to be a disguised parliamentary republic. Although, therefore, his method is unacceptable from the standpoint of logical critique, it must be described as extremely fruitful from the standpoint of intellectual history and history of the state. The state is a preparation for the moral kingdom and stands between mere "organism", which characterises the kingdom of nature, and "personality", which characterises the kingdom of God. It is "institution", i.e. it is not a goal in itself, is not its own fulfilment, rather its meaning and purpose lie above and beyond that of those who belong to it. It is the "Christian state". Consequently each one in the state, including the ruler, is subject to the state. Rejected, therefore, is a patrimonial, feudal construction, such as Haller's "restoration of political science", in which the state is considered a piece of private property which God lends the monarch.

Likewise rejected, however, is the (Hegelian) natural law doctrine, according to which the state ultimately serves human purposes, hence the monarch also has to serve only the interests of his subjects. Limitations on the rights of the established authority do not flow from the "sovereignty of the people", but from the nature of the state. Established authority is consequently not only placed above its subjects, it also precedes them. Hence all state power rests with it, undivided and indivisible. (That is the meaning of the famous, often-quoted, but rarely understood phrase: "Authority, not majority"). In states with a legitimate monarchical head, the monarch is the supreme authority, otherwise, for example in the United States, which Stahl greatly admired, the person who has taken his place. The supreme authority is sovereign; at the same time it must be emphasised that by sovereign Stahl does not understand (as does modern state theory) a more or less formal final point of accountability, but, in accordance with the original meaning of the term, the bearer of the plenitude of power. (Very interesting in this context the well-known discussion between Hans Kelsen and Hermann Heller.) Hence for him England, for example, was a country of popular sovereignty, more precisely of parliamentary sovereignty, even if of a very wise, historically tested and legitimated one. Since he is sovereign, it follows that the monarch is entitled to exercise supreme power completely and indivisibly. Hence he is also responsible for it. The transfer of responsibility by minister's counter signature can therefore take from him only responsibility for the constitutionality of his directions, not for their advisability. This is one of the best examples of how theory and political experience interact in Stahl. Because Stahl juxtaposes the theoretically derived inner untruth of the phrase "the king can do no wrong" with proof of its political erroneousness; he shows that in a constitutional state a king robbed of responsibility does not only not become more powerful as a result, but becomes virtually powerless. His elevation is that of the "very tip of the church tower, which interests no one." Because power requires responsibility - an insight whose profundity has become clear to us again today. That is indeed why the monarch is the sole initiator of legislation, is entitled to his civil list, has the right to dispose of taxes and the right to summon the representatives of the people. In case of constitutional conflicts between chamber and government his decision is final by virtue of absolute veto. It is, however, his duty to subordinate his interest to that of the state and to respect the rights of his subjects.

It is the subject's duty, in turn, to obey and love the legitimate supreme authority, to devote himself to and sacrifice himself for the state. His right is first of all the claim to freedom of religion, of teaching, of property; for the state as a highly imperfect institution, as the realm of Fallen Man, can only stand negatively, protectively before everything which springs from within the individual. (That he includes property, shows

how much of a Protestant Stahl was, but also why his teaching could become the basis of the constitutional monarchy of the bourgeoisie.) These conditions can only be fulfilled in a higher unity, that of God's commandments, which operate without mediation in the souls of his creatures.

But the rights of subjects are not exhausted by this negative status. Since they are free creatures, they must not only obey, but also consent. The will of the ruler must become their own free will. Consequently Stahl calls for a representative body of the people, which can consent to laws or reject them, which keeps watch over the regular management of public finances, the constitutional enforcement of laws, the impartial dispensation of justice and thus becomes the guardian and guarantor of human freedom. It must be a representative body, hence Stahl rejects feudal estates. But it should reflect the true balance of power, so that while Stahl is in favour of a general suffrage, he opposes an equal suffrage and favours an upper house. The representative body is not merely consultative but also votes on legislation and must be heard. Since it has a legal basis, it is allowed - as is the nation as a whole - to resist violations of its rights by the established authority, but since the established authority is appointed by God and historically legitimated, this resistance may only be passive, it must never be taken as far as refusal of taxes, still less open rebellion.

