A STUDY OF THE CDU/CSU OPPOSITION TO THE OSTPOLITIK

IN THE 6TH GERMAN BUNDESTAG, 1969 - 72

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Haag, M.E. (1978) *A Study of the CDU/CSU Opposition to the Ostpolitik in the 6th German Bundestag, 1969 - 72*, Ph.D. Thesis, University of Surrey. The study aims to examine the behaviour and nature of the parliamentary opposition in the Federal Republic of Germany between 1969 and 1972, with special reference to the Ostpolitik of the first Brandt/Scheel government. An account of the conceptual background to the study of opposition in general, and of opposition in Germany and in the Federal Republic in particular, establishes the framework of the study, which seeks to give a detailed account of the plenary sessions of the 6th Bundestag relevant to the opposition to the Ostpolitik. Special attention is paid to the Bundestag members' perception of the roles of government and opposition, to their attitudes to conflict in the area of foreign policy and to the style of this conflict. At the same time a chronological account is provided of the progress of the SPD/FDP Ostpolitik and Deutschlandpolitik as it is revealed by the stenographic reports of the plenary sessions of the 6th Bundestag. The approach of the CDU/CSU to loyal opposition is analysed and an attempt is then made to characterize a specifically West German concept of opposition and to explain the ambivalent and confused attitudes shown towards it. The period chosen is particularly informative about these, due to the nature of the constitutional crises arising from the controversy over the Ostpolitik. The consequences of this experience for future political conflict and political stability in the Federal Republic are assessed.
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INTRODUCTION

The period 1969 - 72 was a particularly important one in the history of the Federal Republic of Germany. The first change of power resulted from the 1969 elections, putting the CDU/CSU into opposition for the first time and marking the beginning of what appears to be a stable system of government/opposition alternation in power. The behaviour of the opposition during the 1969 - 72 period is especially interesting because of the nature of the major policy initiatives of the new government. The first SPD/FDP government in the history of the Federal Republic undertook to cement the reorientation of the official foreign policy stance, which had begun under previous governments. The main result of the recognition of a second German state and of agreements with the Soviet Union, Poland and the DDR was to put an end to the myth that the Federal Republic was a provisional state, eventually to be reunited with other parts of 1937 Germany, once the Germans were again able to exercise self-determination. The internal political system of the Federal Republic was to be severely tested by the controversy over the Deutschlandpolitik and Ostpolitik which had this result. The 6th Bundestag was paralysed by dissenters from the government side, for the first time the opposition attempted to use the constructive vote of no confidence provided for in the constitution, and for the first time the Bundestag was prematurely dissolved by the Chancellor after he had failed to win a vote of confidence.
A detailed examination of the plenary sessions of the 6th Bundestag is used in this study to provide new insights into the processes leading up to these events and to investigate the character of the Bundestag, the political style of its members and most especially the approach of the new CDU/CSU opposition. Particular attention is paid to the political traditions which help to shape the West German idea of opposition as expressed in the 6th Bundestag and it is noted that the confusion and ambivalence surrounding this idea is also present in the German academic literature on parliamentary opposition. An assessment is made of the extent to which a specifically German concept and style of parliamentary opposition may be said to exist in the Federal Republic and of how these relate to the political culture and the institutional framework within which the opposition operates.
I BACKGROUND TO THE STUDY OF OPPOSITION

A The concept of opposition

1 Opposition and democracy

The subject of this study is the parliamentary opposition in the Federal Republic of Germany, that is, an institutionalised political opposition in a western-type liberal democracy. A liberal democracy may be broadly defined here as one which provides, above all, freedom of political choice, as well as a political system which allows that choice to operate. Institutionalised opposition is an integral part of such a system and is often regarded as one aspect of government. It is considered so important in the functioning of a liberal democratic political system that its existence is often given as a necessary, or even sufficient condition of such a system, so that it is frequently part of the definition of a liberal democracy.

Many authors take institutionalised political opposition as "the hallmark of those political societies which are variously called democratic, liberal, parliamentary, constitutional, pluralistic-constitutional, or even open or free",¹ and they agree that its presence and functioning can become a criterion for free democratic

¹ Ghita Ionescu & Isabel de Madariaga, Opposition: Past and Present of a Political Institution (Pelican, 1972), p. 16.
order. Seymour Martin Lipset has written that without "a political system allowing the peaceful 'play' of power, the adherence by the 'outs' to the decisions made by the 'ins', and the recognition by the 'ins' of the rights of the 'outs' there can be no democracy". The same point is stated by Robert Dahl, who claims that one may regard "the existence of an opposition party as very nearly the most distinctive characteristic of democracy itself". In considering the conditions favourable to democratising a given state, creating a 'polyarchy', as Dahl calls a liberal democratic regime, he uses the following paraphrase: "a regime in which the opponents of the government can openly and legally organize into political parties in order to oppose the government in free and fair elections." These opinions of Dahl seem to be generally regarded as authoritative and form the basis for much of the subsequent writing on opposition.

In an early German article on institutionalised opposition, Hanns Seidel already affirmed that this kind of opposition had developed as "ein wesentliches Ordnungselement eines funktionierenden demokratischen Herrschaftssystems". Without this element a democratic system could not function. More recent German opinion restates the conclusion of a large number of sources that "zur Realität der

4 Polyarchy, Participation and Opposition (Yale, 1970).
5 Ibid., p. 1.
Demokratie gehört auch die Opposition"\textsuperscript{7}, and speaks of "die Identifizierung der Demokratie durch Opposition".\textsuperscript{8} An important contribution to the work of both American and German political science on opposition was made by Otto Kirchheimer.\textsuperscript{9} He came to regard opposition as necessary for democracy, in that he saw the alternation of government and opposition in a political system as the guarantee of human rights and freedoms.\textsuperscript{10} This belief is echoed by Bertrand de Jouvenel: "... the means of opposition are the infrastructure of a system of political liberty",\textsuperscript{11} and in a different way by Ralf Dahrendorf who asserts: "liberal democracy is government by conflict".\textsuperscript{12} These are only examples of versions of the sentiment shared by numerous others: a viable opposition is a necessity in a democratic system.

However, the use of the term opposition by the above and other sources differs from author to author. Some may refer to a very wide notion of any form of opposing government, others to the
narrow idea of parliamentary opposition (= alternative government) based on the British model. A comprehensive list of possible uses of the term opposition is given by Rodney Barker but is too extensive for the purposes of this study. In what follows usage is generally clear from the context, and as regards the above sources, it is sufficient to note that the fundamental assertion in each case is the same: that political opposition and democracy are inseparable.

2 Concepts of democracy

The way in which opposition is thought to be essential to democracy depends on the concept of democracy assumed. It may be useful here to outline possible ideas of democracy in order to clarify the part opposition is considered to play in it. The concept of democracy always contains the basic ideas of sovereignty of the people, the rule of the majority and political equality. In practice, most democratic systems have also been concerned with controlling the power of the majority, that is, with preserving as much freedom from coercion as possible.

The notion that a democracy is a political system which allows all its adult citizens to share widely in decision-making is an expression of the first three basic ideas, whereas the definition that a democracy is a regime under which the citizens can exert

a relatively high degree of control over leaders\textsuperscript{15} assumes these
and concentrates on the preservation of freedom by the control of
government power. A further definition by the same author\textsuperscript{16}, which
states that a democracy is a regime completely or almost completely
responsive to all its citizens, reasserts political equality and
the protection of the minority, in that it should be possible for
government to take the preferences of all citizens into account in
decision-making.

The concern in this study is with liberal democracy rather than
with egalitarian or totalitarian democracy\textsuperscript{17}, and this, suggests
Dahrendorf, is dependent on an attitude which "searches for insti­
tutional means to control the powerful in order to keep the politi­
cal system open for ever new solutions".\textsuperscript{18} The ideas of responsiveness
of government and control of government power are again reflected
here, and both may be achieved by institutionalised opposition. The
presence and functioning of such an opposition may be held to depend
on the social and political culture of the state in question, or on
the provisions of the state's constitution, or, more plausibly, on
a combination of socio-political and constitutional factors. The
means of controlling the power of the majority rule which results
from popular sovereignty is of course the basic problem: the
question of how democracy can be made liberal.

\textsuperscript{15} Robert Dahl, \textit{A Preface to Democratic Theory} (Chicago, 1956) p. 3.
\textsuperscript{16} Dahl, \textit{Polyarchy, Participation and Opposition}, p. 2.
\textsuperscript{17} Dahrendorf, \textit{Society and Democracy in Germany}, p. 25.
\textsuperscript{18} Ibid.
This problem is one which has affected Germany, but which does not arise if an already liberal society is made democratic, as in the British case. This point is made by Dahl when he sets up two dimensions necessary to 'polyarchy' (= liberal democracy): inclusiveness, i.e., the right of large numbers of citizens to participate (this is democratic in the narrow sense) and openness, i.e., allowing public opposition (=liberal). It has already been stated that the main concern of authors on democracy is this second dimension. For the sense of democracy to mean majority rule may be criticized for not taking intensity of minority preference into account. If majority policy is carried out regardless of intensity, a situation may arise in which one side regards the victory of the other as a threat to its existence. The principle of majority rule would then be rejected. Constitutional provisions may be made to meet such situations, but they may be prevented if the system is sufficiently responsive to all claims.

It has been suggested that a way to ensure that government is responsive is to reject the majority principle and conceive democracy as political equality or power-sharing. In this view political equality should not cease at the voting stage but should be reflected in decision-making bodies whose goal is unanimity. However, this appears to be majority rule after all, since dissenters would be persuaded or coerced into agreement. There is an important difference between agreeing to a decision and agreeing to abide by it. It is

19 Polyarchy, Participation and Opposition, Ch. 3.
20 A Preface to Democratic Theory, Ch. 4.
this second kind of agreement which is involved in the British type
government/opposition system. This system has equally been considered
'power sharing', in as much as opposition may be viewed as part of
government, whose wishes will be taken into account by the govern­
ment to some extent. In this view, democracy is not, as Aristotle
claimed, the rule of many in their own interests, but is seen very
optimistically as 'the rule of many in the interests of all'.

3 The history of opposition

The history of parliamentary or institutionalised opposition is
that of the development of the British parliamentary system. However,
the notion of some organized control of governmental power may be
traced back to earlier times. The Roman tribunes, who had the power
to check the action of the government through the magistrates, are
given as one example of early opposition. However, their position was
quite different to that of present-day institutionalised opposition
and more akin to the position of interest groups or trade unions,
since, as de Jouvenel writes: "the essential value of the Tribunate
was that the people were defended by those who did not aspire to
become masters". The main virtue of the 'potestas' of the Roman
Tribunate was, then, its identification with the governed and independ­
dence of government. The modern institution of opposition is in a

21 Ionescu & Madariaga, p. 10.
22 Dahl, Modern Political Analysis, p.27.
23 De Jouvenel, p. 159 ff.; Ionescu & Madariaga, Ch. 2.
similar position in the latter respects, but ideally its personnel and those of the government are interchangeable. A second example of early opposition were the French 'Parlements' (de Jouvenel). These were courts which could intervene in public affairs and in the administration of laws, and their position was in many ways comparable to that of the Tribunate.

The immediate forerunners of modern opposition, suggests de Jouvenel, were representatives, such as members of parliament, whose role in earlier times was to restrain the rulers by keeping them in touch with opinion from their special area, profession, etc. Nowadays, members of parliament are not so widely regarded as representatives in that sense and government is obliged to negotiate separately with those who are, such as trade unionists and leading industrialists.

The historical origins of political opposition of the modern, institutionalised type are, as already stated, to be found in the 'classical' British parliamentary system. The 19th century saw the appearance of parliamentary regimes and of opposition as an institution which had, in the British case, developed as an essential part of the political system. Seidel\textsuperscript{25} suggests that the English parliament itself developed from the drive to oppose and to control the crown and the executive. In the 17th century the function of opposing was carried out by the parliament as a whole, but with the increase of parliamentary power and the selection of ministers from the strongest party, parliament and the executive became interconnected. Govern-

\textsuperscript{25} "Die Funktion der Opposition", p. 583.
ment responsibility came to rest with the parliamentary majority and impaired its ability to control or criticise government policy. The function of opposition was therefore passed to the minority. Seidel maintains that this process is characteristic for the concept of parliamentary opposition and it will be noted later in this study that this has only recently been recognised in the Federal Republic of Germany.

Since it was termed 'His Majesty's Opposition' in 1826, the British opposition has enjoyed an officially recognized status as an alternative government, and this fact is seen as a guarantee of responsible or, as Seidel terms it, 'constructive' opposition. The system is in most cases regarded as classical and many authors see West European systems as variants of this model. Its main feature is the 'game of alternation', the smooth transfer of governmental power from one party to another, and a special characteristic is that the leader of the opposition is officially recognised and paid a state salary. A two-party system is mostly considered essential for this 'game' and it is regarded by authors such as de Jouvenel and Ionescu and Madariaga as a special and rare case, a product of the unique development of the British parliamentary system since 1688. It was this development which led to the two-party system and to the acceptance of the opposition as an alternative government as early as 1783. This opposition was loyal and constructive and evolved not as a sectional interest group but as opposition to the government of the day.

26 Otto Kirchheimer, 'The Waning of Opposition in Parliamentary Regimes', (1957); repr. in Burin & Shell, p. 293.
For 'classical', British-type opposition to function it would seem that there must be two parties or stable groupings offering alternatives, but these must be within the limits of broad agreement on major objectives, or at least on the permissible rate of change. Since this classical model did not develop in continental Europe, Kirchheimer has attempted to investigate the conditions necessary for a British-type parliamentary system to operate. He maintains that there must be wide agreement on basic home policies and on the allowable rate of change or reform, and there must be reliance on the part of the opposition that the majority will keep it or its leader informed about foreign policy, and will take dissent into consideration. A third important condition for Kirchheimer is that the bureaucracy and the military will accept the orders of their political masters in the parliamentary government, and a fourth, that there is general recognition of the basic rules of conduct, i.e., that the government will not use its control of the governmental apparatus unfairly, so as to stay permanently in office, and that the opposition will not obstruct or sabotage government policies.

Another version of the prerequisites for the functioning of parliamentary opposition is as follows: parliament must be sovereign, it must be recognised as representative and there must be political

28 Otto Kirchheimer, 'Majorities and Minorities in Western European Governments', 1959; repr. in Burin & Shell, p. 279.
29 This condition, particularly, is a very obvious example of the German conditioning mentioned on p. 3.
Parliamentary sovereignty is derived from the sovereign will of the people, and this will is the source of the constitution, to which there should be no opposition. Opposition should only be on the day-to-day running of the principles laid down. It is essential that the people's representatives can make majority decisions, but at the same time the right of the minority to dissent and to aspire to become the majority is recognized.

Seymour Martin Lipset is also thinking of the 'classical' opposition model when he sets up his conditions for alternative government. These are that there must be a constitutional opportunity to change government officials and that a large part of the population must have the chance of influencing political decisions by choosing among the candidates for political office. However, these conditions depend on a further two: that there is consensus as to which political institutions are legitimate and that there is a set of leaders in office and one or more sets of recognized leaders attempting to gain office. Lipset's first two broad conditions are another version of Dahl's two dimensions of polyarchy: competitiveness and inclusiveness. The second two conditions are also suggested by Giovanni Sartori, who maintains that the Western term opposition is associated with a particular party system and with alternation in power, and that this kind of opposition presupposes peaceful politics.

30 Ionescu & Madariaga, p. 34 - 35.
31 Political Man, p. 45.
based on fundamental agreement. Both authors are referring to the need for dualism or polarisation based on consensus. Consensus is also stressed by Kirchheimer when he states that a classical government/opposition system needs moderate politicians and the basic confidence of the opposition in the sincerity of the government.

Similar conditions and others which are anyway basic to democracy as a whole are mentioned by authors referring to a more general notion of political opposition. As systems with legal and peaceful opposition are comparatively few in number, they must be difficult to introduce or to maintain, it is suggested. Opposition is permitted in regimes where the government considers coercion would either fail or be too costly and it is unlikely to be suppressed if there is a pluralistic social order, a decentralised economy and no interference by the military in politics. A situation favourable to the functioning of political opposition is, of course, one favouring democracy generally. Dahl uses evidence quoted by two studies on political culture to list the following favourable conditions: there must be a belief in the legitimacy of a democratic system,

34 Dahl, Oppositions in Western Democracies, p. xii.
authority relationships should be democratic, there should be confidence in the effectiveness of government, there should be trust between those active politically and they should possess the ability to cooperate as well as to compete. These conditions and those of Hans Daalder overlap to some extent. He suggests 1. a sense of shared political community, 2. a relatively stable pluralistic balance of social groups, 3. attitudes favouring relativism in demands, and 4. recognition of the need for accountability to the electorate. Daalder is not thinking of Western democracies, but his list has some application especially to the newer West European democracies.

While terminology and emphasis vary a good deal, some generally recognized conditions for the functioning of opposition emerge from the various lists above. Basic agreement on the system and on its legitimacy are important and should be accompanied by confidence, above all among politicians, that each side will 'play fair'. Further, there should be moderate polarisation around two, or not many more than two, political parties, and there should not be political interference by traditionally, or at least ideally 'neutral' groups such as the military.

36 Opposites in Western Democracies, Ch. 12.
5 Party Systems and Opposition

As a two party or near-two party system is considered by the authors mentioned here to be most favourable, if not a necessary condition for the functioning of a classical government/opposition pattern, it may be useful here to consider various opinions concerning party systems and opposition.

In a two party system both parties aim at gaining a majority and seek support from groups mainly loyal to their opponents. There cannot therefore be too heavy emphasis on the interests of their customary supporters. In elections, the parties try to convince divergent groups of their common interests. A two party system thus encourages compromise and a basic consensus between the parties. It also means that material goals rather than ideological ones are stressed. The 'outs' can realistically aspire to office and are therefore less likely to follow exaggerated ideals, which might be embarrassing to office-holders. The 'rules of the game' are reinforced and the focus moves away from party differences towards party leaders. A two party system is claimed to maintain the entire electorate committed to the system rather than to a party, since the disappointed voter, it is argued, can blame the governing party and not the regime, and can try to replace that government by the opposition. Each party tries to represent the whole nation and, as the government, is temporarily identified with the state. Lipset also points out that in multi-

party states the differences between the parties tend to be magnified, since parties competing for the same vote endeavour to gain a distinct profile. Each party is consciously trying to represent a section of the electorate only and will maintain that only the state can represent the whole nation and that the state is above parties. Also, in a multi-party system, lesser parties can have a disproportionate influence on coalition formation so that election results are scarcely reflected in the composition of governments. The electorate cannot necessarily turn out leaders who disappoint it. Lipset feels that a two party system is preferable to a multi-party system, except, he points out, in cases where polarisation is so intense that neither side can accept the other as an alternative government.

Since a very special constellation of factors is needed for a two party system to function, such a system is unlikely to work in most states in the opinion of Robert Dahl. He has suggested the following conditions: 1. parliament is sovereign in law and in fact, 2. there is majority rule in parliament, 3. there is consensus on 1. and 2., and on other parts of the system, 4. there are two basic groups of opinion which are stable but not fixed, and 5. there are two political parties, neither of which expects to be out of office indefinitely. These conditions are remarkably similar to those generally given for the functioning of opposition and this reflects the interdependence of 'alternative-government' opposition and the two party system.

39 Political Oppositions in Western Democracies, p. 393.
Both Sartori and Maurice Duverger agree that real 'alternative-government' or institutionalised opposition is only viable in a two party system. Opposition in multi-party systems tends to be shifting and its role cannot be to provide clear-cut alternatives. If there are three, four or five parties, all may share power at some time, but if there are more the result is 'semi-turnover', claims Sartori, which means that some parties, usually extremist ones, are permanently out of office and their opposition tends to become irresponsible. Sartori stresses that the distinction between two party and multi-party systems is misleading since it ignores the states with three, four or five parties. These are more sensibly classified separately as 'moderate multi-party'. The most important distinction is between these and the extreme multi-party systems, not between systems with two parties and those with more than two. Sartori prefers a different classification based on polarity. Systems can be bipolar, and therefore centripetal, or multi-polar, and therefore centrifugal. He denies that dualism in politics is natural, an idea taken up by Duverger, and maintains that there is always a centre in politics, although there may not be a centre party. The two, three, four or five party systems may be suitable for responsible opposition, but extreme pluralism of parties means that each has limited access to government and therefore tends towards irresponsible tactics such as overpromising and outbidding.

42 Sartori, 'European Political Parties', p. 137 - 140.
43 Ibid., p. 158.
This is not real competition. In this situation parties may also become ideological and doctrinaire, and so increasingly unrealistic in attitude. All this contributes to the disintegration of consensus and to a lack of concern for resolving conflicts. The conclusion is that multi-party systems are very unlikely to be as suitable as two party systems for the functioning of responsible opposition.

6 Classification of types of opposition

Most authors classify opposition according to whether or not it supports the political system it operates in, i.e., as 'constitutional' or 'anti-system', as 'competitive' or 'contesting', as 'responsible' or 'irresponsible', as 'loyal opposition' or 'opposition of principle'. Constitutional opposition is the term used by Sartori to describe the opposition in Western democracies, which not only works within the constitution but also intends to preserve it. This concept is related to the 'fair play' idea of politics, as Sartori calls it, which is seen as "a game played by correct players to whom cheating appears more disgraceful than losing". This kind of opposition is the outcome of a long process of constitutionalisation of politics and it presupposes peaceful politics and basic consensus. Its antithesis is 'anti-system' opposition, which may work within a given constitution, but has the intention of destroying it, if successful. Oppositions can vary along a continuum between these two extremes and may be

44 'Opposition and Control' p. 151.
more, or less 'responsible', according to their expected possible
future share in government. Sartori amalgamates the concepts of
constitutional and responsible to arrive at a division into three
basic patterns of opposition: responsible and constitutional, con­
stitutional but not responsible and neither responsible nor consti-
tutional.\textsuperscript{45} This last is then termed 'contesting' opposition.

The idea of a continuum along which patterns of opposition can
vary is taken up by Dahl, who concludes that there is a great variety
of patterns of opposition in democratic systems and no single pre­
vailing pattern. There are at least six ways in which oppositions
can vary. The first is in organisational cohesion, and this obviously
depends on the party system. The classical opposition of the two
party system is rare and does not apply to the United States, where
oppositions are formed across party lines, except at election time.
The European multi-party or moderate multi-party system is more the
rule. A second difference can be in the competitiveness of the oppo­
sition, and this again depends on the number and nature of the
parties involved. Parties may compete directly for key votes in elec­
tions, or they may aim their campaign at only one section of the
electorate. A third point of difference is in the site or setting of
the opposition, which may occur in parliament or elsewhere such as
in the institutions of federalism.\textsuperscript{46} The fourth point is distinctiveness.
The classical model is very distinct, for example, whereas
the fluctuating oppositions of the United States are indistinct. The

\textsuperscript{45} 'Opposition and Control', p. 153.
\textsuperscript{46} See also Carl Friedrich, 'Federalism and Opposition', Government
and Opposition 1, no. 3 (1966) p. 286, where it is shown that
federalism can be a useful alternative method of institutionalising
opposition.
fifth point deals with the goals of the opposition, which may be to change government personnel or policies, or to change the structure of the political or socio-economic system. Western oppositions are usually of the 'limited structural' type, according to Dahl. A high degree of structural opposition would be what others term 'anti-system' or opposition of principle. The final way in which opposition patterns may differ is in the strategies adopted. These are necessarily linked with oppositional goals. Dahl differentiates between the following types of strategy: 1. strict election competition, 2. concentration on entering a government coalition, 3. concentration on entering a coalition and on bargaining with other groups, 4. concentration on local elections, pressure groups, etc., 5. forming a broad coalition during a crisis, 6. revolutionary opposition which attempts to discredit the regime and destroy the system. In an attempt to explain these various patterns, Dahl suggests some contributing factors. The constitutional arrangements of a given state can make a difference, although it cannot be defined. Attitudes are important; towards the political system these may be of allegiance, apathy or alienation, towards others generally of trust or distrust. The value put upon cooperation as against retention of individuality is also a factor, as is the approach to problem solving; pragmatic or rationalistic. The existence of regional, ethnic or religious subcultures, or of serious economic, social or ideological cleavages can also affect the structure of the opposition. There is also some evidence that past experience of political successes or failures

47 cf. Dahrendorf, p. 327, on public and private virtues.
can act to condition the pattern of opposition.\textsuperscript{48} For the purposes of an individual analysis, such as that of this study, the rough classification of parliamentary opposition according to its tendency towards cooperation or competition, which emerges from Dahl's strategy analysis, is likely to be the most useful.\textsuperscript{49}

Otto Kirchheimer has suggested three models of opposition\textsuperscript{50}: the classical, or 19th century British type, opposition of principle, which is anti-system, revolutionary or irresponsible in other classifications, and a third model, in which he was particularly interested, a counter-concept to opposition in which the 'opposition' "relates to government under various forms of cartel arrangements among political organisations operating within the framework of parliamentary institutions"\textsuperscript{51}, which he calls 'the waning of opposition'. The first model, classical opposition, is characterized by the 'game of alternation' and the recognition that the opposition has a right to maintain its policy lines after the electorate has rejected them. The classical opposition presents itself as an alternative government and aims to focus public attention on the possibility and desirability of a change by means of an election. The government permits the opposition to carry out this function, but the monopoly of final decision-making is

\textsuperscript{48} Dahl, Political Oppositions in Western Democracies, Ch. 11 & 12.
\textsuperscript{49} This classification is widely used in parliamentary studies, notably recently by Oberreuter, Parlamentarische Opposition, p.2; see also Hans-Joachim Veen, Opposition im Bundestag (Bonn, 1976), p. 13 - 17.
\textsuperscript{50} 'The Waning of Opposition', p. 292 - 3.
\textsuperscript{51} Ibid., p. 293.
with the government party. In other articles, Kirchheimer calls this model 'loyal' opposition. The second model, opposition of principle, is exemplified by European socialism from 1880 - 1900 and by 20th century totalitarian parties. This kind of opposition intends to destroy the parliamentary system and can be successful in this, since its presence forces the parliamentary parties to abandon the 'rules of the game'. This renders role reversal of government and opposition impossible and means the end of the system. The third counter-concept to opposition is applied to a situation in which government through cartel is considered to effectively eliminate opposition. This third concept will be dealt with in more detail later.

7 The role and function of opposition

Criticism, control and alternative are the universally quoted functions of parliamentary opposition. There is general agreement among the authors mentioned here that criticism can help to keep ideas of dissent and freedom alive, and that the opposition's

52 e.g. in 'Germany; the vanishing opposition', Burin & Shell, p.319.
53 Here again, Kirchheimer's main, if not sole example must be Germany.
54 The extent to which this may be termed an 'opposition ideology', an interesting suggestion by Hans-Peter Schneider in Die Parlamentarische Opposition im Verfassungsrecht der Bundesrepublik Deutschland (Frankfurt, 1974), will be discussed later in this study.
existence alone can be a factor in controlling the actions of government. The classical idea of opposition is that it should try to force the government in power to modify domestic and foreign policies and to replace it at the next election by offering clear-cut alternatives. The notion of control of government power is bound up with the Western-democratic conviction that there must be respect for and protection of minorities. The opposition is also regarded as an information channel and safety-valve for minorities. It should be the means of the governed to contest the power of the government and to check its actions by discussion and criticism. It is stressed by de Jouvenel that an opposition does not have to be the British type to carry out these functions. However, alternative government is perceived to provide the citizen with a means of intimidating the government in power and is therefore often thought to be the most effective type of opposition.

The idea of control of government is disputed by some authors on the British parliament who consider that if there is any control of government in parliament it will come most effectively from the government's own back benches and not from the opposition, whose minority position leaves it powerless. Parliamentary control is

55 Ionescu & Madariaga, p. 13.
57 Sartori, 'Opposition and Control', p. 150.
now a fiction, writes Richard Crossman, and was only possible in the days when private members were free to vote as they wished. In those days, parliament acted collectively as a check on government. Party discipline has now made the control organ, the opposition, a permanent minority, but in any case, discussion, debate and voting are of little avail, since decisions are made at parliamentary party meetings and not on the floor of the house. The government and its support cannot normally be threatened by a confrontation with the Shadow Cabinet and its support. It is very rare that an opposition can remove a government or change any important major policy or legislation. These opinions have gained wider acceptance by later authors. They are repeated by Gehrig with reference to other parliamentary systems. He too suggests that a government is most effectively controlled by its own members and he terms this 'innere Opposition'. Most especially, when the government is a coalition there is an 'extension of opposition into government'.

Richard Crossman concluded that the electorate is the real check on the government, by means of opinion polls, elections, etc. This ties in with other important opinion on the British parliament

60 Butt, p. 293.
61 E.g. such German authors as Franz Nuscheler & Winfried Steffani in 'Die Opposition als Alternativregierung: Das britische Beispiel', Die Politische Meinung vol. 133, 1970, p. 59 and Werner Kaltefleiter in 'Oppositionsstrategie im parlamentarischen System', Aus Politik und Zeitgeschichte, Das Parlament, 4. 8. 73, p. 3 - 8.
63 Ibid.; see also S. Landshut, 'Form und Funktion der parlamentarischen Opposition' in Kluxen (ed.) Parlementarismus, p. 401.
64 In Introduction to Bagehot, p. 44.
which sees the government/opposition conflict as a publicity exercise to inform the electorate how it should vote in the next election. The idea of a 'continuous election campaign' as the main function of opposition is one already hinted at by Bagehot, when he wrote that parliamentary debates were "the means by which statesmen advertise themselves for future and confirm themselves in present Government".

Ronald Butt, however, maintains that this constant electioneering is not the main real function of opposition and that opposition influence on government, while it may not be great, is not negligible. Further, it is not always the case that opposition statements and policies are directed towards vote-winning, since they are sometimes intended to influence an immediate situation or are simply expressing a reaction. It is also vitally important to the nation that there is always a credible alternative government ready and waiting to relieve the present one in office. The opposition cannot afford to act other than responsibly, and this may not always be favourable to vote winning. In reconciling criticism with responsibility the opposition must take long term government policies into account (e.g., on foreign affairs or the economy) while still asserting that it is different from the government and persuading the electorate that a change is needed. In parliamentary and elec-

65 The fact that not parliament but the mass media are the main source of information will be touched upon later.
67 The English Constitution, p. 72.
68 The Power of Parliament, Ch. 11.
toral struggles both parties tend towards the centre and try to achieve consensus. The party in power will direct some attention to floating voters and opposition clientele, the opposition will equally try to capture the floating vote and some dissatisfied government supporters. Whichever party gains power it will be steered towards the centre by 'neutral' expert advice from the bureaucracy, claims Butt. He also argues that the government/opposition confrontation in parliament is informative for the electorate about immediate issues as well as about future voting. Each side in a debate will reveal some truth about the other.

A further general conclusion reached about the function of opposition (by Butt, Ionescu & Madariaga, Sartori and Bagehot, in different ways) is that it is actually part of government. Even in Bagehot's day, we are told, back-benchers complained that parliament was run by a cartel of government and opposition front benches. Later versions have it that opposition is really a form of collaboration if it is constructive and has the general interest at heart. Opposition participates in government since it helps to fashion the contemporary climate of opinion and since the policies of the 'outs' can affect those of the 'ins'. If good alternatives are seen to be offered, the

69 It has been pointed out, notably by Wilhelm Hennis ('Die Rolle des Parlements und die Parteiendemokratie', in Richard Löwenthal & Hans-Peter Schwarz (eds.), Die Zweite Republik (Stuttgart, 1974), p. 211) that there is no such 'neutral' body in West Germany. The system has, nevertheless, become centripetal, as will be discussed later.

70 See p. 24 above, note 65.

71 Bagehot, p. 290.
government must improve its own offer. Much legislation is formulated with the reaction of the opposition in mind, or is modified so that the opposition will not be able to make an overwhelming case against it. The opposition can also get details of legislation amended. Butt writes that this is due in Britain to a convention that the majority should not steam-roll the minority; the government usually adheres to this convention. 72

The most profound impact of opposition, according to Butt, is when it can become the focus of national debate (he gives the example of Suez for Britain). 73 A government may have less leverage abroad if the opposition is known to be against its policies. Further 'real' functions are to speed up government action on urgent matters and to force a public answer to its questions from the government. In an emergency the opposition leaders may be treated as the government's equals and consulted on all measures taken.

The same notion of opposition as part of government is adopted by Seidel. The opposition does control the government and the government majority in parliament to some extent, he maintains, and its ultimate function is to make sure that party government does not turn into dictatorship. (Again this is obviously a view conditioned by German experience.) However, this function is "weniger eine Funktion des Gegensatzes als eine des inneren Ausgleichs zur Er-

73 Ibid., p. 304
haltung des Gleichgewichts des Systems . . "\(^74\) and is based on the idea of the unity of parliament as the central organ of state; "Letztlich ist die Opposition selbst ein Stück Regierung".\(^75\) Seidel emphasizes the integrative function of opposition in a democratic system and maintains that the system would collapse without it. The value of the opposition, he concludes, is that it is "nicht nur etwas Gegengesetztes, sondern auch etwas Dazugehöriges".\(^76\)

8 **The Decline of Opposition**

The kind of opposition that tends to function as part of government or as a shadow government has been criticized by some authors. Notably, Bernard Crick has claimed that there can be far too much emphasis on the 'alternative government' aspect of opposition and not enough on the 'opposing' aspect. His article was written at a time when it seemed that the British Conservative party was the permanent ruling party and the Labour party was the permanent opposition. He suggested that the opposition concentrate on opposing, even at the risk of being called irresponsible, and waste less time on 'shadowing'.\(^77\)

\(^74\) 'Die Funktion der Opposition', p. 584.
\(^75\) Ibid., p. 585.
\(^76\) Ibid., p. 590.
A similar situation of 'permanent' opposition in the Federal Republic of Germany led Otto Kirchheimer to write more seriously of the 'waning of opposition' and the 'vanishing opposition'. There too, the parties seemed permanently in their respective roles. The opposition had to give up opposing in order to become a credible alternative government. However, Kirchheimer was more generally concerned with the "crisis of the concept of political opposition". He saw this as due to the incongruity of party systems and social reality. The heritage of the 19th century no longer applies, since class differences are now weak, and parties are necessarily pursuing the same interests in a 'unified middle-class society'. Kirchheimer regarded the rise of the 'catch-all' parties as the beginning of the end of opposition. In this respect, he must be considered a German author, since this pessimistic approach has been taken by several other German authors, whose work will be discussed in the next section of this study.

Non-German authors recognise more generally that increased consensus in welfare-oriented, centralized bureaucratic states with highly developed information media is likely to lead to the gradual demise of political opposition. In the British context, the ideas

79 Ionescu & Madariaga refer to 'the German doctrinaires' (p. 84); Hans-Peter Schneider has coined the term 'Oppositionspessimismus' (p. 140).
80 e.g., Ionescu & Madariaga, Dahl, Political Oppositions in Western Democracies.
of a 'publicity exercise' and a 'continuous election campaign', along with the view that party discipline has killed opposition reflect a similar, if less intense sentiment.

B Opposition in Germany

1. Liberal democratic parliamentary system in Germany

To consider the progress of institutionalised parliamentary opposition in Germany is to consider just one aspect of German liberal democracy as a whole. This is a subject which has received much attention from authors both inside Germany and outside. Both the political and social institutions of Germany have been analysed with a view to explaining why a system of parliamentary government was not introduced in the 19th century, why the Weimar system failed, why, on the other hand, right-wing totalitarianism was even briefly successful, and finally, why parliamentary liberal democracy is now successful. To say that in each case certain conditions were or were not met is not sufficient, since to set up a scheme of conditions is usually no more than to describe, with the benefit of hindsight, which conditions were or were not present.

82 Crossman in Introduction to Bagehot, p. 44.
A number of traditions in German political culture may be regarded as having influenced or been influenced by its political development. Some authors suggest a four-way division, although clear-cut separation is obviously impossible. The first tradition is that of the 'unpolitical' or romantic German, given to idealistic, irrational or Utopian sentiments and with no taste for the everyday practicalities of politics. This stereotype had no faith in politics as a means to freedom in any sense, since the German idea of freedom, it has been said, was bound up in the second and connected tradition: the Hegelian idea of the state as the 'Wirklichkeit der sittlichen Idee', and therefore all-powerful and not to be opposed. This authoritarian state was considered to be above parties and politics and to signify unity and unanimity; parties therefore came to be regarded as negative, destructive and illegitimate, being associated with disunity and conflict. The 'quiescent' German, according to Lewis Edinger, for example, was amenable to authority and looked not for individual freedom but for freedom of and within the state. Politics was, then, the business of the state, or more precisely, of the experts appointed by it, and not a matter for amateurs. A third tradition is stated as the legalistic-formalistic tradition, one tying in with the reverence for the expert and the faith in 'constitutional engineering' (Edinger) and in the Rechtsstaat as the solution to all problems. The fourth tradition of avoidance of conflict is also bound up with the German idea of the state. Internal conflict was, if possible, to be abolished and

opposition regarded as treason. The unity of people and state was all important, not least as a sign of strength and a proof of superiority. The idea of harmony and unity here, of course, ties in with the Utopian and romantic tendencies of the first tradition. Connected with these various traditions, however they may be classified, is the German tradition of plebiscitary rather than representative democracy, and this and the other traditions listed above will be shown later to be still of importance today, especially with regard to the West German concept of opposition.

2 The history of opposition in Germany

A very brief account of the history of political parties and of parliament in Germany may be necessary here to describe the environment which shaped the political culture described above. In the first half of the 19th century, parliaments and embryo parties within them had the collective role of opposition to the governments of the German states. This role was mainly of a reformist nature, and some modest reforms and a small share in decision-making were achieved. One important aim of these oppositions was to extract written constitutions from government, and in a few cases they succeeded. The aim of the 1848 revolution, when the 'opposition' was temporarily in power, was to unify Germany under a liberal constitution. The eventual failure of the Frankfurt parliament tended to discredit liberal and reformist ideas and to turn opinion against parliamentarism.
Political parties proper began to be formed in the 1850s and 1860s. These were progressive and liberal groupings formed in response to a particular issue, in response to each other, or as an opposition to particular government proposals. These parties did not aspire to take over government responsibility themselves. They were intent on gaining concessions from the government concerning such matters as parliamentary rights. They were fluctuating oppositional groups and could exert little influence on decision-making. This type of opposition was loyal and constitutional but was far from being institutionalised as an alternative government. Theoretically it could aim to 'control' government by withholding its supporting vote, or to 'share' in government by giving its vote. However, under Bismarck neither opposition groupings nor those giving the government their support could be sure of making any lasting impact on government decisions. In 1869 a new oppositional force, the Social Democratic and Labour Party, was founded. The Social Democrats were an 'opposition of principle'. They were anti-system but working within the system as a legal political opposition until their activities were made illegal by Bismarck. The Social Democrats supplanted the Liberals in the role of opposition so that this now became firmly associated with hostility to the existing state.

Due to the constitutional structure of Imperial Germany after 1871, the Reichstag was reduced to a more negative role than ever. It could criticize, complain, debate and amend and pass laws, but
there was no chance for a member of parliament to become a member of the government.\textsuperscript{84} This meant that the Reichstag was no more than a 'demokratischer Zusatz' of the Imperial System.\textsuperscript{85} The Reichstag did not develop as an active institution for political decision-making but as the legal opposition against the Imperial government. As such it could only hope to criticize or perhaps modify government policies. In these circumstances there was no chance for the 'game of alternation' to develop and the Reichstag became an institution mainly representing various interests. The different parliamentary groups were used by governments to form shifting majorities to approve government legislation. There was no clear front against the government nor any grouping strong enough to form a permanent majority. Able politicians could not expect ministerial posts and set their sights instead at the chairmanship of a parliamentary committee - the most powerful position open to them.\textsuperscript{86} This separation of government and legislative personnel continued until just before the first World War, and full parliamentarisation came only in 1918 when the Chancellor's position was made dependent on parliamentary support. During the Imperial period the middle classes had therefore not had access to political power since government and top military-bureaucratic posts went to aristocrats who were more readily identified with the monarchy and the state.\textsuperscript{87}

\textsuperscript{84} Hereth, p. 37.
\textsuperscript{86} Peter Molt, \textit{Der Reichstag vor der improvisierten Revolution} (Cologne, 1963), p. 309.
\textsuperscript{87} Kirchheimer, 'Germany - the Vanishing Opposition', pp. 319 - 320.
After the military defeat of 1918 the onus of government fell for the first time on parliament, or rather on the largest parliamentary party, the SPD. The former 19th century 'opposition of principle' was now the major 'staatstragende Partei'. Previously the state and the parliamentary parties had been severely separated and the idea that a political party should produce a government to be temporarily identified with the state was still foreign to Germany, as was liberal democracy itself. The Weimar system attempted to take account of this and created a strong president as head of state, whose position was not unlike that of the Kaiser had been.  

To use Dahl's terms, the creation of the Weimar Republic was a case where 'polyarchy' was introduced after the collapse of the previous system, where an already fairly inclusive system was abruptly liberalised, i.e., made competitive. These are the two situations given in Dahl's models as likely to be unfavourable for the stability of liberal democracy. However, one weakness of his models is that his main example in these cases is Germany, thus the conditions he sets up are merely a description of what happened in a particular case.