Admittedly Stahl - and here there is a yawning contradiction in his system - must increasingly qualify this sentence. For given an inflexible legitimism how could the Reformation ever be justified. Thus we see that while Stahl in principle rejects revolution as an "evil enemy", he nevertheless admits exceptions. He finds, for example, that the English and American revolutions are regrettable, but nevertheless comprehensible, indeed perhaps even justified as a response to an unjustified pressure going directly against God's commandments. Then step by step he comes to distinguish between revolutions, such as those of 1789 and 1848 which attack the divine order itself, and are therefore strictly to be condemned, and revolutions which are no more than justified resistance to unjustified pressure, but which assume turbulent forms. That already sounds suspiciously like the famous "right to resist" of the 16th century Jesuits, from which, as is well known, emerged the principle of popular sovereignty. And this revolutionary principle becomes quite explicit, when Stahl sees in the Reformation a victory of the higher order, of fear of God over fear of man (which is methodologically untenable because of a conclusion which anticipates the result of the Reformation by distinguishing temporal obedience, which is owed princes alone, earthly obedience which is owed God alone). That Stahl himself has thereby surrendered the basic principle of legitimacy, becomes evident when, in the course of the constitutional struggles after 1848, and referring to this higher order of the Christian state, he calls for the dissolution of the smaller German states and their absorption by the large German states, since the small states are incapable of fulfilling their duties as Christian states. How, despite this revolutionary doctrine, which is inseparable from Stahl's view of the world and from his political opinions, it is still possible to see in Stahl the "theorist of legitimacy" and nothing but, is something that baffles the present author.

I have discussed Stahl's theory of revolution, as unscholarly as it may appear to us today, at such length because by recognising the principle of political dynamics and by attempting to relate the latter to a higher order, it represented a complete change from the immovable and ultra-conservative theories of an Adam Müller or a Haller. This recognition of dynamics forced Stahl to incorporate a third, dynamic element in his constitutional monarchy, which was intended to make evolution possible and revolution avoidable. This third element is "public sentiment". It links monarch and subject and makes of them a nation. In it the commandments revealed to the individual by God become efficacious. Through it God's will enters history and makes of earthly, sinful life a "preparation for the moral kingdom". Consequently Stahl, the politician, places all the concessions to Liberal demands, which he believes to be necessary, in this philosophy-deduced concept: openness of the conduct of the business of state, extensive rendering of accounts therefore, a civil service subject to law, the judicial process, parliamentary

debates open to the public, extensive press freedom etc.

With that, Stahl's task of finding a new order for the forces of the age is concluded. We can best judge the value and significance of his solution for the Germany of the time before 1848, from the fact that it is precisely the form of constitutional monarchy, with a strong monarch at its head and co-operation of crown and people in the interests of the state, which came to power after 1848 and which was not only first presented as a model here, but also grounded in a splendid interpretation of the world. Stahl himself demonstrated - in 1850 in Erfurt - how such a state can be turned into a federal state. Its construction of a princely aristocracy with a strong monarchical head in the shape of the Prussian king and with the participation of the people in the management of the state was adopted and enforced by Bismarck as completely self-evident - probably without a conscious memory of its originator - when a new great national experience made the German people ripe for it. Thus Stahl's state doctrine became the basis of the German state until 1918. It is the best form of acknowledgement and at the same time the best sign of the excellence of the solution, that the work became so self-evident that its intellectual author was forgotten.

How did Stahl solve this problem? Not through a compromise fashioned in accordance with the strength of the parties at that moment, nor through a constitutional machinery which was as perfect as possible, but through recasting all oppositions in a new higher unity, in which the various forces are no longer in conflict, but, fully developed, serve the higher whole.