The Weimar multi-party system was not produced by the new electoral system of proportional representation, since a multiplicity of parties had already existed. However, proportional representation accelerated the splintering process. As stated above, many authors

88 Hereth, p. 39.
89 Polyarchy, Participation and Opposition, Ch. 3.
agree that a two party system or an approximation to it with perhaps three or four parties is much more conducive to the functioning of liberal democracy, as exemplified by the peaceful alternation of government and opposition. The Weimar multi-party parliamentary system did not produce stable party government. Smaller and more extreme parties, which were unlikely to be included in government, could afford to indulge in 'irresponsible' opposition. Even parties which shared in government coalitions felt free from responsibility and moved in and out of government to avoid responsibility on particular issues and thus gain electoral advantage. It has even been suggested that the SPD chose proportional representation, not only because it had long been part of their programme, but also because they feared to face undivided governmental responsibility. They could not hope to fulfill the main part of their programme, which had tended to be somewhat Utopian as long as they had been denied access to government.

Under the mathematically 'democratic' electoral system of proportional representation, parliamentary representation reflected voting very exactly. However, elections had very little influence on government formation, since coalitions of several parties were formed and then re-formed without elections necessarily being called. The system denied the electorate any chance of choosing a definite potential government, since only the President was directly elected. In a two party or near-two party system, on the other hand, elections are ostensibly to elect representatives, but they also

have the character of a direct plebiscite on the government.\textsuperscript{91} In those circumstances it can be said that the 'real' control on the government is the electorate\textsuperscript{92}. In the Weimar situation, this kind of control was absent. As already mentioned, stable parliamentary groupings did not emerge and parties were not anxious to accept governmental responsibility, except as part of a fairly broad coalition. The absence of stable government, in particular, meant that no stable loyal opposition could form.

On the other hand, there was no lack of opposition in the Weimar Republic, but it was not loyal or constructive. The party constellation did not allow for any system of clear government/opposition alternation. Instead, 'opposition of principle' grew rapidly. This was legal opposition, since the Weimar system allowed for wide 'freedom of political action'.\textsuperscript{93} This freedom was used by extreme dissenters who were avowedly anti-democratic and anti-republican. As Dahl has pointed out, the result is likely to be disaffection to the regime, since large numbers of people are, as he puts it, "unfree in their political obligations"\textsuperscript{94} that is, they are obliged to live under a system they reject. The extreme right and left 'opposition of principle' in Weimar was different in character from the 19th century socialist 'opposition of principle', which had been gradualist rather than militant.\textsuperscript{95} The extremist oppositional

\textsuperscript{91} Gehrig, p. 132.

\textsuperscript{92} Cf. p. 23.

\textsuperscript{93} Dahl's phrase in Political Oppositions in Western Democracies, pp. 388 - 389.

\textsuperscript{94} Ibid., p. 390.

\textsuperscript{95} Kirchheimer, 'Germany - The Vanishing Opposition', p. 321.
activity meant that the 'Weimar parties' (i.e., those prepared to support the system) tended to cease what competition there had been between them for each other's fringe clientele, in favour of cartel. This is a tendency in multi-party systems noted by Sartori.96

A further circumstance which was unfavourable for the functioning of competitive politics was the prevailing lack of trust.97 Government and opposition parties could not believe in each other's sincerity. From the beginning, the Weimar parliamentary parties regarded each other with mistrust and were not ready to let any party govern alone.98 They preferred a power-sharing system in which several groups could exert some influence in government. Opposition was not perceived as having sufficient control over government activities.

Otto Kirchheimer was particularly concerned with the failure of the classical government/opposition system to become established in continental Europe. In the case of Germany, he suggests, the reason for this failure was that the political parties never gained a monopoly of final political decision-making.99 Even in Weimar, branded as a 'Parteienstaat' by opponents, the president was in a powerful position vis à vis parliament and an even greater counter-force to party government was the power of the military and bureaucratic elites. This narrowed the scope of political decision-making for the parties.100 The absence of military or bureaucratic inter-

96 'Opposition and Control', p. 152.
97 Cf. Dahl, Polyarchy, Participation and Opposition, pp. 150 - 152.
98 Eschenburg, p. 29.
100 Hereth, p. 38 f.
ference is a further condition frequently suggested as necessary for the smooth functioning of competitive politics.101

The postulated 'favourable' or 'unfavourable' conditions are only suggestions as to what is likely to influence political developments in a certain way and may often be only a description of circumstances. It has been argued that the Weimar system with its strong executive, vigorous party system representing all shades of opinion, provision for parliamentary control of the executive, popularly elected President as a stabilizing factor and strong centre group in parliament was inconsistent with the British idea of alternative government.102 Lehmbruch considers that the system failed because it was inappropriate103, and more importantly, because it was regarded as inappropriate for a country where there were religious, regional and class conflicts, and where there was a strong tradition that party conflict is prejudicial to consensus.

The Weimar right-extremist 'opposition of principle' gained momentum for many reasons. An important one is that the liberal democratic system was thought not only to be inappropriate but to be un-German. Party government became associated with a lost war, an oppressive peace treaty, economic difficulties, etc. and was thought to be inefficient.104 The extreme right adopted the title of 'national opposition' and in their campaigning they were success-

101 Kirchheimer, 'Majorities and Minorities', p.279.
103 Ibid., p. 169.
ful in associating parliamentary government with foreign influence and lack of patriotism. This national opposition was a special case of opposition to an entire system.\textsuperscript{105} It drew support from middle-class circles, especially from the insecure lower middle classes, and was characterized by a nationalism that was anti-democratic, anti-liberal and anti-Western.

This opposition of principle was working within the system and was able to use the institutions of federalism to advance its cause.\textsuperscript{106} By gaining power in one state it was able to 'prove its governmental capabilities' and incidentally to grant Hitler German citizenship - a prerequisite of its further progress.

The Hitler system put an end to further opposition. As Landshut has pointed out, there were two ways in which opposition caused the fall of the Weimar Republic.\textsuperscript{107} The absolute or total opposition to the system aimed to remove the conditions allowing opposition, and succeeded. One reason why it was able to succeed was that parliament was weak and consisted of 'nothing but opposition'. The parties outside the government coalition at any given time were, of course, in opposition. In addition, each party in the coalition was a source of 'latent opposition', likely to immobilise the government from within or withdraw at a moment's notice.

\textsuperscript{105} Kurt Sontheimer, \textit{Grundziige des politischen Systems der Bundesrepublik Deutschland} (Munich, 1971), p. 12/13.
\textsuperscript{106} Cf. Friedrich, 'Federalism and Opposition'.
\textsuperscript{107} 'Form und Funktion der parlamentarischen Opposition', p. 401.
This albeit simplified and fairly brief account of German negative experience with parliaments, political parties and political opposition is sufficient to show how the traditions suggested in the previous section were reinforced by events. However, the total collapse of the Hitler system and the temporary discredited state of the institutions politicised under it meant that the Germans (encouraged by the occupation powers) had to be prepared to turn to the 'democratic' political parties to provide the basis of the new political system.

3 Opposition in the Federal Republic

After 1945 a liberal democracy was again created in Germany, more or less imposed by foreign occupation forces after military defeat and total collapse. Dahl describes the change from the Hitler system to the Federal Republic as from a 'closed hegemony' to a 'polyarchy'. It was hoped that the new liberal democratic parliamentary system would operate on the basis of competition between a fairly small number of parliamentary parties, which would be able to form stable governments and oppositions. An attempt was made to change factors thought to be connected with the previous political development. In the field of political culture the occupying powers attempted to 'reeducate' the Germans. With regard to a new constitution, a Constitutional Assembly aimed at setting

108 Polyarchy, Participation and Opposition, Ch. 3.
up a new 'water-tight' system that avoided the supposed defects of Weimar. As mentioned above, the political parties, as the only institution not discredited by the Hitler period, were dominant in this assembly and it has been pointed out by Wilhelm Hennis that "nie zuvor in der deutschen Geschichte ist eine Verfassung so souverän von einer reinen Parteimännerversammlung aufgestellt worden". 109

The parties so successfully filled the power vacuum in post-war Western Germany at least partly because the constitution they devised gave them an important status among the political institutions of the new state. The second article of the relevant section of the Basic Law (Article 21) states: "Die Parteien wirken bei der politischen Willensbildung des Volkes mit." Subsequent legislation was to give parties state financing and further strengthen their position as 'political educators' of the people. Further, as Kenneth Dyson has pointed out, 110 no counter-elites re-formed to challenge party supremacy; rather, these elites were subject to party patronage 111 and were "absorbed into the new party state". 112 As mentioned above, the influence of Hegel's doctrine of the state on German political thought had traditionally formed an intellectual barrier to the development of an appreciation of political parties. It was thought

109 'Die Rolle des Parlaments', p.212.
111 Ibid.
112 Gordon Smith, 'West Germany and the politics of centrality', Government and Opposition 11, no. 4, 1976, p. 400.
impossible that parties could form a legitimate government or counter-weight to government. The state was seen as above party and as an expression of the general, and parties, at best as an expression of particular interests.\textsuperscript{113} It was the view of Otto Kirchheimer\textsuperscript{114} that the parties in Germany had never gained a monopoly of political decision-making and that this was the reason for their failure to produce stable governments and oppositions. Now, with constitutional recognition for the first time, they were set on the road towards this monopoly and their position was perhaps over-estimated.\textsuperscript{115} It was typical of the German tradition of legalism, of 'Rechtsstaatsdenken', that parties had been regarded as illegitimate because they were not mentioned in the constitution, yet as having special legitimacy and as identifiable with the state once they were mentioned. For the reaction of one notable constitutional expert was to criticise the Federal Republic as a 'Parteienstaat\textsuperscript{116}' and to throw into doubt the compatibility of the party state with representative parliamentary liberal democracy and most especially with the idea of the free mandate. Interest in these ideas of Gerhard Leibholz has been reawakened to some extent\textsuperscript{117} now that observers are referring to "the arrival of the party state"

\textsuperscript{114} See p. 37 above.
\textsuperscript{115} Grosser, p. 517.
\textsuperscript{117} Hennis, 'Die Rolle des Parlaments', p. 212; Dyson, \textit{Party, State and Bureaucracy}, p. 7 - 9; Schneider, p. 142 - 144.
in West Germany. However, Leibholz's basic theories would appear to predate the present position of the party state 'securely anchored in the parliamentary system' of the Federal Republic by almost fifty years. It is symptomatic of the embarrassment caused by the re-application to the Federal Republic of political theories from the Weimar era that Hennis expresses regret that Leibholz "vom Jahre 1950 an nicht davon abgehalten werden konnte, längst erledigte kontinentaleuropäische Idiosynkrasien über einen angeblich begriffswesentlichen Gegensatz von Demokratie und Repräsentation wieder aufzutischen." Hennis goes on to claim that "in Wahrheit handelte es sich nur um die etwas seitenverkehrte Reprise von Lehren, die er schon in den zwanziger Jahren vorgetragen hatte". Nevertheless, Leibholz has been an important influence, particularly on a number of left-wing political writers in West Germany, and the controversy he caused illustrates the earlier sensitivity of constitutional issues and a continuing confusion concerning the concept of 'true' liberal and parliamentary democracy in West Germany.

118 Smith, 'West Germany and the Politics of Centrality', p. 398.
119 Ibid., p. 399.
120 Notably, Dyson, Party, State and Bureaucracy, p. 8, gives the impression that the 'Parteienstaat' theory is of only recent date.
121 Hennis, 'Die Rolle des Parlaments', p. 208.
122 Ibid., p. 212.
123 e.g. Jürgen Habermas, Helga Grebing.
124 Cf. Hennis, 'Die Rolle des Parlaments', p.212: "Die enorme Resonanz, die Leibholz' Thesen fanden....waren [sic] das erste Beispiel für die Leichtigkeit,mit der in Deutschland gegenüber Fundamentaleinsichten der modernen parlamentarischen Demokratie, ... Verblüffungseffekte erzielt werden können."
125 E.g. Oberreuter, p. 8: "Die Identifizierung der Demokratie durch Opposition ... bricht mit der liberalen Parlamentarismustheorie."
As Hennis' above derogatory use of the adjective 'kontinental-europäisch' betrays, the new system for the Federal Republic was perceived by him as being modelled on the British system. Indeed the first legislative period of the new republic was, at least superficially, characterized by a clear confrontation between government and opposition in parliament, with the opposition "performing in the classical parliamentary tradition". Politics became polarised to a large extent around the new catch-all CDU, which appealed to wide sections of the population, and the re-founded SPD, which was still to some extent ideologically based and relying heavily on its anti-Nazi record to attract support. This polarisation was particularly pronounced on some issues, such as foreign policy and the economy. The system was bipolar, no longer multi-polar, and did tend in time, as Sartori has suggested, to show centripetal tendencies.

The early trend towards a two party system has been noted by Lehmbruch who suggests that public opinion was in favour of such a system, and that this led to all ideas of an all-party coalition for the first government of the new republic being abandoned. The Basic Law did not make any specific mention of opposition, but Article 67 providing for a constructive vote of no confidence does imply a homogeneous opposition capable of producing an alternative

126 Kirchheimer, 'Germany - The Vanishing Opposition', p. 325.
127 'European Political Parties', p. 138.
128 'The Ambiguous Coalition in West Germany', p. 169.
government. In contradiction of Hennis' belief noted above, Kluxen comments that the drafters of the Basic Law were not thinking of the British model but more of avoiding a repetition of the Weimar situation. This is further exemplified by Article 20, which is seen as implying a division of powers. This shows that the British model of government/opposition counter-action as a substitute for the traditional separation of powers was not found acceptable. As already mentioned in reference to the status of parties in Germany, the inclusion of an institution in constitutional law has a considerable impact on its perceived legitimacy, and this has led constitutional lawyers and political scientists in West Germany to search for a "constitutional-legal warrant" for opposition. The fact that the term opposition is not mentioned in the Basic Law gains special comment from some authors, just as great importance has been attached to the fact that political parties are mentioned. Gehrig points out that the term opposition has been used only once in a German constitution, in the 1947 Baden Constitution, only once in a Federal German law and only twice in a German state (Land) law. Subsequently, the 1971 'Hamburger Verfassungsreform' recognised opposition as a "wesentlicher Bestandteil der parlamentarischen Demokratie" for the first time in positive constitutional law.

129 Kluxen, Introduction to 'Die parlamentarische Opposition', p.396.
131 E.g., Kluxen, Hereth, Gehrig, Schneider.
133 Schneider, p. 1.
However, in Gehrig’s view it is in any case evident that every loyal opposition must be constitutional, since this is implied in a democratic parliamentary system, and most especially in the fact that the Basic Law lays down that political parties should represent the popular will. In fact it might be a limitation on the freedom of the opposition to be defined as in the Hamburg constitution Article 23a (2): "Sie hat die ständige Aufgabe, die Kritik am Regierungsprogramm im Grundsatz und im Einzelfall öffentlich zu vertreten. Sie ist die politische Alternative zur Regierungsmehrheit.", since an opposition might be declared unconstitutional for not conforming exactly to this prescription. The principle of general freedom of opposition in the Basic Law, while not guaranteeing the actual existence of a parliamentary opposition or preventing all-party government, is still sufficient to make parliamentary opposition not only possible but necessary. There is an important 'normative difference' "zwischen dem „rechtsstaatlichen“ Erfordernis negativer Begrenzung und dem „demokratischen“ Anspruch positiver Gestaltung des politischen Prozesses." 134

It has already been pointed out that the German tradition of legalism and the concept of the Rechtsstaat can lead to constitutional law being regarded as prescriptive. Indicative of the influence of constitutional law and lawyers on the German idea of opposition is that parliamentary opposition may arguably be considered a 'Verfassungsaufgabe'. 135 Certainly, a verdict of the

134 Schneider, p. 21.
135 Ibid., p. 30.
Federal Constitutional Court of 1953 stating: "Es ist nicht nur das Recht der Opposition, außer ihren politischen auch ihre verfassungsrechtlichen Bedenken geltend zu machen, sondern im parlamentarisch-demokratischen Staat geradezu ihre Pflicht." 136 May be regarded as supporting this notion. It is seen as making constitutional objection a legitimate tactic of parliamentary opposition, indeed as making it the duty of opposition to take not only political but also constitutional considerations into account. 137

The attention still paid to parliamentary opposition by academic lawyers contradicts the view of Waldemar Besson that "Das Problem Opposition ist schon lange kein Problem des Verfassungsrechts mehr. Es ist eine Frage des politischen Stils und weit mehr noch eine Funktion der sozialen Entwicklung" 138. The question "Opposition als etwas Politisches oder auch als etwas Rechtliches und die Verfassungswirklichkeit rechtlich Gestaltendes?" 139 would appear to be still open. However, it may be argued that it is inappropriate to regard law and politics as separate, as two cultures, in the context of the Federal Republic, since they are so obviously inseparably fused and since legalism, and particularly constitutional legalism is such an important part of German political culture. 140

136 Schneider, p. 31.
137 Ibid.
140 Cf. Schneider, p. 19.
During the first years of the Federal Republic there was obviously an awareness among politicians and lawyers alike that the new political institutions had still to be shaped. Although, as already noted, there was noticeable polarisation around the two large parties, there were still a number of small parties in the Bundestag. The SPD had chosen to go into opposition in the Bizone administration and this arrangement was continued after the first Bundestag elections, although public opinion would probably have favoured a Grand Coalition. The SPD had been a serious contender for power but was also very aware of its new oppositional role and determined to make full use of it. Its leader, Kurt Schumacher, made the following statement at the beginning of the first Bundestag: "The essence of opposition is a permanent attempt to force the government and its parties by concrete proposals tuned to concrete situations to pursue the political line outlined by the opposition". This concept of the oppositional role is very much in tune with the description of the actual function of opposition given by those authors who consider it to be part of government and therefore part of the state. Statements of other prominent SPD members, such as the much-quoted reference by Carlo Schmid to 'der andere Beweger der deutschen Politik', were in similar vein. Franz Neumann also reaffirmed the belief that "im demokratischen Staat ist die Opposition der eine Teil, der kontrol-

141 Verhandlungen des Deutschen Bundestages, 1. Wahlperiode, Stenographische Berichte, p. 32.

lichernde, der mahrende, und die Regierung ist der andere Teil, der erfüllende" in his opening speech to the Berlin SPD conference of 17th January, 1951. However, the SPD opposition at this time could not be termed a 'continuous election campaign' - some commentators stress that all-out opposition was waged regardless of, almost in defiance of electoral considerations, and that it lost the SPD votes. On the other hand, this opposition was not Kirchheimer's 'opposition of principle' as has been implied by Geoffrey Roberts, since that is clearly defined as anti-system, or as Kirchheimer put it, as an opposition pursuing goals which are "incompatible with the constitutional requirements" of the system. This SPD opposition in the early days of the Federal Republic could better be termed 'limited structural', as although it sought to change the socio-economic structure it was loyal to the existing constitutional arrangements. A small amount of extremist opposition did exist for some years but never made much impact and was dying out even before the SRP and the KPD were found to be unconstitutional (and therefore 'opposition of principle') by the Federal Constitutional Court and banned.

The style of Schumacher's opposition was very vigorous, even polemical at times. It included the famous occasion when he called

145 'Germany - The Vanishing Opposition', p. 237.
146 Dahl's term in *Political Oppositions in Western Democracies*, p. 342.
Adenauer 'Kanzler der Alliierten' and many other stormy scenes in the Bundestag. On the other hand, the SPD opposition in the first Bundestag was an active participant in legislative and committee work and the initiator of much legislation. It rejected only a small percentage of legislation and was successful in fields other than foreign policy in bringing about modifications and compromises. This was in line with the German stress on 'law-making' as a primary function of parliament as a whole and also in accordance with Schumacher's opening statement on the role of the opposition as he saw it. Several authors point out that an important difference between the classical British model of opposition and the continental European concept is that the former participates little in legislation, while the continental opposition is much more 'constructive' and 'positive', often taking legislative initiative and working very hard in parliamentary committees to gain a 'share' in new legislation. This activity tends to blur the alternative-government function of the opposition and is impossible where the opposition has alternative and counter proposals to government policies.

In the area of foreign policy the SPD had no success in their attempts to 'force the government to adopt' their counter proposals, and their structural opposition to the social market economy proved an embarrassment once the system was seen to be working.

148 Hereth, Ch. 2; Kluxen, p. 397.
After the SPD suffered losses in the 1953 elections it at first continued in the same style, but as it became apparent that its ideal-type opposition was not working, it gradually gave up trying to oppose major government policies. Since the death of Schumacher there had been no distinctive 'leader of the opposition' capable of competing with Adenauer. The CDU was taking on the character of a permanent government party and becoming identified not only temporarily, but in some eyes permanently with the state. In this situation an opposition might either become extreme and reject the government and therefore the state, or might draw closer to the government in an attempt to share in the state. The SPD chose the latter course. It seemed to accept its role of permanent opposition, conceived its position as the representation of the minority and sought to participate as much as possible. The image of the party changed to suit new social realities and the Godesberg programme of 1959 is usually regarded as a turning point. Marxist/socialist terminology was dropped and a new ideal of an 'egalitarian consumer society' was adopted. Within a short time all attempts at an independent foreign policy were also abandoned in favour of 'Gemeinsam-

149 Anton Böhm, 'Notizen zur Analyse der bundesrepublikanischen Opposition', Wort und Wahrheit vol.13 (1958), p. 161, apparently still had some grounds for his comment: "Der Oppositionsstil von heute unterscheidet sich jedenfalls nicht mehr wesentlich von den Rede- und Schreibeexzessen in der Spätzeit der Weimarer Republik . . die Tendenz ist die gleiche: dem Volk soll beigebracht werden, daß es von Verrätern regiert wird, Verrätern an der nationalen Einheit und am Weltfrieden." This could well have been written by a member of the government side during the 6th Bundes­ tag, as will be apparent later.

keit'. As Kirchheimer put it: "The SPD consciously strove to eliminate parliamentary opposition as a desirable pattern for the conduct of political business." By 1961 it had given up the idea that opposition should mean alternative policies and reduced it to 'competitive' elements only. The new leader of the opposition, Willy Brandt, expressed the view that it is quite normal in democracies for party goals to be identical and for only priorities and methods to differ. The culmination of this new opposition strategy was the formation of the Grand Coalition in 1966, which with hindsight can be seen as part of the process of the SPD's transformation into an acceptable government party. At the time, however, this development was viewed with dismay by some observers, who expected the coalition to continue indefinitely, on the then Austrian model, with all opposition being eliminated except for mutually agreed 'Bereichsopposition'.

The situation of 'permanent' CDU government in the 50s and early 60s followed by the absorption of the opposition into the Grand Coalition was accompanied by an increasing 'Oppositionspessimismus' among German political observers. The fears of Otto Kirchheimer as expressed in his titles on the 'waning of opposition' and the 'vanishing opposition' have already been mentioned. He wrote of the decline

151 'Germany - The Vanishing Opposition', p. 243.
152 Ibid., p. 246 - 7.
153 Cf. p. 28.
and loss of function of opposition in the modern, industrialised, welfare state. It was claimed that the phenomena of social equalisation and assimilation, and of political and economic technicalisation and specialisation in modern states changed the traditional character of political controversy so that problems could be rationalised and solved in the 'pre-political arena'. Conflicts of interest were now mainly about sharing out the gross national product, it was alleged, and could be dealt with by state planning, direction and provision. In particular, the Federal Republic, having become highly prosperous so that economic and social differences were relatively slight and no longer the cause of sharp clashes of interest, was considered a prime example of such a 'modern, industrialised society' in which the opposition could no longer produce an alternative to government policy. Manfred Friedrich has suggested that there are now no 'born opposers' in the welfare state, so that government and opposition obtain their support from the same classes, and therefore represent identical interests.

While this is so, it does not necessarily rule out government/opposition alternative but reveals a conception of 'real' opposition similar to the 19th century European one of governed versus governing classes - a permanent opposition of 'reformist' classes, whose

154 See also Wilhelm Hennis, 'Parlamentarische Opposition und Industriegeellschaft', Gesellschaft, Staat, Erziehung 5, (1957) p. 205 - 222; and much later, Ernst Forsthoff, Der Staat der Industriegeellschaft. Dargestellt am Beispiel der Bundesrepublik Deutschland (Munich, 1971).

155 Cf. Schneider, p. 37.

156 'Opposition ohne Alternative?' in Kluxen, Parlamentarismus, p. 435.
function is to oppose but never to govern. Yet the 'classical' British pattern of government/opposition was not based originally in class differences but on policy and personnel alternatives.

Nevertheless, the lack of class differences between the parties in the Federal Republic of Germany was claimed, as early as 1956, by Wilhelm Hennis to be a possible danger to the parliamentary system of government: "Das parlamentarische Regierungssystem könnte in solcher Situation seinen Sinn verlieren; mit den weltanschaulichen und sozialen Spannungen geht auch ihm der Atem aus".\textsuperscript{157} Ernst Forsthofer was also of the opinion that the 'Entideologisierung',\textsuperscript{158} of modern catch-all-party systems left the opposition functioning as no more than a "taktische Positionsvariante" within the system and not as an alternative.\textsuperscript{159} In Kirchheimer's terms it was the decline firstly of 'opposition of principle' that was referred to; this, in his view, was then followed by the decline in possibilities for loyal opposition. Manfred Friedrich also saw no more possibility of oppositional alternatives in the modern state since the end of class differences meant that "in weiten Bevölkerungsgruppen das Bedürfnis schwindet, einen Regierungswechsel überhaupt noch zu vollziehen".\textsuperscript{160} His conclusion here is particularly pessimistic: "Unter

\textsuperscript{157} 'Parlamentarische Opposition und Industriegesellschaft', p. 222. Hennis later considered that there were still enough differences left for the system to function; see concluding section.
\textsuperscript{158} Cf. Daniel Bell, \textit{The End of Ideology} (Glencoe, 1960).
\textsuperscript{159} 'Verfassung und Verfassungswirklichkeit der Bundesrepublik', \textit{Merkur} vol. 22 (1968), p. 406.
\textsuperscript{160} \textit{Opposition ohne Alternative?} (Cologne, 1962), p. 104.
diesen Bedingungen ist die schwindende Differenzierung der Opposition von der Regierung ein unwiderrufliches Entwicklungsgesetz"\textsuperscript{161}.

The phenomenon of 'Oppositionspessimismus' can perhaps be regarded as part of the traditional German criticism of parties and parliamentarism, of which Ekkehart Krippendorff's "Das Ende des Parteienstaates?"\textsuperscript{162} is a good example. Krippendorff saw in the seeming impossibility of the government in office being removed, i.e., in its increasing ability to stay in office, an irreversible trend leading to the end of the European type of party state. He considered the party state was in fact "darauf angelegt, über das Instrument der Volkspartei sich selbst aufheben zu müssen, indem er die Bedingungen der Möglichkeit von Oppositionsparteien aufhebt".\textsuperscript{163} However, others including Friedrich, did foresee that although the modern, catch-all-party state puts limitations on what alternatives can be offered and leads to a stagnation in voting due to the similarity of government and opposition, the position in which the standpoints of government and opposition become identical may be very good for a smooth change of power, especially in the German context, since neither side need fear any upheaval from the success of the other.

\textsuperscript{161} Opposition ohne Alternative?, p. 97.
\textsuperscript{162} 'Das Ende des Parteienstaates?', Der Monat 160 (1962), p. 64 - 70; see also 'Ende des Parteienstaates?', Die neue Gesellschaft 13, (1966), p. 3 - 10.
\textsuperscript{163} 'Das Ende des Parteienstaates?', p. 67.
This is exactly the way in which a change of power was finally brought about in the Federal Republic and it reflects the stress put on the provision of continuity. An opposition must seek to provide an alternative method of continuing, or appearing to continue with previously accepted policies. The German need for continuity is pointed out by Otto Kirchheimer, who links it with the concepts of the state and of the party. He claims that the party is seen as an instrument for processing claims of individuals or groups on the state, but the state is still seen as an "objective value structure above and beyond all interest organisations and all parties". He further maintains that the parties' conception of their own role is as 'administrative-bureaucratic' rather than 'competitive-electoral' organisations. This was of course exemplified by the SPD opposition leading up to the Grand Coalition, which concentrated almost exclusively on universal bargaining to gain a share in administration, rather than on removing its rival from office.

The emphasis put on opposition participation in legislation, which, as already mentioned, is a constant feature and not specific to the later SPD opposition, is at least partly a result, or a reflection of the organisation of the Bundestag. Here the classification of parliaments as either a 'Redeparlament' or an 'Arbeitsparlament', terming the Bundestag one of the latter type, since there is so much more stress on committee work than on debate. Opposition influence

164 'Germany - the Vanishing Opposition', p. 253.
165 Die Parlamentarische Opposition, Ch. 2.
is brought to bear above all in bargaining during committee sessions and, as Hereth states elsewhere, "Die Kontroversenfeindlichkeit des Deutschen Bundestages ist . . . vielleicht sein vorherrschendes Merkmal geworden." Such statements as this may invite an attempt to classify Hereth's work under 'Das deutsche Unbehagen am "Parlamentarismus"', but it is indisputable that the organisation of the Bundestag did not recognize the existence of the opposition for a long time. There have been comparatively recent changes, but for the bulk of the life of the Bundestag the government benches were actually raised above the level of the rest of the house, thus emphasizing the fictitious separation of executive and legislature. The seating arrangements are generally unitary and in a horseshoe formation so that government and opposition are not sitting clearly divided or facing each other. The rules of procedure of the Bundestag were also made on the basis of government versus parliament as a whole. Until 1969 the order of speakers made no reference to the opposition, since the largest Fraktion spoke after the government. A minor parliamentary reform then laid down that a governmental speech was to be followed by an 'abweichende Meinung', but the new rule still did not use the term opposition. During discussions of the reform a government side speaker stated that the principal of allowing an oppositional speaker to follow a government one was

167 Ibid., p. 35.
168 Cf. Schneider, p. 41.
"staatsrechtlich ganz un­haltbar"\textsuperscript{169} and later declared: "Diese Um­stellung der gewollten Verfassungsordnung, der Ordnung, daß das Pendant zur Regierung das ganze Haus ist – Sie wollen, daß es die Opposition wird –, werden wir nicht mit­machen".\textsuperscript{170} After the forma­tion of the Grand Coalition the SPD were less interested in the re­form and the FDP, being perhaps particularly oriented towards the 'classical liberal' idea of the division of powers and the principal of the free mandate, did not press for the inclusion of the term 'opposition'. Having agreed on the use of the phrase 'abweichende Meinung', the procedural committee reported: "Von der Einfügung der Worte 'oppositionelle Meinung' hat der Ausschuß Abstand genommen, ausgehend von der Tatsache, das durchaus auch Mitglieder der die Regierung stellenden Fraktion eine von der Bundesregierung ab­weichende Meinung vortragen können".\textsuperscript{171} The fiction of the unity of parliament was therefore preserved, although it is interesting to note – and indicative of the ambivalence of attitudes towards parliament and parties in Germany – that a survey taken at about the same time showed a majority of members of the Bundestag in favour of a number of measures to strengthen the institutional position of the opposition.\textsuperscript{172} Nevertheless, the Fraktionen are still treated separately according to the Bundestag rules, which

\textsuperscript{169} Verhandlungen des Deutschen Bundestages, 5. Wahlperiode, Stenographische Berichte, p. 2320.
\textsuperscript{170} Ibid., p. 2321.
\textsuperscript{171} Verhandlungen des Deutschen Bundestages, 5. Wahlperiode, Drucksache V/4373, p. 7.
means that three out of four speakers can be from the government side (e.g., the speaking order would be as follows: government speech, opposition reply, larger government coalition party, smaller government coalition party). A concession was made to opposition during the Grand Coalition, however, when the tiny FDP opposition was allowed to reply first to government speeches, and this set the precedent for the later reform.

Although a pattern of government/opposition alternation seems to have developed in the Federal Republic, the position of the opposition is not as clear-cut as in a real two-party system. The Federal Republic is not a true two-party system, since the third party is not outside the government/opposition pattern (as in Britain or as it would be under a majority voting system). The FDP is in a pivotal position and could still be a possible coalition partner for either of the potential government parties, although it at present declares its allegiance in advance of elections. Gehrig has termed the Federal Republic a 'Zweigruppensystem' which approximates to a two-party system, except that the 'rule of the majority' principle can be ignored in certain circumstances. For example, the largest party can be forced into opposition by the other two parties outnumbering it together, although they may represent themselves to the electorate as two distinct parties. This opposition is not

'illegitimate' according to Gehrig, as the representative aspect of the system allows for the parties to decide how a government is to be formed, if the elections have failed to produce an absolute majority. A similar point is made by Kluxen. 175

With reference to this kind of system, the view expressed by several British authors that government is controlled by its own parliamentary supporters, especially backbenchers, more than by the opposition is restated by Robert Leicht, Norbert Gehrig and others. They point out that this is even more applicable to a 'two group system' with a coalition government, since coalition increases the likelihood of 'latent opposition' within the government and its parties. Leicht uses the terminology of Karl Löwenstein's Verfassungslehre 176 to describe the position of the government parties as potentially fluctuating between the roles of 'intra-organ control' and 'inter-organ control', i.e., they may control the government from within, or they may take the role of members of parliament to control from outside. 177 Parliamentary opposition also has this dual role; it opposes the government parties within the framework of parliament and it opposes and tries to replace the government as a separate organ. In unusual circumstances the opposition can profit from dissidence within the government camp but normally it can only criticise, participate, present itself as an alternative government

175 Introduction to 'Die parlamentarische Opposition', p. 393 - 400.
176 Tübingen, 1959.
177 Robert Leicht, Grundgesetz und politische Praxis (Munich, 1974), p. 73.
and await the next election.

As indicated, there was a time when the SPD seemed to accept its role of permanent opposition. Because of the way in which opposition developed, in Germany especially, it is often considered quite natural that the more 'conservative' elements should be in government and the more 'progressive' elements should be in opposition. For this reason it is particularly interesting to study the CDU/CSU opposition in the Federal Republic after 1969. The party's concerted effort to master the new role of opposition soon became apparent, but this proved to be a difficult task and resulted in a heightened awareness of the problems of opposition. There were in addition particularly controversial issues at stake. Thus the period of broadly-based government and minute, negligible opposition gave way to a new era of lively opposition, comparable to the post-war period of SPD opposition and this promoted new interest and a more optimistic approach to opposition among both politicians and political scientists. This change and the character of the revived opposition will be discussed in the following section.
1 \textit{1969 - 1972: the new political situation in the Federal Republic}

The period 1969 - 1972 proved to be the beginning of two very important processes for the Federal Republic of Germany: the development of an alternating parliamentary system of government and the reorientation of foreign policy to allow the Federal Republic to recognise itself as permanent. The critical nature of these processes will be illustrated in the main section of this study by a detailed examination of the CDU/CSU oppositional behaviour in the sixth Bundestag, with special reference to Deutschlandpolitik and Ostpolitik. In the present section it may be useful to set out some preliminary points of orientation regarding the situation of government and opposition in the Bundestag and regarding the nature of the policy areas in which they confronted each other.

2 \textit{The situation after the 1969 election}

The reaction of most observers of the German political situation to the result of the 1969 election is to view it as the long-awaited change of power, and as the beginning of a two party or two group alternation system.\textsuperscript{178} The first period of CDU/CSU opposition is

\textsuperscript{178} \textit{e.g.}, Lewis Edinger, 'Political change in Germany: the Federal Republic after the 1969 election', \textit{Comparative Politics} \textbf{2}, no. 4 (1970), p.549; Leicht, p. 7.
described as particularly lively, even as hostile, and frequently compared with the SPD opposition in the first Bundestag. The situation was in many ways roughly parallel. Each party was a newcomer to its role, for although the SPD had been in government just previously to 1969 - 72, it was its first experience of government leadership, while the CDU/CSU was totally new to opposition and had expected to be in government, just as the SPD had in 1949. The course of action of the opposition was similar in each case: a highly emotional and hostile, often personally very bitter confrontation in the areas of foreign policy and economic and financial affairs, desperate attempts to prevent government policy being carried out by calling upon the Federal Constitutional Court, and at the same time a great deal of legislative initiative and participation, not rewarded by the electorate, since legislation always tends to be attributed to the government. However, in the period 1969 - 1972 the hostility and bitterness of the opposition were less intense and much less general than in the 1950s, though similar in direction, again revealing old ideologically based differences, thought to have been overcome by the experience of the Grand Coalition.

Obviously, the first legislative period was viewed as a test of the new German parliamentary democracy, and this feeling returned in the sixth period when both government and opposition, but especially opposition, were perceived, and most importantly perceived themselves as on trial in their new roles.

It has been suggested that the opposition in the first legislative period might be termed 'limited structural'.\textsuperscript{180} This term could not be applied to the sixth period. On social policies the CDU/CSU opposition was generally both competitive and constructive, and finally cooperative, producing alternative and improved suggestions for legislation but often voting in favour of government drafts eventually. Some negative and obstructive tendencies were apparent in the opposition to economic and financial policies. This applies to some extent to the areas of Deutschlandpolitik and Ostpolitik, but the main characteristic in these cases might best be described as conservative. There can be no suggestion of 'opposition of principle' in parliament, where the adherence of both sides to the constitution and to overall long-term goals is frequently reaffirmed. Far from being anti-system, the CDU/CSU opposition has been criticised for too much concentration on preserving the system.\textsuperscript{181} There is, however, much confusion in the use of the phrase 'opposition of principle' or 'principled opposition'. Some authors do use it to describe the type of opposition to foreign policy found in the first and sixth legislative periods\textsuperscript{182} but this is not in strict accordance with Kirchheimer's definition mentioned above.\textsuperscript{183}

\textsuperscript{180} Cf. p. 49.


\textsuperscript{183} Cf. p. 49.
Foreign policy opposition may be regarded in many ways as a special case of opposition, and the classifications discussed earlier in this study do not cover the case of a loyal, constructive opposition which considers the fundamental orientation of government foreign policy to be wrong. In examining this kind of opposition during the first years of the Federal Republic, H. Kaack has suggested a classification of opposition according to the intensity of its activity in opposing matters of foreign policy. The initial SPD opposition is classed as 'antagonistic', since its basic concepts of foreign policy were not compatible with those of the government. Later, the SPD opposition became less antagonistic and is classed by Kaack as 'dialectic', since it retains differences with the government but is basically ready to compromise. When the SDU/CSU took over opposition in 1969 it was expected that it would take up this 'dialectic' position. However, it wavered between this and antagonism, due to the varying intensity of feeling in the different wings of the party. On balance the 'antagonistic' style prevailed, making foreign policy opposition in the sixth Bundestag comparable to that in the first. The intensity of this antagonism in each case can be related to the extent to which the policies concerned affected, or were perceived as affecting the question of German nationhood.

184 Cf. p. 66.
185 Cf. p. 17.
3 Opposition in the area of foreign policy

The period 1969 - 1972 was one dominated by foreign policy issues, and this is the area where the opposition is at its greatest disadvantage to government and where party differences are most difficult to explain to the electorate. The development of a credible alternative is not easy, since the world situation, the intentions and wishes of other countries, especially of the major powers, so condition foreign policy thinking that a course of action undertaken by a government may often be perceived as the only possible one. Further, the long-term nature of foreign policy decisions usually makes it impracticable for an opposition to offer to reverse a particular policy if elected to power at the next election. As it is accepted practice that foreign countries deal with governments and not with oppositions, no complete alternative foreign policy can be made effective. Important opposition figures are often invited to foreign countries for exchanges of views, but there is obviously no possibility of binding agreements. The reaction of a foreign power to an opposition's foreign policy can only be a matter of conjecture. However, foreign policy is less the preserve of government than previously so that, while

189 Rudolf Hrbek, Die SPD, Deutschland und Europa (Diss. Tübingen, 1968), p. 370.
alternatives may be impossible to put into effect, oppositional influence may still be of great importance. The oppositional tendency to propose an 'ideal' foreign policy programme may in fact bring about modifications of government policy.191

4 'Gemeinsamkeit' in foreign policy in the Federal Republic

In the sixth Bundestag, one main line of government defence against opposition criticism was to demand to know the alternative and to suggest that the opposition was not fulfilling its function of providing one. As so much of the major criticism concerned foreign policy matters, the task of the opposition was a difficult one, and not only for the reasons mentioned above. There had long been a prevailing conception in the Federal Republic that this is one area in which a united government-opposition front should be presented to the world,192 especially in view of fierce 'external' opposition from the DDR. According to Hrbek, the Anglo-Saxon conception of bipartisanship was felt to be appropriate to the situation in the Federal Republic, especially since the latter was considered a 'penetrated system'.193 External influences were perceived to be so strong that only one course of action is left open - the one

191 Hrbek, Die SPD, Deutschland und Europa, p. 370.
matching the general climate in international relations. In this way there can be great pressure for 'Gemeinsamkeit', a situation favouring the exertion of opposition influence but not the presentation of opposition alternatives.