Thus his theory of the state is also a higher unity in comparison with previous and contemporary doctrines. It reforges everything from the past that is capable and worthy of life. This explains why his doctrine is categorised quite differently depending on the viewpoint of the observer. Some see in it the last straggler, the last great system of German idealism, while others perceive Stahl's doctrine as the first "universal political science", that is, the first positivist account of the state. Both are true, and both are false; because for Stahl philosophical interpretation of the world and formal legal consideration are so inextricably combined, that to detach one element and to investigate it in isolation would amount to a dismemberment of the system. Here too we observe the implementation of the principle which we have described as polarity. From the start Stahl was opposed to the Enlightenment's superstitious faith in reason, whose greatest and most dangerous exponent was Hegel. He very clearly recognised, that the attempt to account for and to comprehend the cosmos through reason alone must lead to the destruction of the unity of the world. He predicted with brilliant insight, that sooner or later the sentence "cogito ergo sum" would turn against itself and lead to the dissolution of being, as indeed is happening today with [the development of] psychoanalysis, the sociology of knowledge and behaviourism. He himself had experienced that only faith can be the source of intellectual existence.

But at the same time he did not fall into the opposite mistake, the denial of reason, the sacrifice of the intellect. Rather, for him reason is a question of necessity. Not, however, as first principle, but only as a means, as man's unique freedom (with)in restriction - given that man as God's creation is endowed with personality. He found this insight lacking in the work of the Historical School and in the whole of Romanticism, even if he always acknowledged that in Savigny the lack of a philosophical foundation was amply compensated by an artistic intuition, an inner vision of essence. That, however, did not appear sufficient to Stahl as foundation of a system; on the one hand he saw the surrender of the criterion of reason as harboring the threat of a Positivism, whose uncritical and value-free equation of everything that exists must lead to relativism and consequently to the abandonment of every spiritual position and of every confession. On the other hand, he saw the surrender of reason as threatening the Reformation's most precious achievement, the freedom of man, of which he approved with all his heart. It was inevitable that he would come into conflict with the other great philosophical current of the age, Catholic Romanticism. This despite the fact that he regarded the work of

Adam Müller, the great re-creator of the medieval view of the world, and the Catholic mysticism of Franz von Baader and his students as true religious achievements. Stahl, of course, also rejected Haller's insipid doctrine. He immediately recognised it as a disguised rationalism, trimmed with religion; for reasons of political expediency, it wrapped itself in irrational garb and dispensed with original thought, but not with sophistry.

If, in conclusion, after this historical evaluation, which has viewed his doctrine relative to his own time, we now briefly attempt a supertemporal judgement, then what is most evident to us are his system's shortcomings. Yet it is precisely the very limited validity of its fundamental principles, which gave it great contemporary and political significance, which also makes it very much of its own time. In the intellectual history of Christian Europe two great principles have played a major role in Conservative teaching: the Catholic-Occidental ecumenical principle and the principle of the Chosen People, which under Cromwell was taken over from Jewish theocracy and transformed into the principle of the Western democracies. Stahl cannot commit himself to either of the two principles, and this corresponds to the outlook of the age, wavering between the ecumenical idea of world citizenship and that of the chosen national state. His mediating conception, however, the modern state of law, is not something new, higher, a new principle, but an ill-defined synthesis, a compromise, which becomes untenable the moment the fronts in the constant struggle between the two great principles shift by even a hairsbreadth. Even more fateful for the longterm significance of Stahl's system, however, is a failing which concerns not a peripheral question but a central point: it is by no means evident how the established authority in Stahl's system comes by its authority. To conclude that the wholly moral kingdom under God's authority means that the realm of the state is necessarily incomplete is certainly very appealing; it is nevertheless so erroneous that it is extremely surprising that, to the best of my knowledge, no critic has drawn attention to it. For God's power over men is derived from the fact that they are His creation and consequently His will is above them. There can be no such legitimation for the personal rule of an established authority. Here too, therefore, Stahl had to rely on a construction, according to which the sinfulness of man makes an authority necessary. Only, that does not explain why this authority must be a strictly personal one, which is what matters so much to Stahl. Furthermore the conclusion suggests itself that in the perfect moral kingdom, the kingdom of God, in which mankind will be delivered from its sinfulness, God's rule would be superfluous, which of course would make a mockery of Stahl's presuppositions.

This failing, to which may be added the contradictions already demonstrated in his theory of revolution and in his idealisation of constitutional monarchy, shows that Stahl's doctrine cannot withstand immanent critique. Cracks open up at key points of the system, and each one of these would be sufficient to bring the whole edifice tumbling down. If we now – no longer from the standpoint of immanent, but of transcendental critique – subject these errors to careful analysis, then we must conclude that they all arise from the same conflict. On the one hand there is the assumption of a supreme, immutable order – the basic Conservative element – and the inevitable loosening of this order due to the fact that Stahl's system is founded on Protestantism. The latter leaves man to fend for himself and is thus by its very nature not Conservative, but Anarchist. Justification before one's own conscience must destroy every heteronymous authority. Hence, given the starting point of the freedom of the individual, Protestantism has always sought additional bonds in order to establish an order. We can already observe this process in Luther and his derivation of authority from Holy Scripture; we find the same thing in the Protestant orthodoxy of the 17th century; and finally the "Prussian idea of the state", of the personal bond of army to king is also one of these attempts. Stahl himself, as we now know from the researches of Gerhard Masur, was very well aware of this and very much preoccupied with the problem. In his early years he would even have been prepared to surrender the Protestant position to a great extent; at the time he had the dream of a unification of Protestantism and Catholicism in a German Catholic Church. There is also frequently a Catholic tendency to his writings, e.g. in his

solution of the problem of indeterminacy, but above all in his work on ecclesiastical law. Following the orthodoxy of the 17th century, he suggested bringing church organisation closer to the Catholic model. He thus became one of the founders of the "high church" current in German Protestantism. He nevertheless remained a committed Protestant and indeed became ever more so with the passage of the years, so that there was no resolution of the contradictions of his system. Hence it can never rise to the supertemporal heights occupied by the Catholic social philosophers, anchored as they are in the eternity of the Church. Every Protestant doctrine must of necessity be of its own time, since it is subject to review in the conscience of each individual.

The transcendental critique of the foundations of Stahl's doctrines raises the question whether they have any validity at all today or are now of no more than historical interest. With respect to the philosophical answers Stahl gave to eschatological questions, that must be left to the judgement of each individual reader; Stahl, however, can lay no claim to longterm validity – which necessarily follows from his being rooted in his own time. This is even more true of his concrete political solutions, whose strength and effectiveness consisted precisely in such rootedness and in their "one off" character. To suggest they are still valid today and to want to put them into effect, would be to run counter to Stahl's own spirit, would be just as ahistorical and untenable a restoration as were, in Stahl's own day, the political systems of Adam Müller and Haller, of which Stahl was such a fierce critic.

This specific dependency, which robs Stahl's teachings of their universal validity also demonstrates, however, where their supertemporal validity lies: thus far, they are the only attempt to solve the problem of a Conservative theory of the state in the face of historical development.

Stahl not only ranks far below the great Conservative thinkers of earlier times, a Plato, a Thomas Aquinas or a Dante, who have put their mark on millennia, he is also fundamentally different from them. Those great thinkers created systems which were intended to be of universal validity. They did not deny historical development, they were not even aware of it. The eternal, the immutable – ideas, the nature of man, revealed truth – were their starting points and themes, consequently the universal validity, unconditionality, catholicity of their doctrines was not merely a postulate, but inner necessity. Stahl, however, had to make the passage of history, change, time-boundedness a constitutive element of his doctrine. Not only because he was living in the 19th century, but because the fundamental influences on his life and teaching, the Reformation, the Historical School as well as, by his own account, the defining experience of his childhood, the Wars of Liberation (which is, in turn, inseparable from the French Revolution), forced him not only reluctantly to affirm history (like Burke before him) but also gladly to affirm it. And consequently for him as a Conservative there arose the following question: How can acknowledgement of man's immutable nature be brought into harmony with acknowledgement of constant change? How can knowledge of the existence of an eternal order and an eternal aim be harmonised with the assumption of purpose in human affairs? How can rejection of a goal to be attained by men, the rejection of a Liberal idea of progress be harmonised with acknowledgement of human development? And finally, how can rejection of Revolution be harmonised with the necessary acknowledgement of the results of an upheaval, once it has taken place, and how the bonds of tradition with support for new organic growth?