The concern for political stability in the Federal Republic has meant that 'Gemeinsamkeit' in foreign policy and other matters has been found particularly attractive. The arguments in favour of government-opposition cooperation on foreign policy have been set out by Hrbek as follows: 1. this is internationally approved as a guarantee of foreign policy continuity and a sign of reliability, 2. foreign policy is an area needing flexibility and cannot be covered by party programmes, 3. opposition against foreign policy could deter international partners, 4. government negotiators are in a better bargaining position with full parliamentary support. Further, in the German context joint foreign policy may be considered better for democracy, since there is wider participation and since the government demonstrates that it sees the opposition as an alternative government; the opposition can demonstrate its loyalty to the state, facilitating a change of power, and joint responsibility avoids the repetition of a stab-in-the-back legend and of accusations that one side or the other is not acting in the national interest. These last points illustrate the reaction against the

German experience of 'nothing but opposition' under the Weimar Republic.\textsuperscript{195}

It is pointed out in the same article by \textsuperscript{195}Hrbek that confrontation over foreign policy might equally well be considered positive for democracy, since more public discussion ensues and issues are more clearly drawn. Further, the responsibility lies on one side only, leaving the other to exercise some amount of control. Action may perhaps be more quickly possible in a confrontation situation where no time need be wasted in trying to find a common government-opposition stance. However, these points must be rejected if the conditions suggested by \textsuperscript{195}Hrbek as being favourable for 'Gemeinsamkeit' are to be accepted.

These conditions are as follows: the government and the opposition should agree on the structure of the political system and on alternation in office, each trusting that the other is sincere and capable; both sides should be prepared to put nation before party. In the case of the Federal Republic there is certainly consensus on the political system and on the principle of alternation. In particular, each side in parliament is careful to affirm its belief in the basic sincerity of the other, although each, in trying to prove its superiority tends to use language reminiscent of ideological differences of the past. While this might be unremarkable

\textsuperscript{195} Cf. p. 39.
elsewhere, it is of some significance in the West German context because, as statements in the Bundestag continue to show, it is found unacceptable by the other side as a weapon in democratic conflict. Many examples of this tendency will be given later. The question of putting nation before party is also a vexed one in the German context, since the overriding problem has been the definition of the nation.

If the above conditions are accepted then it follows that the achievement of 'Gemeinsamkeit' in foreign policy is very closely linked with the successful functioning of liberal democracy and of institutionalised opposition, since all are said to depend on very similar factors. All are associated with a particular political culture and particular political attitudes, among them trust towards others, a readiness to compromise and a pragmatic approach to problems. Further, a fairly homogeneous two or near-two party system is more likely to favour 'Gemeinsamkeit' than a multi-party one. Lastly, much depends on the kind of foreign policy problem in question. Hrbek points out that if too many internal problems are involved it will be difficult for government and opposition to cooperate. In fact, one main difficulty regarding 'Gemeinsamkeit' in the sixth Bundestag was the ambivalence of attitudes towards it; this will be discussed at a later point in this study.

196 Cf. p. 10 ff.
197 Hrbek, 'Außenpolitische Gemeinsamkeit', p. 455; see also Dahl, Political Oppositions in Western Democracies, p. 352.
Characteristics of foreign policy opposition in the Federal Republic

In the case of the Ostpolitik and Deutschlandpolitik of the Federal Republic of Germany from 1969 - 1972, it is particularly difficult to make any distinction between problems that are foreign and those that are internal, since the geographical area to which the political system itself applies was felt to be in question. This involves the recurring problem of the identity of state and nation in Germany and is one main reason why the opposition to these policies has been chosen for closer examination in this study. Until 1969 the official point of orientation of the Deutschlandpolitik of the Federal Republic had remained the goal of a reunited German state. Of course, it can be argued that the Westpolitik pursued by Adenauer was diametrically opposed to this, but the official stance remained 'reunification through strength'. The 1969 - 1972 period saw a reorientation of the Deutschlandpolitik of the new government which had the immediate effect of facilitating progress in the Ostpolitik already begun by previous governments. More broadly speaking however, the Brandt government sought to resolve the tensions created by the disparity between the official, legal position of pursuing the goal of a reunited Germany and the 'real' position of pursuing other goals, such as West European integration, which were opposed to this. The concept of reunification was retained only in a weakened form to mean the reunification of the nation, and it was made clear that a reunified German state was no longer possible. The central question for the opposition during this period was whether or not it was prepared to accept this reorientation. Its attitude
may be termed 'conservative' in as far as it sought to retain the previous official orientation. 198

However, the main reason for the high level of conflict between government and opposition in the area of Deutschlandpolitik and Ostpolitik between 1969 and 1972 was not so much the new abstract orientation as the more concrete matter of treaty politics. The conclusion of treaties can be particularly disruptive for internal politics, since treaties often deal with important changes in relationships and may affect emotionally charged issues so that a situation of 'dissonance between external and internal "realities"' is created. 199 As already mentioned this dissonance had existed since the early days of the Federal Republic and the treaties concluded by the Brandt government served merely to sharpen public awareness of it. Nevertheless, some parallels can be drawn to the German reactions to the Versailles Treaty and these will be discussed as they arise in the next section.

Similarly emotional and disruptive issues had been at stake in the 1st legislative period, but even then both sides spoke in favour of cooperation in foreign policy, although this proved impossible because basic concepts differed too greatly. 200 As an example of the incompatibility of government and opposition positions, Hrbek

199 Roberts, p. 438.
quotes various phrases used by the leader of the opposition and by another prominent opposition foreign policy speaker. Kurt Schumacher termed Adenauer's foreign policy 'außenpolitische Klassenpolitik' and Gerhart Lütkens spoke of 'eine von der Wurzel aus falsche Außenpolitik'. Yet in a speech in 1951 Lütkens appealed for more cooperation in foreign policy. He emphasized that it was the duty of the government to take responsibility for foreign policy, but also to consult the opposition and take its standpoint into account. In his view more cooperation might have been possible if the opposition had been able to force more foreign policy debates, had received more information and had been allowed more participation. On the other hand, he argued that it was the duty of the opposition to take up a counter position to that of the government and that this should not permit the government to describe the opposition as purely negative.

Lütkens' arguments are somewhat confused but it is interesting to note that they are similar to those of the later CDU/CSU opposition. It also appealed constantly for more information and blamed the government for the lack of cooperation on foreign policy; above all, members of the 1969 - 72 opposition felt that an unduly negative role was being imposed upon them by the government. They had chosen to confront the government on Deutschlandpolitik and Ost-

politik and found that the government was using this to gain increased sympathy. What justification there was for this will be discussed later.

A further characteristic of the foreign policy opposition common to both the 1st and 6th legislative periods was the use of hostile and divisive language. Adenauer was accused of following anti-German, anti-European and pro-French policies and of encouraging private capitalist manipulation. His ideas on West European integration were called 'conservative, clerical, capitalist and cartellistic'. Similar rigid dogmatism is evident in the opposition's terms for Brandt's policies: anti-German, anti-European and pro-Soviet policies which would bring the Federal Republic 'to the entrance of the Soviet system'. In each case the government replied in similar vein with accusations of communism or Nazism, so that foreign policy debates often took on an ideological fixation. Some authors claim that this style of abuse was initiated and deliberately maintained by the CDU/CSU government during the early years of the Federal Republic. Certainly it was in Adenauer's interest to exaggerate ideological differences between government and opposition as this kind of polarisation increased solidarity within the governing coalitions. The use of abusive remarks on both sides poisoned the

203 Cf. p. 89.
204 Hereth, p. 129; see also H. Hannover, Politische Diffamierung der Opposition (Dortmund, 1962).
political atmosphere so that every difference of opinion led to hostility and threatened to destroy the basis of democratic discussion. Hereth points out that one reason for the use of this political style was the special nature of the main object of contention: foreign policy. As already mentioned, this is a particularly disruptive area in the German context since it touches upon the questions of German nationhood and statehood. In the discussion of such questions the latent but traditional ideological differences in German politics reappear and become rigid. This situation has been referred to by Dahrendorf as follows: "Uneinigkeit in nationalen Fragen ist . . . ein Kampf absoluter Ansprüche, es gibt keine Kom- promisse . . . Hier verlangt jede Position im Grunde die bedingungslose Konversion des Gegners. Differenzen in nationalen Fragen schaffen ein nahezu atemberaubendes, nämlich tödliches Klima der inneren Politik".206

A further main reason for this abusive political style is said to be the lack of basic agreement on the limits of parliamentary controversy. If rational debate is to be possible, neither side must feel at a disadvantage institutionally and each must regard the other as an opponent but not an enemy. German authors suggest that the Bundestag is particularly given to the kind of sharp attacks and noisy scenes which make considered discussion impossible.207 In fact the British parliamentary debates are often much

206 Gesellschaft und Demokratie in Deutschland (Munich, 1965), p. 29.
207 E. g., Hereth, p. 128.
sharper and much more noisy, and this does not necessarily prevent
discussion, since the insults and accusations are perhaps more good-
humoured, or at least not taken so seriously, and are not loaded
with connotations from the past. The German feeling that this kind
of political controversy is unacceptable reflects a lower level of
conflict tolerance, due to the relatively recent existence of pro-
found ideological cleavages in German society.208

Due to strong anti-communist feelings in the Federal Republic,
especially in the early years, the CDU/CSU government was able to
denounce the SPD opposition as 'klassenkämpferisch' and therefore
dangerous to democracy.209 If the opposition went against majority
opinion it might be accused of being against the democratic order.
The government suggested that the opposition could endanger the
state by opposing government policies at a time when the foreign
policy situation was critical, especially as the East German regime
would be delighted to see the coalition in danger. Hannover has
pointed out that defamation of the opposition was the standard
government tactic in the foreign policy area.210 Opposition to
foreign policy was denounced as treason and, until about 1960, the
SPD was accused of communism and of supporting Soviet policies or
acting in the Soviet interest. Franz-Josef Strauß is singled out
by Hereth as a brilliant exponent of the art of defamation.211

208 Cf. Dahl, Political Oppositions in Western Democracies, p. 367.
210 Politische Difamierung der Opposition, p. 35.
211 Die parlamentarische Opposition, p. 131.
An example of this is Strauß' assertion that if the SPD rejected atomic weapons for the Bundeswehr they would be 'handing over the Federal Republic to the Communists without a struggle'.

This hostile and bitter atmosphere was also present at the personal level during the period when the SPD was in opposition. Herbert Wehner was subjected to personal attacks because of his communist past. The government made Wehner's career a "Symbol sozial-demokratischer Ostverdächtigkeit". Later the opposition chancellor candidate, Willy Brandt, was also subjected to government abuse because he had gone into emigration during the Third Reich.

As already mentioned there was to some extent a revival of this political style in the 6th legislative period, although much of the more extreme abuse occurred originally outside the Bundestag and was then brought up for discussion there at a later date. In the following section of this study the part played by each side in parliament in this 'defamation' campaign will be discussed, and an attempt will be made to show how this style was adapted to the change in roles which had taken place.

212 Hereth, p. 132.
6 The change of roles in the 6th Bundestag

As stated above, the 6th Bundestag marked a turning point in the history of the Federal Republic both in internal politics and internationally. By some commentators a real change of power is considered to have taken place, while others claim that the new government had to be regarded as just another variation of the changing government coalitions, until the decisive change of power was reached in 1972, when the SPD at last received the largest number of votes. In some quarters doubt was cast on the legitimacy of the 1969 change, since the largest party was no longer in government. However, a clear change did take place as far as the role of opposition is concerned, since this was taken over for the first time by the CDU/CSU, a party never before out of government and firmly identified with government and with the state.

The change of government coalition was made possible by a number of factors: the recent SPD government experience, the precedents set at Land level of SPD/FDP coalitions, the changes in FDP orientations, especially in the areas of Deutschlandpolitik and Ostpolitik. Studies have shown that in the 1969 election the FDP lost mainly right wing votes to the CDU/CSU, due, above all, to the change in foreign policy attitudes; the CDU/CSU lost some votes to

215 e.g., Edinger, Hrbek.
216 e.g., Kaltefleiter, Leicht.
the SPD through a decline in the traditional voting adherence of urban Catholics and rural Protestants. The whole climate of opinion in 1969 was favourable to the SPD taking over government leadership. The CDU/CSU electoral emphasis on security and reassurance was no longer as attractive as previously, while the SPD projected a modern and forward-looking image which appealed to the electorate. According to Edinger the 1969 election was the first time that the two major parties could really, not only theoretically, compete for office. The change which took place was not critical and there was no sharp party realignment, no polarisation, and no substantial shift in voting. The transition was a gradual one from the government point of view, but a sudden one for the opposition. The new role situation of the two major parties was favourable to a more election oriented confrontation in the Bundestag than ever before and spelt the end of the Bismarckian tradition of separation between parliament and government. The notion of parliament as a body controlling the executive finally ended in the 6th Bundestag and the role of opposition became clearly identified with the Fraktion of the CDU/CSU. However, the concept of legitimate parliamentary opposition was not well established in the

218 J. Herz, Introduction to Comparative Politics 2, no. 4 (July 1970); Kaltefleiter, 'The Impact of the Election', p.597.
219 'Political Change in Germany', p. 552.
220 Ibid., p. 572; see also Pridham, 'The CDU/CSU Opposition' p.208.
political culture. One survey taken prior to the 1969 election found that 69% of voters felt that opposition should support rather than criticise government.²²¹ In view of this Edinger suggests that it was questionable whether the new opposition could perform the functions of criticism of government, representing some interests of disaffected social groups and demonstrating its potential capacity for better government. This last function was likely to be particularly difficult for the CDU/CSU since it lacked cohesion and contained some centrifugal elements which could endanger its solidarity now that government responsibility was lost.²²² In fact "The move to the role of Opposition proved to be the decisive turning point for renewal in the political and organisational development of the CDU/CSU"²²³, as Geoffrey Pridham has demonstrated, but this renewal was not yet apparent during the life of the opposition in the sixth Bundestag, where the "immediate reaction ... was one of almost total disorientation".²²⁴ Initial suggestions on solving the problems of the new role of the CDU/CSU were soon published by a number of authors, notably by members and ex-members of the party. These introspective works revolve mainly around the un-

²²¹ Max Kaase, Determinants of Voting Behaviour in the West German General Election of 1969, unpubl., Institut für Sozialwissenschaften Mannheim, p. 6 (quoted by Edinger, 'Political Change in Germany', p. 577).


²²³ Ibid., p. 188.

²²⁴ Ibid., p. 189.
suitability of the CDU/CSU party structure and self-perception to the role of opposition, with suggestions for reform, or are attempts to clarify an opposition programme. However, little concrete progress was made and issues became, if anything, more confused. A basic ambivalence of approach was a notable feature of these works:

There was also a shortage of time for considered renewal and reform, due to the premature dissolution of the sixth Bundestag and more particularly to the preoccupation of the opposition with the political crisis preceding it: "Schließlich waren im 6. Bundestag in dem Moment alle guten Vorsätze vergessen, als das Ende der Oppositionsrolle für die CDU/CSU nahe herbeigekommen schien." As will be shown in the following section of this study, the behaviour of the CDU/CSU opposition to the Ostpolitik in the sixth Bundestag was not only determined by the nature of the issues involved and by the traditional character of the party and of the Bundestag itself, but to a large extent also by its reluctance, if not refusal, to accept its new role.

228 Ibid.
A The period preceding the Moscow Treaty of August 1970

1 Introductory sitting

The consciousness of a test situation for German parliamentary democracy was present from the beginning of the 6th Bundestag. In his introduction to the first sitting, Alterspräsident Borm (FDP) referred to the duty of politicians to better their image and to encourage a more realistic attitude to politics and to history. He expressed regret that the job of a politician was still not very highly regarded in the Federal Republic of Germany, and particularly that government was always more highly regarded than opposition. Borm emphasized the relationship between opposition and democracy by saying: "Auch totalitäre Staaten haben ihre Regierungen. Die Opposition und ihre gewährleisteten Möglichkeiten sind das Kriterium wahrer Demokratie". With the political style of earlier years in mind he called for an end to the use of such defamatory expressions as 'Verzicht', 'Vaterlandsverrat' and 'Herbeiführung des Untergangs', which had been heard during the election campaign.

1 Verhandlungen, 6. Wahlperiode, p. 2.
2 Ibid., p. 3.
On the state and authority, Borm advised the young to remain critical of authority, and then pointed out that nothing is more contrary to the intention of the Basic Law on parties than to equate one's own party with the state. He warned his audience to remember the period 1933 - 1945 and to consider the situation in the 'other part of our nation'.

This speech is characteristic of the new situation in the 6th Bundestag and is directed mainly at the new CDU/CSU opposition. The central points of later criticism are already touched upon: reluctance of the CDU/CSU to accept its new role, its tendency to use hostile language with ideological and historical overtones, its identification of itself with the state. While these points all have validity, it is interesting to note here that the opposition has already been cast in a role which is potentially advantageous for the government, before it has even spoken in the new Bundestag. Borm's remarks also illustrate a continuing awareness of the sensitive context of politics in the Federal Republic: doubts are expressed about the political culture and German totalitarian regimes past and present are held up as a warning.

Such remarks are, of course, not unusual in the Bundestag, but it should be remembered that the most important statements and debates discussed here were televised, so that remarks addressed ostensibly only to the house in fact reached a much wider audience. Also, appeals to 'preserve democracy' had not been aimed so credibly at the opposition since the 1st Bundestag. It might be assumed that

3 Verhandlungen, p. 3.
the presence of cameras would increase the likelihood of a 'continuous election campaign' in parliament, and the extent to which this applies to the opposition and to the separate parties will be discussed later. One tendency is already apparent here: the FDP practice of prescribing desirable oppositional behaviour and political style while reminding the house (and the public) of Germany's political traditions and recent political history.

2 The government declaration and the debate following

The first activity of the CDU/CSU opposition in the Bundestag came during the government declaration. Chancellor Brandt was constantly interrupted by Barzel, who as leader of the opposition Fraktion was soon to emerge as the natural counterpart to the Chancellor and eventually to become opposition Chancellor candidate. This interruption, which was not usual during such prepared statements, gave the impression that the new opposition intended above all to oppose. The crucial points of the declaration were that while the DDR would not be recognized in international law, there were two German states which were not foreign countries for each other. Renewed interruption from Barzel followed this and brought a characteristic government comment from Brandt: "Ach wissen Sie, Sie müssen sich noch angewöhnen, auch einmal einer Regierungserklärung zuzuhören . . ." This kind of remark was, of course, made on both sides but was particularly effectively used by the government side to cast the opposition as reluctant and lacking

4 Verhandlungen, p. 24.
in appreciation of its proper function. However, it seems unlikely that any defamation was intended in Brandt’s counter to opposition campaign statements about the ‘end of democracy’: "Wir stehen nicht am Ende unserer Demokratie, wir fangen erst richtig an". Here Brandt was presumably referring to the change of power and likely development of a system of alternation, but the CDU/CSU took him to mean that their years in government had not been democratic.

The opposition reply was more in the nature of an opposition declaration. Barzel emphasized the ‘German’ goals of self-determination and the recognition of human rights. He declared that the opposition was ready to cooperate in all matters of national importance. It should therefore by kept fully informed and its opinions should be considered by government decision-makers. These claims, maintained Barzel, were particularly valid since the CDU/CSU was numerically the strongest Fraktion, and since Kiesinger had been the preferred chancellor of 46.1% of voters according to polls. - This is the first of many such statements illustrating the opposition’s perception of the situation as illegitimate. As mentioned above, it did not acknowledge having lost the election and interpreted the results as a mandate to continue the previous cooperation in foreign policy. For its part, the government claimed that it was continuing the foreign policy of the Grand Coalition.

5 Verhandlungen, p. 34.
6 Ibid.
7 Ibid., pp. 37 - 46.
8 Cf. Loewenberg, p.402.
With reference to the CDU/CSU conception of the role of opposition, Barzel stressed that the opposition also has responsibility for the state, should be critical but not purely negative, should be ready to suggest alternatives or improvement to government policy and should be included in important questions such as German policy. The intention to introduce its own legislative programme and not to be 'merely opposition' was made clear. The CDU/CSU intended to compete with the government in the field of concrete legislation. The competitive element is illustrated by Barzel: "... wir werden sehen ..., wer schneller ein besseres mehrheitsfähiges Städtebauförderungsgesetz vorlegt, die Koalition oder die Opposition". This is one aspect of the approach which has been termed 'quasi governmental'.