>From the original Conservative perspective this question is insoluble, because it is a position based on the assumption of a firm, unalterable form and order of life, given either the nature of man or a revealed Church corresponding to that nature, i.e. something timeless (even if the foundation of the Church took place in the past), everlasting, which men cannot alter. This order alone grants life in the world its meaning and value. Human action, therefore, is meaningless and pointless, except insofar as it is directed towards and incorporated in this order, one that has not been created by men and whose meaning and value cannot be influenced by them. Individual human lives – in

themselves no more than delusion or preparation for the true life – are therefore joined only in the community of this order and its meaning, which is timeless. Hence this timeless order is a constitutive feature of human life, whereas change, the succession of events are only outward show, are indeed altogether illusory.

In contrast, the concept of history postulates the acknowledgement, indeed the meaningfulness of change and is therefore inseparably related to the assumption of development, i.e. of an alteration of human beings over time. Each individual human life is a link in this development, in which it acquires and has its meaning. The connection of the individual lives is established through it; the passage of time, change become the constitutive features of life and not timelessness and immutability so that human actions inevitably have a worldly meaning and value. Hence the original Conservative position and an acknowledgment of the passage of time are mutually exclusive opposites. Having come to this conclusion, we cannot contradict those who condemn out of hand the attempt to reconcile Conservatism and history and who see such a reconciliation as coming to terms with the dissolution and abandonment of genuine Conservatism. It is, however, necessary to be clear in one's mind that this logically unassailable view necessarily leads Conservatives to abstain from being a vibrant force in life. Since the collapse of the medieval order of church and Empire, life consciously runs its course in history, i.e. consciously as an earthly meaningful development.

This is more true of politics than of any other area of life, above all because with the modern state there has arisen an institution whose very essence is a constant change of form, indeed whose very purpose is to be bearer of this change, bearer of the passage of history. This consciously worldly institution seeks its justification and legitimation in this world; it not only claims to be supreme order and bond of cohesion, it really is so for a very large part, probably the major part of occidental mankind.

>From the original Conservative standpoint it is impossible to comprehend the state and to have an effect on the politics being conducted in the sphere of the state. Consequently the Conservative is caught between two kinds of resignation: resignation with respect to the consequences of his conviction and resignation with respect to the efficacy of just this conviction in life. For Protestant Conservatives (in reality a contradiction) the Reformation has already anticipated a decision. The Catholic Conservative (in reality a pleonasm), if he committed himself, would be more papal than the Pope; because the Papacy concludes concordats even with heretical states. Furthermore, the attempt to practise politics from the original Conservative standpoint all too easily has an opposite effect, since the complete rejection of development, which derives from the static character of this position, is reinterpreted as acceptance of the stabilisation and restoration of a specific historical situation. As will be demonstrated below this is altogether contrary to the fundamental Conservative position. This explains the fate of the Catholic writers and statesmen of Germany in Stahl's time such as Görres, Adam Müller or Radowitz, whose vision was incomparably wider than that of Stahl and who, for example, predicted the development of the social question and of capitalism with an almost prophetic foresight. Unfortunately, thanks to their own rejection of any kind of development their teaching and actions connived in the untenable restoration of the 18th century and its absolutism which they so vigorously rejected. To contemporaries they appeared as arch-reactionaries, a judgement confirmed by Bismarck's harsh and undeserved condemnation of Radowitz. Hence their wisest insights vanished with the downfall of the Restoration instead of contributing to the construction of the new order. And this fate again and again threatens any effort to influence life in the modern state which does not recognise that state.

The attempt to solve the insoluble question of the reconciliation of Conservatism and history must be made in full awareness of this resignation. This attempt goes by the name of a Conservative theory of the state (the phrase itself exemplifies the inner contradiction).

Acknowledgement of the passage of history forces a Conservative theory of the state to acknowledge what has come into being, acknowledge development up to the present as valuable and meaningful, as "achievement". It further compels acknowledgement of change in the future, of what will come into being. To transmit what has been achieved to the future, to protect it against Restoration, is no less a duty than its preservation from destruction by Revolution. And likewise, affirmation of what is coming into being as continuation of what already exists makes its organic incorporation and attachment to what has come into being a matter of duty – and without violent upheaval.