The opposition tactic of questioning the constitutionality of government foreign policy, which later culminated in the use of the Federal Constitutional Court, was already hinted at in this first opposition statement. Barzel referred to the omission of the word reunification from the government statement and to the two-state theory as being incompatible with the imperative contained in the preamble of the Basic Law. He saw the change in the ministry name from 'Gesamtdeutsche Fragen' to 'Innerdeutsche Beziehungen' as a

9 Verhandlungen, p. 38.
10 Ibid., p. 40.
11 Ibid., p. 39.
12 Cf. p. 185 ff.
further indication that the government had abandoned the goal of reunification. This was the first of many occasions on which the government was accused by the opposition of breaking with continuity and with 'Gemeinsamkeit' by no longer proceeding on the basis of the joint declaration of September 1968. Here again, there were opposition demands for clarity and for increased information.

The reply by Mischnick for the FDP Fraktion was along the lines already indicated as characteristic for the FDP. Mischnick welcomed the change of power as a great step forward for Germany, but expressed regret that not everyone took the government/opposition change of roles for granted. Wehner's reply for the SPD then took up the opposition objections to Brandt's statement that democracy had only just begun: "Es ist doch eine Anerkennung auch der Rolle der parlamentarischen Opposition, wenn vom Bundeskanzler gesagt wird: 'Unsere parlamentarische Demokratie hat 20 Jahre nach ihrer Gründung ihre Fähigkeit zum Wandel bewiesen und damit ihre Probe bestanden. Dies ist auch außerhalb unserer Grenzen vermerkt worden und hat unserem Staat zu neuem Vertrauen in der Welt verholfen' ". This reflects the importance of international approval for the Federal Republic, both in internal and foreign affairs. Later the government was to use the widespread approval of its foreign policy as a defence against opposition objections, and the opposition, by quoting for its part examples of international disapproval, accepted the argument as valid. International considerations are also used

13 Verhandlungen, p. 43.
14 Ibid., p. 57.
15 Cf. p. 66.
by Wehner in this speech to justify the change in adjectives from 'gesamtdeutsch' to 'innerdeutsch': English and French speakers, he explained, confuse 'gesamtdeutsch' with 'großdeutsch', which is embarrassing. 16

These contributions from the government side contain elements of the special political style of the Federal Republic conditioned by German history: preoccupation with democracy at home and international opinion abroad. As mentioned above, the first of these elements, particularly, had been successfully used by CDU/CSU governments to discredit the opposition 17 and was now turned to SPD/FDP advantage in the 6th legislative period. The first example of this is Brandt's reply to Barzel in this debate. The Chancellor said that he would welcome the cooperation of the opposition, but warned that behaviour such as that of CSU chairman Strauß was not acceptable, since his statements outside the Bundestag, and especially abroad, were in a different style to those inside. Brandt referred to what he termed 'nationalistically motivated' remarks by Strauß made in North Carolina, accusing the Brandt government of 'Ausverkauf nationaler Interessen' and to Strauß' use of the Bayernkurier, which in Brandt's words ".. Hugenberg in den Schatten stellt". 18 - This is the first really provocative remark in the 6th Bundestag and it came from the Chancellor himself, bringing a cry of 'Verdammt Dreckschleuder' from the opposition. 19 This was

16 Verhandlungen, p. 60.
17 Cf. p. 76.
18 Verhandlungen, pp. 63/64.
19 Ibid.
the pattern followed by many later, similar incidents, when the opposition was asked to explain or retract accusations made outside parliament. As already stated, this style of controversy reveals the underlying ideological divisions of German political history and is felt to be damaging to democratic politics in the Federal Republic.²⁰

On this occasion the opposition called for an adjournment to allow tempers to cool, but contrary to usual practice the government opposed the request and a vote was taken. Misunderstandings during the voting left the whole house in uproar, giving a very stormy and disorderly impression of parliamentary procedure. However, apologies eventually followed so that the debate could continue, albeit in very hostile mood, with ideological accusations unabated. Strauß objected to the word 'nationalistic' being used about him and pointed out that he would not describe the SPD as communists.²¹ He then hinted at Brandt's emigrant past by reminding his audience that he, Strauß, had had to stay and fight during the war.²² In reply, Brandt quoted the latest headline from the Bayernkurier as a further example of Strauß' defamation tactics: 'Brandt als Kanzler des Ausverkaufs'. He then read from the article claims that the SPD was too weak to "take a stand against the second Versailles, the programmed destruction of German economic power" and was "moving the Federal Republic towards the entrance to the Soviet system".²³

²⁰ Cf. Hereth, Die parlamentarische Opposition, p. 132.
²¹ Verhandlungen, p. 70.
²² Ibid., p. 71.
²³ Ibid., p. 72.
Although no concrete issues have yet been discussed, these first speeches of the 6th Bundestag already reveal the antagonistic atmosphere which often prevailed. Over-sensitiveness on both sides is evident, but government use of opposition 'defamation attempts' is probably to be regarded as mainly tactical. At this early stage the CDU/CSU perception of the role change as illegitimate put great pressure on the government to justify itself and to prove its superiority. Its method is not direct 'defamation of the opposition', as described by Hannover, but is a more indirect approach, using the language of the more extreme sections of the opposition to establish a connection with previous anti-democratic German opposition, especially where explicit comparisons with the Weimar period are made, as above. It seems that this method was still felt to be effective after 20 years of the Federal Republic, since the whole political system was a conscious attempt to avoid a repetition of the Weimar situation.

The debate itself in the 6th sitting referred to above reflects the opposition interest in foreign policy. The opposition requested that this area be discussed first and was represented by ex-Chancellor Kiesinger. In his speech he returned first to the recent election, claiming that the result was the same as always; the CDU/CSU had been returned as the strongest party, and the impression of a huge swing in voting given by some foreign media was totally inaccurate. In fact the decision on government and opposition roles had been made by the FDP, a party with only about 5% of the votes cast.24

24 Verhandlungen, p. 74.
This again reaffirms the opposition conviction that it had not lost the election. - On the CDU/CSU conception of the role of opposition Kiesinger quoted the words of the first leader of the opposition in the Federal Republic, Kurt Schumacher, in the 1st Bundestag: "Das Wesen der Opposition ist der permanente Versuch, in konkreten Tatbeständen mit konkreten Vorschlägen der Regierung und ihren Parteien den positiven Gestaltungswillen der Opposition aufzuzwingen". 25

This exactly describes the CDU/CSU behaviour in matters of concrete legislation. As has been shown by Veen, 26 the CDU/CSU approach to legislation was first of all competitive, in that the initiative was taken, sometimes forcing the government to produce its own draft on the same matter; then the opposition often dropped its own initiative and became constructive, attempting to carry amendments and additions; even where this failed the opposition was often still cooperative, voting in favour of the government draft. However, as mentioned above, this is only one aspect of the attitude of the opposition. The other aspect was referred to by Kiesinger later in the same speech when he said that the opposition would 'be fair in waging war', 27 a remark to which the FDP objected. Dorn (FDP) retorted that if Kiesinger spoke of 'war' in the context of parliamentary politics, his conception of democracy must be very different to that of the FDP. 28 This remark again reflects a low tolerance for any suggestions of political conflict reminiscent of the Weimar 'nothing but opposition', as did the speech the next day by Genscher, who stressed the dangers of hostile relationships in politics. On

25 Verhandlungen, p. 79; Cf. p. 48 above.
26 Die CDU/CSU Opposition.
27 Verhandlungen, p. 74.
28 Ibid., p. 81/82.
foreign policy, Kiesinger repeated accusations that the government had broken with continuity and abandoned the goals of reunification and self-determination. He also questioned the compatibility of the two-state theory with the refusal to recognise the DDR in international law and warned that hopes of goodwill from the Soviet Union were illusory. Other opposition speakers continued in a similar fashion; a typical example of the sincere, outright opposition to government Ostpolitik and Deutschlandpolitik by some members of the CDU/CSU was von Guttenberg's statement that he was 'very much dismayed' at the two-state theory and had grave doubts about the government's juggling with formulae and ambiguous concepts. However, the opposition approach to Ostpolitik and Deutschlandpolitik at this stage could not yet be described in Kaack's terms as 'antagonistic', but rather as 'dialectic', since the possibility of compromise was present, and each side professed to favour it.

The 'antagonistic' approach of each side to the other was much more marked in the earlier exchanges concerning political style and oppositional methods, but these did continue into the foreign policy discussion proper. Also most opposition 'defamation' was concerned at least indirectly with Ostpolitik or Deutschlandpolitik (e.g., Strauß had used the expression 'Ausverkauf' to refer to monetary policy, but the connotations are clear.). The terminology itself makes the parallel with the Weimar period inescapable, but this parallel is unacceptable. As Fraenkel has pointed out, the

29 Verhandlungen, p. 91.
30 Cf. p. 65.
The memory of deep divisions of an ideological nature, claims Fraenkel, may have contributed to an 'aversion to conflict' and to the fact that the Germans cannot "safely afford to bicker" because they are not "so sure of their own moderation that they are not dangerously disturbed by the never ending din of political conflicts!".

3 Opposition use of question time and the right of initiative

The first question period dealing with foreign policy was to be dominated by a small number of opposition questioners asking a number of related questions and supplementary questions in order to probe into the details of a particular topic. This tactic was used in most foreign policy question periods by the opposition and was very effective in demonstrating the CDU/CSU concern in particular areas, notably in showing its representation of expellee and refugee interests, which it could claim had been abandoned by the government, since there was no longer a separate ministry to deal with these matters. The CDU/CSU specialists in this area, such as Czaja, Becher,
von Guttenberg, von Fircks and von Wrangel submitted a very large proportion of all questions relating to it. Their questions in this first period related to the refugees' and expellees' 'Recht auf Heimat', to the necessity for consultation with these groups prior to any territorial changes that might result from the government's intended talks with Poland.

Following this questioning, another opposition foreign policy specialist, von Weizsäcker, proposed a motion that the Bundestag committee on German affairs should retain the concept of 'all Germany' and be called the 'Ausschuß für gesamtdeutsche und Berliner Fragen' and not be changed to 'innerdeutsche Beziehungen' corresponding to the new ministry name, as the government intended. Von Weizsäcker argued that 'gesamtdeutsch' reflected the undeniable fact that Germans on both sides of the border are conscious of belonging together. The term was not intended to keep illusions alive but to serve these goals: "Grenzen durchlässig zu machen, den überlebten Nationalstaat uneingeschränkter Souveranität zu überwinden". Von Weizsäcker then reaffirmed the opposition's wish for cooperation as under the Grand Coalition and its dislike of turning national questions into a 'polemisches Schlachtfeld', a remark which received applause from all sides. He claimed that although there was general impatience for the German question to be settled, no responsible politician would consider accepting the division of the nation.

36 Cf. Loewenberg, p. 414.
37 Verhandlungen, p. 261.
38 Ibid., p. 262.
The opposition motion was defeated, but the CDU/CSU intention to oppose any break with the policies of the Grand Coalition had been made clear. This use of an opposition initiative rather than simply of an opposition vote against the government proposal is an early indication of the approach which Kaltefleiter has termed governmental and is an expression of the CDU/CSU intention not to be 'merely opposition', but to seek to obtain a majority for its views. The attitude of the opposition is already conservative here in seeking to retain previous terminology, and a main catch phrase of later opposition to the Brandt/Scheel Ostpolitik, 'Grenzen durchlässig machen', is already current here.

The following question time was used in a similar fashion by the opposition to the previous one. A number of questions designed to express the opposition's mistrust of Soviet intentions regarding European security were asked, with Becher and von Guttenberg again prominent in pointing out that any agreement with the Soviet Union was bound to involve accepting Soviet German policy. Further matters of security were discussed in the next sitting, when the first major initiative of the 6th Bundestag, the opposition's 'Große Anfrage' on the Nuclear Non-Proliferation Treaty was dealt with. The opposition accused the government of intending to sign without consulting them and therefore not showing the professed 'Willen zur Gemeinsamkeit in lebenswichtigen Fragen'. This is the first example

39 Cf. p. 185 ff.
40 Verhandlungen, p. 277.
41 Ibid., p. 307.
of the opposition's reaction to the government's 'treaty politics'. Although a multilateral treaty cannot be regarded as similar to the bilateral 'Ostverträge', the CDU/CSU opposed the signing with some vehemence. Their interpretation was that Soviet hegemony in Europe would be cemented.\textsuperscript{42}

The familiar pattern is repeated by the SPD speaker Fläming in that he refers immediately to opposition statements outside the Bundestag, which illustrate the Weimar-type style of opposition. He quotes a newspaper 'very close to the CSU' on the results of the Federal Republic's signing the treaty: "Die Gefährdung der Arbeitsplätze, die Kontrolle der deutschen Industrie, die ungeklärten Kostenfragen würden die deutsche Position auf dem Weltmarkt entscheidend treffen".\textsuperscript{43} A further quote from the same source draws an explicit parallel to the German reactions to the Versailles treaty and shows the continued legacy of the SPD's part in the early days of the Weimar Republic: "Wieder wird es ein Sozialdemokrat sein, der einen verhängnisvollen Vertrag unterschreibt. Beim Versailler Vertrag spielte der SPD Kanzler Bauer diese tragische Rolle. Jetzt ist Willy Brandt in seinen Fußstapfen getreten".\textsuperscript{44} The government side is again using the more extreme statements of the opposition to its own advantage. Fläming points out that if the Federal Republic does not sign, the impression will be created that she wishes to make her own nuclear weapons, although Barzel\textsuperscript{45} and Birrenbach\textsuperscript{46} make

\textsuperscript{42} Cf. Roberts, p. 438.
\textsuperscript{43} Verhandlungen, pp. 311/312.
\textsuperscript{44} Ibid., p. 312.
\textsuperscript{45} Ibid., p. 316.
\textsuperscript{46} Ibid., p. 327.
the concrete objection to the signing that a new relationship be­
tween the Federal Republic and the Soviet Union would be created,
which would not be compatible with the Soviet Union's continued
right of intervention according to the United Nations statutes.

There is little chance for this to be discussed since the next
government side speaker (Schultz, FDP) again quotes opposition
opinions published outside parliament and claims that the CDU/CSU
does not admit to these opinions in the Bundestag. An article by
Strauß in the Bayernkurier is cited, which illustrates a mistrust
of government dealings, felt to be unhealthy in the German context:
"Brandt, der große Meister der unverbindlichen Ausdrucksweise,
pflegt die Tugend der Zweideutigkeit".47

As on every occasion on which aspects of government foreign poli-
cy are discussed, the opposition asks for more information. In this
instance, regret is expressed that a press conference had been told
of the imminence of talks with the Soviet Union on a non-agression
agreement before the Bundestag had been informed. - It was the usual
practice throughout the 6th legislative period for information on
actual steps in government Ostpolitik and Deutschlandpolitik to be
given through press conferences and interviews. Sometimes the house
was informed later, sometimes it was not formally informed at all.
This is probably a reflection of the concept of parliament as a
legislative body primarily, rather than as a representative body,

47 Verhandlungen, p. 337.
and of the Bismarckian tradition that ministers are not part of the house and therefore do not inform it. The Brandt/Scheel government continued in the tradition described by Loewenberg for ministers to turn to the media and bypass the information/communications function of parliament.48

It can be seen that the opposition made full use of question time and of its right of initiative in forcing debates as far as foreign policy is concerned. As already mentioned, it possessed a large number of experts in this area who tended to dominate opposition efforts in plenary sessions.

4 The 'Bericht zur Lage der Nation', 1970, and the debate following

The government's 'Bericht zur Lage der Nation im gespaltenen Deutschland' is traditionally the occasion for a lengthy and comprehensive debate on a variety of major topics. The Chancellor gave the report in the 22nd Sitting of the 6th Bundestag49 in which he stressed the government's belief in the continuing idea of the German nation, but also the necessity of facing up to the reality that the Federal Republic and the DDR are no longer provisional but permanent. The main aim of the government's German policy, he said, must be to preserve the freedom of the part of Germany that is free, or, in the words of Golo Mann: "Die BRD muß sich selbst anerkennen".50

48 Parliament in the German Political System, p. 391; See also Bagehot on the 'informing function' of parliament, pp. 152/153.
49 Verhandlungen, p. 839.
50 Ibid., p. 843.
In the debate which followed the next day Kiesinger, still the main opposition foreign policy expert, replied with a summary of the history of the German question as he saw it. Again this was an opposition statement rather than a direct reply. The sceptical words of Goethe and Schiller: "Zur Nation euch zu bilden, ihr hofft es, Deutsche, vergebens; Bildet, ihr könnt es, dafür freier zu Menschen euch aus", said Kiesinger were proved wrong in 1871, when Bismarck successfully united the German nation, and this Bismarckian state is the basis of our present day national consciousness. For this reason, a report on the German nation should consider German history, especially the history of the last 20 years of effort by the Federal Republic to solve the German question; the whole history of the renunciation of force which had begun with the Deutschlandvertrag. Further, the main present obstacle to any efforts should be mentioned: the Brezhnev doctrine. Kiesinger’s main objection to the report, however, was that it said nothing of the aim of unity of nation and state in Germany. This, he claimed, is no longer consistent with the 1968 joint resolution, which declared that the realisation of German self-determination through the reunification of Germany under a liberal democratic constitution must be the centre of German policy. - The theme of continuity was thus repeated here by Kiesinger, as he demanded to know what had changed since September 1968 to make the government now give up the aim of a unified German state. After issuing warnings about using confusing and misleading formulations concerning the recognition of the DDR as a state but not as a foreign country, and about the intentions

51 Verhandlungen, p. 851.
52 Cf. Loewenberg, p. 402.
of the Soviet Union, who must demand concessions in return for the renunciation of force, while probably still retaining their rights of intervention according to the U.N. Charta, Articles 53 and 107, Kiesinger dismissed the possibility of the DDR having an independent policy, since she had recognised, and indeed acted upon the Brezhnev doctrine. He reaffirmed the opposition's wish to join in a common foreign policy with the government, but his condition was: ".. dann müssen Sie als Ihr Ziel nicht nur die Bewahrung der nationalen, sondern die Erreichung der staatlichen Einheit der deutschen Nation setzen!" 53

As already mentioned, this point of contention arose throughout the 6th Bundestag, especially as concrete actions in the form of treaties clearly showed the government standpoint. This particular debate was extremely long, giving speakers of each side a chance to repeat their respective positions. Each accused the other of destroying the unity of parliament on German policy, although there were no sharp exchanges until a disagreement about the length of time allowed for Strauß to speak caused opposition anger. The presiding member was accused of being "unfair to the largest Fraktion" and of preventing Strauß from speaking. 54 The reason for the dissatisfaction is that the rules of procedure of the Bundestag still recognise the Fraktionen and the government separately, 55 leaving the opposition only one long speech in reply to the report (that

53 Verhandlungen, p. 857.
54 Ibid., p. 874.
55 Cf. Loewenberg, p. 397.
of Kiesinger), while the government side had spoken previously in
the guise of the Chancellor, and then again when Wehner and Mischnick
spoke for the SPD and FDP Fraktionen. The CDU/CSU now chose to see
the speech by Kiesinger as a reply to the Chancellor and demanded
the rights of the opposition as a body rather than rights for their
Fraktion.

When the debate resumed, Strauß spoke at some length, covering
the same ground as the previous speakers, but in a more 'ideological'
fashion. He warned of confronting 'weltrevolutionärer Kommunismus
und russischer Imperialismus', saying he would not use the term
Rapallo, since the situation is different; but the rest of the world
would use it. After warning the government of Moscow's intentions
in Europe, and pointing out that in view of European history since
the end of the war the Russians are not to be trusted, he stressed
that their mentality is so different to that of the West that it is
foolish to act in the same way as with a Western power, giving ad­
vance concessions as Adenauer's Westpolitik had done. As an example
of the use of the same words in different conceptual systems Strauß
points out that one of Molotov's demands at Potsdam was for a
'peace-loving, democratic and unified' Germany.57

Strauß further accuses the government of leaving the basis of the
joint resolution of September 1968 and of breaking its word on the
non-recognition of the DDR as a second German state.58 In reply to
similar government tactics, he quotes Brandt 'defaming the oppo-

56 Verhandlungen, p. 899.
57 Ibid., p. 901.
58 Ibid., p. 903.
sition' by saying that while the Federal Republic is stable and democratic it had avoided radical breaks with the past and is thus "gegen Rückfälle in ein schwarz-weiß-rot-braun-Denken nicht völlig gefeit". Such a remark, maintained Strauß, reflected "die Geschichtslosigkeit des Kanzlers". This expression is immediately reminiscent of the earlier campaign against Brandt and is one of many which seem to confirm Hereth's comment on the style of Strauß. Insults at a personal level are used as a counter-weapon to the constant government insinuations of continuing CDU/CSU nationalism related to National Socialism.

On the subject of Deutschlandpolitik and Ostpolitik Strauß points out the confusion caused by the government formula 'staatsrechtliche Anerkennung: ja, völkerrechtliche Anerkennung: nein', and warns that the Soviet Union will not understand that the Federal Republic has made a full offer of concessions prior to negotiations and will expect to gain further concessions from negotiation. Again Strauß stresses the dissimilarity of Ostpolitik and Westpolitik, and seems to regard the government's approach as naive and illusionary, since, according to him, the only realistic stance is a deep mistrust of the Soviet bloc.

A brief reply by Brandt rejects the term 'Geschichtslosigkeit' and emphasizes that he does identify with the history of Germany

59 Verhandlungen, p. 904.
60 Cf. p. 77.
61 Die parlamentarische Opposition, p. 131.
62 Verhandlungen, p. 904.
by quoting a speech of his from 1960: "Wir können aus unserer Ge-
schichte ohnehin nicht austreten". A further, and very lengthy
collection of contributions to the accounts of German history is then given by
Carlo Schmid (SPD), who traces the question of the unity of the Ger-
man nation during the previous centuries. He expresses regret that
due to German historical experience the words 'Nation' and 'Vater-
land' are now the cause of embarrassed smiles. Schmid stresses
that "Nation ist ein Produkt des Willens" and that this is the only
way in which the unity of the German nation can be preserved.

The fact that each side contributed lengthy historical accounts
of the German question underlines the importance of the yearly de-
bate on the 'Lage der Nation' in clarifying the positions from
which government and opposition derive their attitudes towards
German policy and therefore towards foreign policy as a whole. Most
of the debate is felt to be about Deutschlandpolitik and Ostpolitik,
and this reflects the inseparability of these policy areas from the
question of German nationhood.

It has already been noted that the opposition to foreign policy,
both in major debates and in question periods tends to be monopolised
by a few experts. The fact that Bach (CDU/CSU) made a maiden speech
during the debate on the 'Bericht zur Lage der Nation' is unusual.
Very few maiden speeches were made during the 6th Bundestag, in

63 Verhandlungen, p. 907.
64 Ibid., p. 909.
65 Ibid.
66 Ibid. p. 923.
spite of the relatively large membership turnover (as compared, for example, with the British parliament). The speech by Bach on Deutschlandpolitik and Ostpolitik echoed familiar opposition views: that it would be best for the whole German nation if an all-party agreement on these policies could be worked out, that the opposition did not like to hear the previous 'Gemeinsamkeit' in these areas questioned. He again accused the government of leaving the joint standpoint on foreign policy and of abandoning the goal of reunification, and then quoted a Brandt interview in which the Chancellor had said: "I must admit I've stopped speaking about reunification." This, said Bach, was tantamount to rejecting the Basic Law. 67

Bach's comments on the roles of government and opposition also coincide with the views of other CDU/CSU politicians mentioned above. 68 He sees the separation of powers as ideally between government and parliament, not as between government and opposition, and considers that the government party should be the main control over the government and not "ein Kampfverb and zur Freikämpfung der Regierungsstraße". 69 As will be discussed later, events showed that the 'back-benchers', especially of the smaller coalition party, did prove to be the ultimate control over the government. 70 However, this control was exercised by defection to the other side, rather than by influence from within, as has been suggested by Crossman. 71

67 Verhandlungen, p. 924.
68 E.g., Barzel.
69 Verhandlungen, p. 924.
70 Cf. p. 22.
71 In Introduction to Bagehot, pp. 43 - 44.
The debate on the 'Bericht zur Lage der Nation, 1970' continued in the next sitting\(^\text{72}\) with an attack on the opposition by Apel (SPD). He accused them of 'cold war-mongering'\(^\text{73}\) and of clinging to illusory ideas of Ostpolitik and Deutschlandpolitik. A reply by von Weizsäcker criticized the government for lack of clear ideas in these fields which made cooperation difficult. He stressed that the two sides must work together in national questions even now the Grand Coalition has ended, and also assured the government that any opposition criticism was intended for the good of the nation and not as an attempt to damage the government.\(^\text{74}\) In general, von Weizsäcker's speech was conciliatory and a critique of government methods rather than a rejection of government policies. This was pointed out by Hoersch (FDP), who found no basic disapproval in this opposition speech.\(^\text{75}\)

It is notable that all the opposition speakers appeal for a return to government-opposition cooperation on Deutschlandpolitik and Ostpolitik, but on the basis of the Grand Coalition policies. Both sides assume, it seems, that 'Gemeinsamkeit' is desirable and the opposition agrees on the basic aims of government policy. However, it charges the government with the responsibility of showing why any change from the September 1968 resolution has been made. It does not accept that the election result is sufficient reason, since it does not accept that it lost the election. Further, as Barzel points

\(^{72}\) 16th January, 1970; Verhandlungen, p. 931.
\(^{73}\) Verhandlungen, p.932.
\(^{74}\) Ibid., p. 938.
\(^{75}\) Ibid., p. 939.
out, the electorate was led to believe that the SPD still adhered to the policies of the Grand Coalition.

The CDU/CSU opposition could claim to represent some expellees' interests in that constant pressure was applied in questions on the subject to the government. These questions were asked mainly by experts, but opposition leaders also took care to mention expellees in important debates. In this case, Barzel states that decisions in Ostpolitik and Deutschlandpolitik should be discussed with expellee-group representatives in advance. To emphasize that the SPD is no longer so concerned with these groups as in previous years, he quotes a statement from *Koexistenz - Zwang zum Wagnis* (1963) by Brandt that the Oder-Ueisse line could only be dealt with in a final peace treaty. In this way, the opposition can attempt to show a lack of continuity in government policies and claim to represent a disaffected minority, in this case the expellees. Barzel made it clear that the opposition was interested in the people 'actually affected' by the government's Deutschlandpolitik and Ostpolitik, when he ended by setting a new condition for opposition approval: "Wenn Sie etwas für die Menschen herausholen, dann wird diese Opposition dem zustimmen." 77 This condition was to be repeated at every stage of government policy. Barzel added a summary of what the opposition disapproved of: the two-state theory, the change from 'gesamtdeutsch' to 'innerdeutsch', the change in political presence in Berlin, the signing of the non-proliferation treaty. He then offered opposition support on the basis of the SPD 'Grundsatzprogramm' 78 in an attempt to show the extent of

76 Verhandlungen, p. 953.
77 Ibid., p. 955.
78 Ibid., p. 958.
government 'deviation'.

The less tactical and more sincere opposition of von Guttenberg was again displayed here. He expresses some disappointment that the policies of the Grand Coalition were not being continued, and goes on to say that the great change is that for the first time a German government is talking of recognising a second German state. This, he says, is a very basic difference between government and opposition since "bei der Frage nach der Anerkennung eines zweiten deutschen Staates stehen nicht Methoden, sondern ... eine Grundsatzposition freiheitlich, rechtstaatlich demokratischen Denkens auf dem Spiel." This kind of opposition thinking on basic orientations of Deutschlandpolitik and Ostpolitik has tempted some authors to call the CDU/CSU opposition 'opposition of principle'. Guttenberg further argues that a unified German state is the logical consequence of the right of self-determination, as long as Germans in the DDR have not chosen to become a second state. He appeals for a 'national' social-democratic movement and ends with an expression of regret that the first SPD government for 40 years "in einer entscheidenden Frage unserer gemeinsamen deutschen Politik eine bisher unbezweifelte Gemeinsamkeit ohne Not verlassen hat."

In the debate on the 'Bericht zur Lage der Nation, 1970' the opposition showed clearly that its approach was a conservative one. The doubts and fears it expressed were concerned with changes in the official basic standpoint of the Federal Republic's Deutsch-

79 Verhandlungen, p. 962.
80 Cf. p. 64.
81 Verhandlungen, p. 964.
landpolitik and Ostpolitik, with the consequent lack of government-opposition 'Gemeinsamkeit' and with the dangers to West German democracy which could result from these changes.

5 The 1970 budget and finance debates

The next foreign policy discussion was due to take place during the 33rd Sitting but was preceded by controversies during the first two days of the 1970 budget debate (31st Sitting, 19th February, and 32nd Sitting, 20th February, 1970). As already mentioned, the area of finance was the other sphere in which the CDU/CSU opposition took up an antagonistic stance in plenary sessions. On this occasion the policies of the Finance Minister, Möller, are criticized sharply by the opposition and Defence Minister Schmidt launches a counter-attack in which he quotes statements made by Strauß in a speech at Vilshofen. Strauß had allegedly said of the Minister of Agriculture: "Ich sage nicht, daß er ein Verräter ist; denn für den Verrat fehlt ihm die Erkenntnis für die Rolle die er gespielt hat." On Ostpolitik and Deutschlandpolitik he had accused the government of selling out one German position after the other 'zu Schleudern-

Strauß had been particularly outspoken against the government on this occasion and throughout the 6th Bundestag the word 'Vilshofen' was used by the government side to stand for 'Weimar-type' opposition. In return, the CDU/CSU adopted 'Bielefeld' to stand for government 'defamation' of the opposition, since Brandt had been sharply critical of extreme right-wing opposition on that occasion.

Verhandlungen, p. 1405.
preisen'. Schmidt's most serious accusation against Strauß was that he had criticized a government negotiator while talks with the Soviet Union were in progress by saying that it made his hair stand on end to see "wie der dilettantische Amateurdiplomat über Fragen verhandelt, von denen die Zukunft Europas abhängt."  

On this occasion then, the government side turned the debate towards Ostpolitik and again used examples of unacceptable opposition style in their own defence. They maintain that the opposition should be answerable for statements made outside, as well as inside, parliament. In the course of the debate they faced further general criticism about lack of continuity, credibility, transparency and were said by Wörner (CDU/CSU) to be using a 'fog of formulations' either to hide their true purpose, or for lack of clearer ideas. Wörner alleges "Auch in der Außenpolitik ist doch jener Verbalismus Trumpf", and further claims that lack of clarity and of prompt information have caused the end of 'Gemeinsamkeit' in this field. Again the government answer by Brandt refers to Strauß' remarks about Bahr; Brandt points out that Bahr recently defended Strauß in Moscow against accusations of fascism, and this causes uproar among the opposition. Nevertheless, at the end of his speech, Brandt stresses the duty of the government and the opposition to try to reach as much agreement on foreign policy as possible.

84 Verhandlungen, p. 1405.
85 Ibid.
86 Ibid., p. 1476.
87 Ibid., p. 1479.
88 Ibid., p. 1483.
The FDP made a similar contribution to that of previous debates by referring to the situation of the CDU/CSU in opposition. Addressing the opposition, Moersch expresses the hope that German democracy can function "wenn Sie nicht in die Attitude der Staatspartei und des ewigen Machtausübens zurückfallen wollen." The SPD also referred to the attitude and style of the opposition, especially regarding Deutschlandpolitik and Ostpolitik, but the CDU/CSU maintained that these areas should not be discussed until the agreed date.

The planned discussion on foreign policy took place during the next Sitting as part of the continuation of the finance and budget debate. Foreign Minister Scheel gave an account of the government's aims, and in a reply for the opposition, Barzel made it clear that the CDU/CSU supported these aims, but not the methods of the government. He formally declared opposition support for talks with East Berlin, but warned against recognising the DDR in international law. In general the opposition complaint was of a lack of timely information to parliament, while the press was always first to be informed. This showed the lack of government desire for cooperation, claimed Barzel, and warned that without a broad basis German Ostpolitik and Deutschlandpolitik might not be taken seriously by the rest of the world. However, he declared the opposition in favour of the talks with the Soviet Union and said: "wir würden es begrüßen,

89 Verhandlungen, p. 1497.
90 E.g., Wehner, Verhandlungen, p. 1512.
91 Verhandlungen, p. 1556.
92 Ibid., p. 1561.
wenn ein Gewaltverzichtsvertrag zustande käme.\textsuperscript{93} The main opposition concern, he stressed, was that the right of self-determination for all Germans should be upheld,\textsuperscript{94} and he repeated the offer made by the opposition on 29th October, 1969.\textsuperscript{95} Shortly after this the FDP took up a now familiar stance and appealed to the opposition to give up its approach of confrontation in favour of cooperation: "Die Außenpolitik eignet sich nicht für polemische Auseinandersetzungen... Verzichten Sie auf Polemik, unterstützen Sie die Regierung, und arbeiten wir gemeinsam für den Frieden dieses Volkes."\textsuperscript{96}

So far, these budget discussions show the continuation of several trends already observed. The government use of the more extreme opposition statements to discredit the CDU/CSU style continues. The repeated opposition call for information to be given to parliament before it is given to the press and other media illustrates an important aspect of the Bundestag: the tendency for the information/communications function of parliament to be by-passed in favour of an approach more in line with the plebiscitary elements of German constitutional tradition.\textsuperscript{97} The feeling that 'Gemeinsamkeit' is appropriate for West German foreign policy is reflected in the statements from all parties in favour of cooperation of government and opposition and against confrontation, which is seen as undesirable and not in the national interest. The opposition's statements on

\textsuperscript{93} Verhandlungen, p. 1560.
\textsuperscript{94} Ibid., p. 1561.
\textsuperscript{95} This was: "Wir bieten auch in aller Form die Möglichkeit an, in den Lebensfragen der Nation zur Kooperation aller zu kommen."
\textsuperscript{96} Achenbach (FDP); Verhandlungen, p. 1569.
cooperation and on general approval of the aims of the Ostpolitik and Deutschlandpolitik seem to suggest Kaack's 'dialectic' approach at this stage, at least from the tactical CDU opposition led by Barzel.

Differences of opinion within the opposition are apparent when Strauß speaks of government policy in much more negative terms than Barzel. He raises the question of the constitutionality of the Ostpolitik and Deutschlandpolitik and defends the use of this opposition weapon, given the SPD precedent. He is able to quote both earlier statements by Brandt and authoritative legal opinion in support of the view that recognition of the DDR in international law would be contrary to the 'reunification imperative' contained in the Preamble to the Basic Law. Strauß repeats the opposition objections to government policy that it was playing into the hands of the Soviet Union and conceding too much too soon. He further pointed out - quite correctly, of course - that whatever formulations were used, the world would interpret government moves as recognition of the DDR. It is symptomatic of the situation of the CDU/CSU, faced as it was with the new position as opposition and the new direction of the Ostpolitik, that Strauß should also mention his concept of the role of the opposition as regards this policy. He concludes that the only feasible role is to control and to criticize. The CDU/CSU alternative, he says, is the step-by-step approach in Ostpolitik used previously. - It can be seen here that Strauß is in line with

98 Weinkauff, former president of the Bundesgerichtshof.
99 Verhandlungen, p. 1572.
the conservative approach in Ostpolitik and Deutschlandpolitik on this occasion and is not using the 'style of Vilshofen'. His assertion that the opposition intend to control and criticize is echoed later by von Wrangel, who declares that "die CDU/CSU in diesem Hause keine Zustimmungsopposition sein wird." Von Wrangel expresses opposition fears about the course the government is taking and warns that it may lead to "weniger Frieden, weniger Sicherheit und weniger Freiheit in Deutschland." Later, Kiesinger issues a warning along the same lines and stresses the possibility of a permanent forfeiture of the German right of self-determination.

After the appeal earlier in the debate by Achenbach for an end to confrontation in foreign policy, the FDP again show low conflict tolerance when Mischnick criticizes the opposition for choosing to debate Ostpolitik and Deutschlandpolitik again so soon, when negotiations are going on and when no new developments have taken place. He expresses doubt about the opposition's desire for cooperation in view of Strauß' attitude and in view of the opposition's political style, and he makes a further appeal to the opposition: "Es sollte endlich aufhören . . daß Sie die Deutschlandpolitik als innenpolitisches Hauptkampffinstrument benutzen;

100 Verhandlungen, p. 1584.
101 Ibid., p. 1585.
102 Ibid., p. 1610.
103 Ibid., p. 1612.
104 Ibid., p. 1613.
105 Ibid., p. 1615.
denn das ist das schlechteste, was der Deutschlandpolitik, was der Ostpolitik überhaupt passieren kann." This expression of distaste at the increasing polarisation over the Ostpolitik enhanced by the efforts of each side to brand the other as extreme and therefore unacceptable to the voters of the centre has been attributed by Leicht to the aversion to conflict in German politics. As already mentioned, conflict on issues of such national importance as the Ostpolitik is felt to be especially harmful, according to Dahrendorf. It is interesting to note here that Dahrendorf appears to have retained this opinion. In this debate and as a Junior Minister in the Foreign Ministry he makes a speech applauded largely by the opposition only, which gives some indication that he cannot remain in office long.

Some sections of the SPD Fraktion, as represented by Wehner and Apel, were less concerned with avoiding conflict. Wehner's remark: "Ich brauche keine Opposition" had immediately been taken up by the opposition as proof that the government had no intention of seeking cooperation and was cited frequently in debates in the 6th Bundestag. In this 1970 budget debate, Apel, an SPD member who was prominent in foreign policy debates and who generally displayed a hostile attitude towards the opposition, also seems to reject the

106 Verhandlungen, p. 1615.
107 Grundgesetz und politische Praxis, p. 80.
108 Cf. p. 75.
109 Verhandlungen, pp. 1579 - 80.
110 In an interview with 'Der Spiegel', 26th January, 1970.
opposition expectation of being included in foreign policy decision making. The CDU/CSU, says Apel, must accept what Kiesinger had said in 1958: "Das ist einfach die Übung, und zwar deswegen, weil überall in der Welt die Regierungen das Recht haben, Außenpolitik zu machen, und das Parlament sich darauf beschränkt, die Regierung dabei zu kontrollieren." This is the point already discussed in the previous section and one which the opposition found hard to accept, as their 'governmental' approach illustrated.

Towards the end of this debate it is made clear by such opposition speakers as von Guttenberg, Czaja and Becher that the CDU/CSU claim to represent expellee interests and to be concerned above all with the human element is to be maintained. An emotional speech by Becher illustrates the strength of feeling on the subject of the former German territories and the deep mistrust of Soviet intentions in Europe felt in some quarters. Czaja declares that the opposition emphasis is on the people directly affected by the Ostpolitik and finally Barzel sums up for the opposition as follows: "Üs geht es um die Anerkennung der Menschenrechte. Wenn es das zu besiegeln gilt, fragen wir nicht nach der Farbe der Tinte und der Form des Unterschriftenformulars."

111 *Verhandlungen*, p. 1616.
112 Cf. p. 66.
113 According to Hacke, one exception was Schröder, who did accept this viewpoint: Hacke, p. 61.
114 *Verhandlungen*, p. 1619.
115 Ibid., p. 1621.
116 Ibid., p. 1640.
117 Ibid., p. 1638.
In the opinion of the opposition the debate showed that no co-operation was possible but, in spite of this, the government concludes by suggesting that as the opposition admit they agree with government aims, and as they apparently have no alternative to government methods, they should give the government their support while negotiations are in progress. The opposition position is still that a more conservative approach would be preferable, but there is now great stress on progress in human terms. The CDU/CSU show some tendency now towards 'ideal' foreign policy in hoping that such an approach could achieve an 'Anerkennung der Menschenrechte'. In spite of all the criticisms and objections they make, there is still no definite rejection of the SPD/FDP Ostpolitik and Deutschlandpolitik at this stage. Efforts continue to make opposition influence felt and to improve the ability of the opposition to do this.

6 The Erfurt and Kassel meetings

On 20th March, 1970, Brandt made a statement to the Bundestag about his meeting with Stoph in Erfurt the previous day. This was

118 Verhandlungen, p. 1636.
119 Ibid., p. 1646.
120 Cf. p. 67.
121 E.g., questions by von Fircks, Czaja, Verhandlungen, p. 2076, and by Schulze-Vorberg, Verhandlungen, p. 2077.
122 On the possibility of funds for opposition publicity, the CDU/CSU press the claim that "die Opposition in einem demokratischen Rechtsstaat der Regierungskoalition gleichwertig ist"; Verhandlungen, p. 1774.
the first official mention of the meeting in parliament and is a further indication that the informing function of the Bundestag is unimportant. The Erfurt meeting had been very significant for the relationship between the Federal Republic and the DDR, and Brandt claimed that his reception had proved that the German nation was still a reality. The exchange of opinions, he said, had been worthwhile, and this gave cause for some optimism about the second meeting planned in Kassel. The opposition reply was in the form of a statement by Barzel declaring that the CDU/CSU had supported the Erfurt meeting and had done nothing that might spoil or prevent it. The emphasis on retaining the goal of self-determination and on increased freedom for the people of the DDR was repeated. The opposition considered the Erfurt meeting important, said Barzel, "denn dieser historische Vorgang wirft doch die Frage auf, wie wir unsere Staatlichkeit und unsere geschichtliche Kontinuität begreifen. Eine Nation, die aufhört, ihre Einheit zu wollen, gibt sich selbst auf. ... Ein Rechtsstaat, der geltendes Recht als politisch hinderliche Zwirnsfäden abtut, hört auf Rechtsstaat zu sein". Barzel warns further that membership in the United Nations of the two Germanies "wäre ein Verstoß gegen das Grundrecht auf Selbstbestimmung" which the opposition could not support.