That, however, must not happen for the sake of what has come to be nor of what is coming to be, but solely for the sake of a supreme, divine, immutable order removed from man's perception and not realisable by him, but knowledge of whose existence remains the fundamental experience of the Conservative. What has come to be is worth preserving only to the extent that it conforms to this order and only to that extent can what is coming into being be accepted. Neither what has come to be nor what is coming to be is valuable and meaningful in itself, only the divine order. The sole path for the solution of the task of a Conservative theory of the state is again and again to draw in and integrate the living forces of the age into this order and to legitimate itself through the latter.

This Conservative radicalism (in the original sense of the word) leads on the one hand to a rejection of a position – usually mistakenly described as Conservative – which defends the past for its own sake, i.e. because it is past. Admittedly there is often a deeply pessimistic Conservative consideration underlying this position, namely that the historical process must lead to ever further dissolution of order and that consequently yesterday was still better than tomorrow will be. All too often, however, the result is no more than a blind and indiscriminate idealisation of the past, in other words nothing more than a backwards facing belief in development, a "faith in regression", fundamentally just as liberal as the "faith in progress". The function of this reactionary attitude, which would like to call out to history – a call both logically and politically untenable – "thus far and no farther" – and exhausts itself in disavowal, is purely negative. At best it serves as a "brake on the car of progress", is therefore purely mechanical, merely an impediment, does not point in any direction. For that very reason it often leads to a lurch to the other extreme, to Revolution. On the other hand, anchoring what is coming to be in an order, naturally and inevitably leads to a rejection of that position which, out of a belief in the progress of mankind to perfection, welcomes every innovation for its own sake and refuses to see the past, thus inevitably leading to Revolution or to a veering round to Reaction and Restoration.

The Conservative theory of the state must therefore, for example, not merely concede but actually affirm and defend the historically developed freedom of politics and conscience, of political self-determination, the right to free expression of opinion, the right of ever farther social strata to a share in political power, the right to personal freedom etc. etc., in short everything which development has brought in terms of the dissolution of ties. But from knowledge of the supreme order, in which development, if it is to be acknowledged, must find its legitimation, there also follows, for the Conservative theory of the state, knowledge of the imperfection of man which demands justification by faith. Man's sinfulness calls for firm authority, for binding ties in state and church, knowledge of man's need and weakness calls for association within the community of both close and extended family, of rank, nation and religion. Hence the Conservative theory of the state also knows that political freedom is only of value, when it is anchored in a higher communal obligation; otherwise the result is self-destruction and anarchy and an inevitable slide to despotism and dictatorship – to complete freedom, indeed arbitrary power for one man, lack of freedom for all the rest, instead of voluntary self-restraint for all. The same holds true for every loosening of obligation, for example for freedom of conscience. It too must be anchored in the security and obligation of faith, if it is not to lead to a dulling of the social world, to a "kingdom of this world", to a worship of materialism and of human reason, to the pseudo-hierarchy of Bolshevism. This need also

determines the attitude of the Conservative theory of the state to the state itself. The Conservative theory of the state must affirm the state because and insofar as it represents an obligation. It must also, however, prevent the state from becoming the only obligation, from becoming the "total state"; for the state is an order of this world, an institution arisen out of the dissolution of a supreme, timeless order, a kingdom with a human goal and meaning. And this meaning and goal, that is to say, power, is evil and demoralising, destructive, if it is not bound to a divine, immutable order, if it is not bound to God's plan for the world.

As long as the Conservative theory of the state remains constantly aware of this heavy duty, of again and again binding together all the powers of a supreme order in a new unity then it has a great task before it, especially in Germany and especially at present. It is the merit of Julius Friedrich Stahl to have been the first to recognise this task and to have attempted a solution at a time of the re-evaluation of all values. Here, despite all his failings and his comparatively minor status as a philosopher, lies his importance for any period of upheaval. His attempt was not entirely unsuccessful, as is shown by the fact that Germany was the only state in Europe in which, from the second half of the 19th century until the Great War, a Conservative theory of the state, Stahl's theory of the state, was the basis of political life. Hence it was with justice that Stahl proudly said of himself: his solution was not "to turn backwards", but "to get through".