Barzel also made a statement in reply to Brandt's report of a visit to Washington. On this occasion the opposition objection to

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123 Cf. p. 111.
124 Verhandlungen, pp. 2089 - 2091.
125 Ibid., p. 2091.
126 Ibid., p. 2094.
further moves in the Ostpolitik was that Berlin should first be settled. Other points of emphasis were that NATO and US troops were important for security, that mistrust of the EC in the United States must be dispelled and, again, that more information on the talks with the Soviet Union should be forthcoming. It was stated that the opposition intended to submit a 'Große Anfrage' on foreign policy, Ostpolitik and Deutschlandpolitik but were willing to wait until after the Kassel meeting. The opposition was concerned, said Barzel, that since the Erfurt meeting a German-Russian communiqué of 22nd March, 1970, had stated that the talks should be based on 'der in Europa bestehenden wirklichen Lage', while the English version had spoken of the 'status quo'. The opposition considered that the open German question was part of the status quo and wanted clear answers on the recognition of borders, the recognition of the DDR in international law, the ratification of the non-proliferation treaty, Berlin and the Munich agreement. If realities are to be faced on these questions, stated Barzel, then the reality of one German nation, a people not prepared to give up its right of self-determination, must also be faced. On Poland, the opposition pledged support for a real settlement but not for a mere formula; as far as the Kassel meeting was concerned, they were not optimistic, but were prepared not to obstruct it in any way.

For the FDP, a statement was made by von Kühlmann-Stumm, who re-

127 15th April, 1970; Verhandlungen, p. 2130.
128 Verhandlungen, p. 2131.
129 Ibid., p. 2132.
minded the house of US objections to the Ostpolitik and of the section of the US Congress favouring withdrawal from Europe. These and other reservations about the Ostpolitik received opposition applause and shouts of approval from Barzel and Kiesinger, again indicating the breadth of opinion within the FDP. The SPD Fraktion was represented by Wehner, who attacked the opposition with such names as 'Madjigmacher-Union' and 'Schrei-Union' and made very scathing remarks to one individual member. The reason for this attack was the oppositional style as displayed at the recent CSU conference in Munich, where Brandt had been compared with Neville Chamberlain and with Kerenski. Wehner accuses the opposition of slander and says: "was Sie versuchen, ist das Aufpeitschen eines Restes von Nationalismus". This antagonism from the government side was continued later by Apel, who said of Strauß that outside parliament he used arguments "die in der Tat die Substanz dieser Republik gefährden". Strauß had replied to Wehner by remarking that Wehner's speech should have been seen and heard by the whole nation; this would be politically very informative. He also accused Wehner of intolerance of the opinions of others and

130 Verhandlungen, p. 2134.
131 Verhandlungen, p. 2138; To a remark by Jaeger (CDU/CSU) Wehner replied: "Ich habe Ihren Zwischenruf nicht gehört; ich nehme an, er war so, wie Sie sind, und deswegen regt es mich nicht auf".
132 Verhandlungen, p. 2139.
133 Ibid., p. 2146.
134 Ibid., p. 2143.
of not taking parliamentary procedures seriously. On Ostpolitik
his main point had been that the opposition would only support a
'do ut des' policy.

Hostility at a personal level occurs again later in the debate
when Barzel mentions the word 'Pappkamerade' and Wehner retorts:
"Sie sind ja selber einer", adding shortly afterwards: "Schleimer
wäre richtiger!", in spite of intervention from the chair. Barzel's
reaction is merely to say that Wehner will not succeed in silencing
the opposition by insults, but his colleagues in the CDU/CSU add:
"Das kann man in Moskau lernen". This and the previous ex-
changes illustrate the hostile nature of the relationship between
government and opposition sides in the Bundestag and the extent
to which the initiative lies with the government side. In each in-
stance, the insults soon become ideological, creating an atmosphere
in which concrete discussion is impossible, since each side seems to
regard the other not as an opponent, but as an enemy.

The CDU/CSU offer to hold back their 'Große Anfrage' until after
the Kassel meeting did not, therefore, mean that conflict between
government and opposition was avoided during this period. There
was also continued skillful use of question periods by the opposition,

135 Verhandlungen, p. 2144; Wehner had referred to the CDU/CSU
'Große Anfrage' and 'der Spaß'.
136 Verhandlungen, p. 2145.
137 Ibid., p. 2152.
138 Cf. p. 75; also Hereth, p. 128.
139 There was a further clash on 24th April (Verhandlungen, p. 2380)
during questioning on the economy, when Wehner accused the
opposition of wanting inflation.
especially to probe the area of German-Polish relations. Brandt
and Scheel were closely questioned by CDU/CSU foreign policy experts
Marx, von Guttenberg, von Wrangel, Czaja, Becher and von Fircks.¹⁴⁰
However, one occasion for harmony in the Bundestag was the 8th May,
1970, the 25th anniversary of the end of the war in Europe and the
end of Nazism. For the first time in the history of the Federal Re-
public, the Chancellor made a statement on this date, perhaps sympto-
matic of the new emphasis on coming to terms with the results of
the Second World War. Brandt's main points were that a lesson should
be learned from history and that the younger generation was not yet
free from the past. He maintained that Germany was still struggling
with the results of Hitler's war and must seek more international
understanding and cooperation to remove the mistrust of the Germans.
Now, he said, with West German democracy stable and a firm partner
for the West, it was time to face facts, especially the existing
borders, in order to be able to proceed towards European cooperation,
security and peace.¹⁴¹ For the opposition, von Weizsäcker made a
statement similar in content. He reminded his audience of the danger
of new tyranny from Russia and of the need to find a European se-
curity arrangement, in order to avoid a return to nationalism.¹⁴²
The SPD and FDP Fraktion speakers also stressed the German responsi-
bility to pursue peace and to be seen doing so by the rest of the
world.¹⁴³ The whole occasion reflected the continuing influence of

¹⁴⁰ Verhandlungen, p. 2416 - 2427.
¹⁴¹ Ibid., p. 2564 - 2567.
¹⁴² Ibid., p. 2567 - 2568.
¹⁴³ Ibid.
the recent past on the politics of the Federal Republic and the conviction that West German foreign policy must be directed towards overcoming that past.

In spite of opposition statements, the CDU/CSU 'Große Anfrage' on Deutschlandpolitik, Ostpolitik and Europapolitik was submitted before the Kassel meeting and was answered in writing. However, no debate was held until after Kassel, which was on the 21st May, 1970. The separate debate on this meeting which had been envisaged did not take place, since the matter could be combined with the discussion on the 'Große Anfrage'. It is again noted here that no official statement on Kassel, either before or after the event, was made to a plenary session of the Bundestag.

7 The debate on the opposition 'Große Anfrage', 27th May, 1970

This debate was introduced by Barzel for the opposition, who was quick to remark on the fact that the government did not see fit to speak first or to make any statement to parliament on the Kassel meeting. Barzel then questioned the Chancellor on the recognition of the DDR in international law and on the omission of the word 'Selbstbestimmung' from the 20 points raised at the Kassel meeting, although the Basic Law states that "Das gesamte deutsche Volk bleibt aufgefordert, in freier Selbstbestimmung die Einheit und Freiheit

144 15th May, 1970; See Deutscher Bundestag, Drucksachen VI/691, VI/757.
145 Verhandlungen, p. 2665.
Deutschlands zu vollenden". He later also expressed doubts about the intended Moscow treaty and wished to know if it would state that the Federal Republic would retain its goal of the unity of Germany on the basis of self-determination. On Poland, he put the opposition position as follows: "Ja zu Ausgleich und Lösung, nein zu der in sich widerspruchsvollen Formel dieser Regierung". Barzel further declared that the Berlin issue should be settled before any agreements were made with the Soviet Union or the DDR and said that if Scheel were sent to Moscow to negotiate on the present basis, this would be to have decided upon a "Wendung der deutschen Politik .. ohne zuvor das Parlament unterrichtet, das freie Berlin gefestigt, den einseitigen Gewaltvorbehalt der Sowjetunion wirklich beseitigt, die Zustimmung der Deutschen zur Grenze an Oder und Neisse, zur Zweiteilung Deutschlands und zur Isolierung Berlins eingeholt zu haben".

Thus the opposition contention is that the government is bypassing parliament on foreign policy, that its actions may not be compatible with the constitutional imperative and that its Ostpolitik and Deutschlandpolitik represent a possibly dangerous break with the continuity of previous years which lacks the legitimacy of parliamentary and popular approval. The CDU/CSU is there-

146 Verhandlungen, p. 2666.
147 Ibid., p. 2668.
148 Ibid., p. 2669.
149 Ibid., p. 2670.
150 Ibid., p. 2672.
fore opposed to the present government course.

This position causes antagonism from the government side when Dorn (FDP) criticizes the opposition's style, especially certain remarks made at the CSU conference and in the Bayerkurier: "Dies sind die gefährlichen Methoden der Bildung einer neuen Dolchstoß-legende. Wir alle in diesem Hause wissen, was aus einer Vertiefung der Absichten einer demokratischen Regierung schon einmal in Deutschlands Vergangenheit entstanden ist". 151 Dorn rejects the CSU criticism of the FDP with the words: "Wir lassen uns auch nicht durch solche Angriffe aus dem Konzept bringen, schon gar nicht von Politikern, die einer Partei angehören, die ihre Zustimmung zum Grundgesetz der Bundesrepublik Deutschland verweigert hat". 152 Of the opposition in general he claims that their only alternative is "die Fortsetzung einer Politik der geistigen Unbeweglichkeit und des politischen Rückschritts". 153 Apel (SPD) is equally critical of the opposition and of their 'Große Anfrage': "diese Große Anfrage offenbart sehr deutlich, was Geistes Kind die Opposition ist, indem sie eine Ansammlung von Gerüchten und Unterstellungen zu einer Großen Anfrage zusammenbraut, die in der Tat weder bei Ihnen noch bei uns politische Erkenntnis bringen konnte". 154

151 Verhandlungen, p. 2674.
152 Ibid., p. 2679.
153 Ibid., p. 2680; Cf. Hacke, p. 86, who implies that the opposition approach is retrogressive.
154 Verhandlungen, p. 2681.
The FDP is in an especially difficult position as regards the 'continuous election campaign' in parliament and this is illustrated by the attempts described above to show that the opposition is comparable to the national opposition of Weimar, is possibly dominated by a party with anti-democratic tendencies, or at least whose allegiance to the Basic Law is in doubt, and is therefore unacceptable to voters of the centre. Apel's suggestion that the 'Große Anfrage' is a purely tactical manoeuvre and not designed to produce clarity on concrete issues is taken up by von Guttenberg for the CDU/CSU with an assurance that it is a result of a genuine, deep concern about the outcome of government policy.\(^{155}\) It has already been noted that von Guttenberg represented sincere, outright opposition to the Ostpolitik and was an 'absolute opponent in principle'.\(^{156}\) This is clearly reflected in his major speech on this occasion.

Von Guttenberg maintains that injustice should not be legitimized, and therefore the DDR cannot be recognized.\(^{157}\) He emphasizes that he is not merely criticizing, but is truly convinced that even those with the best motives can be wrong, and that the government is heading towards recognition of the DDR, which will lead to the end of NATO and to Soviet hegemony in Europe. Von Guttenberg does

\(^{155}\) Verhandlungen, p. 2693.

\(^{156}\) This is the classification given by Geoffrey Pridham, 'The Ostpolitik and the Opposition in West Germany', in Roger Tilford (ed.), The Ostpolitik and Political Change in West Germany (Pamborough, 1975), p. 49.

\(^{157}\) Verhandlungen, p. 2694.
not accuse Brandt of intending this, but claims it is the logical outcome: "Sie, Herr Bundeskanzler, sind dabei, das Deutschlandkonzept des Westens aufzugeben und in jenes der Sowjetunion einzutreten". Recognition of the status quo, he says, leads only to 'Scheinfrieden', and to claim that the government is retaining the goal of self-determination is 'Formelkram'. He also accuses Brandt's government of blurring the difference between the two parts of Germany and warns: "Die deutsche Demokratie ist schon einmal zugrunde gegangen ... weil damals unter Deutschen eine geistig-moralische Verwirrung angestiftet und die Grenze zwischen demokratischer Rechtsstaatlichkeit und totalitärem Verbrecherregime verwischt wurden". This emotional speech receives a standing ovation from the CDU/CSU.

A similar view of dealing with the Communists is expressed by Strauß, who claims that many people were shocked when the government suddenly took over the communist doctrine of two states in October, 1969, without previous discussions. He then warns of the difference between communist and Western concepts, saying that it is a fallacy to believe that "durch die Benutzung eines gemeinsamen Vokabulars auch gemeinsame politische Begriffe und gemeinsame politische Ergebnisse" can be brought about. Strauß

158 Verhandlungen, p. 2695.
159 Ibid.
160 Ibid., p. 2697.
161 Ibid., p. 2708.
162 Ibid., p. 2709.
claims that while past CDU/CSU policies had meant that the Federal Republic was regarded as reliable, the present course meant a return to the 'Ruf der deutschen Unbestimmbarkeit': further, the government use of ambiguous formulations, especially in treaties, to achieve 'verbale Annäherung' was dangerous.

In this debate the exchanges between government and opposition sides consist largely in insinuations from each that the other is endangering German democracy. The basic anti-communism of the CSU becomes clear and its rejection of 'verbal rapprochement' shows its distaste for treaty politics. This and the statement by Barzel on Poland illustrate the opposition's tendency to seek an 'ideal' foreign policy providing 'solutions' and not merely accommodation. The apparent support for the CSU views from the rest of the opposition suggests that at this stage there is some fluctuation of opposition opinion; previously the opposition had expressed itself in favour of negotiations with the DDR and with Moscow. Also, when the debate on the 'Große Anfrage' has been postponed, reports by Dichgans and Petersen for the opposition come out in favour of cautious movement towards a treaty with Poland.

8 The budget debate of 4th June, 1970: the Chancellery budget

Windelen, the opposition spokesman, included much criticism of government Ostpolitik and Deutschlandpolitik in his speech. He

163 Verhandlungen, p. 2709.
164 Ibid., p. 2710.
165 Ibid., p. 2730.
makes the point that the government has changed its views after once having said 'Verzicht ist Verrat', just as the opposition now does. The government were now trying to brand the opposition as nationalists for this: "In der Deutschlandpolitik und Ostpolitik versuchen Sie .. die Opposition nun in die nationalistische Ecke zu drängen". The discussion rapidly disintegrates into uproar but is presently turned back to concrete matters by Barzel. He re-states the CDU/CSU position as regards an agreement with the Soviet Union, saying that the Federal Republic seems to be taking on a series of obligations towards the Soviet Union which are not to be reciprocated. The general opposition standpoint, he says, is the same as it was on May 26th, namely: support for talks provided they produce improvements for the people and a decrease in tension (unlike at Kassel), no support for the recognition of the DDR in international law or for policies obviously leading to this, since it would be contrary to the right of self-determination, support for non-aggression agreements with Moscow, Warsaw and East Berlin (these and the Soviet right of intervention must be mutually exclusive, and borders can only be finally settled in a peace treaty), support for a Berlin settlement which means that the ties between the city and the Federal Republic are retained; progress on Berlin should be a prerequisite of the rest.

This opposition statement is phrased to appear positive but contains provisos which allow for the rejection of all aspects of

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166 Verhandlungen, p. 2979.
167 Ibid., p. 3007.
168 Ibid., p. 3011.
government policy. The government side accuse the opposition of being destructive rather than providing an alternative,\textsuperscript{169} and continue to attack in such strong terms that nearly all the opposition members walk out.\textsuperscript{170} The same antagonistic atmosphere prevails later during discussions of the budget of the Ministry for Inner German Relations and again the opposition threaten to walk out.\textsuperscript{171} It is left to the FDP to express regret at the prevailing style and to remind the members that everyone in the Bundestag is in favour of the aim of reunification.\textsuperscript{172} However, the opposition's final statement on this section of the budget was to denounce the government's Deutschlandpolitik as "gefährlich und . . . verderblich für die deutsche Nation".\textsuperscript{173} This and the incidents during the debate show that the relationship between the government and the opposition has deteriorated to a point where concrete discussion is impossible. The final opposition statement also underlines the CDU/CSU claim to be safeguarding national interests and illustrates the high level of polarisation which has been reached.

\textsuperscript{9} The debate of 17th June, 1970; (continuation of the 'Große Anfrage' debate.

As before on 8th May, this debate began with a statement by Brandt on the historical importance of the occasion. He repeated government assurances that the goal of the Ostpolitik and Deutsch-

\textsuperscript{169} Verhandlungen, p. 3013; Wehner.
\textsuperscript{170} Verhandlungen, p. 3016.
\textsuperscript{171} Ibid., p. 3078.
\textsuperscript{172} Ibid., p. 3079.
\textsuperscript{173} Ibid., p. 3092.
landpolitik would remain the unity of Germany on the basis of self-determination, and that there would be no recognition of the DDR in international law. The opposition (Marx) also speak on the importance of the 17th June, 1953, but then turn to the results of the recent local elections. The CDU/CSU interpretation of these is that the majority of voters share their doubts about government Ostpolitik and Deutschlandpolitik. They reject suggestions that they are appealing to nationalistic instincts, claim to represent the course of the Grand Coalition and to stand for patriotism, not nationalism. There was also repetition of demands for information in view of press leaks of 'treaty texts' from Moscow.

Barzel declares: "Diese Außenpolitik ohne Gegenleistungen hat hier und im deutschen Volk keine Mehrheit".

The government side reply to this with criticism of Barzel and of the opposition's polemical style, which they claim is bad for parliament. It is pointed out that the CDU/CSU conduct opposition by continually asking the same questions and not listening to the answers. Von Wrangel defends the opposition's action and reveals the conception that parliament as a whole should be the counterpart to government when he states for his party: "... daß wir als Opposition in diesem Hause eine Kontrollfunktion wahrzu-

174 Verhandlungen, p. 3217.
175 Baden-Württemberg, June 14th, 1970.
176 Verhandlungen, pp. 3220 - 3221.
177 The Bahr paper; Verhandlungen, p. 3224.
178 Verhandlungen, pp. 3246 - 7.
179 Ibid., p. 3250; Ehmke.
180 Verhandlungen, p. 3252; Rutschke.
181 Cf. p. 104.
nehmen haben, um so mehr, als sich große Teile der Koalition offen-
bar nur noch als Hilfstruppe der Regierung betrachten".\textsuperscript{182} As was
shortly to become clear, the real control over the government
was to be exerted not by the opposition but by the 'back-benchers'
of the smaller coalition party.\textsuperscript{183}

The opposition is further represented in this debate by Strauß,
who repeats accusations that the government is no longer adhering
to the joint resolution of 1968,\textsuperscript{184} made no progress in Kassel
and is misreading communist intentions.\textsuperscript{185} On the 'Bahr paper'
leaked to the press from Moscow he claims that the Federal Republic
has given everything that the Soviet Union wanted, so that there
was no point in negotiating.\textsuperscript{186} The government, he says, paint a
false picture of the opposition: "Der CDU/CSU wird das Plakat
"Kalte Krieger - nicht bereit zu Verhandlungen" angeheftet"; how-
ever, he points out, the government is not a peace-maker just be-
cause it stresses the word 'peace' - that word was stressed in
Munich in 1938. It is necessary for both sides to agree on an in-
terpretation.\textsuperscript{187} Strauß' opinion of the proposed treaty is that it
settles nothing.

\textsuperscript{182} \textit{Verhandlungen}, p. 3255.
\textsuperscript{183} Cf. p. 22.
\textsuperscript{184} \textit{Verhandlungen}, p. 3262.
\textsuperscript{185} Ibid., p. 3264.
\textsuperscript{186} Ibid., p. 3266.
\textsuperscript{187} Ibid., pp. 3266 - 7.
In the sittings following 17th June the continued discussions of the 'Große Anfrage' were mostly of a concrete nature and concerned with European policy. However, there were notable signs of latent opposition from within the government coalition. Two FDP members, Zoglmann and von Kühlmann-Stumm, do not vote with the government on an opposition amendment to the Chancellery budget.188 Von Kühlmann-Stumm closely questions the government on how Bild could have obtained a copy of the proposed Moscow treaty before parliament.189

B The period after the signing of the treaty with the Soviet Union

1 The Moscow treaty

The treaty between the Federal Republic and the Soviet Union was signed on the 12th August, 1970, during the Bundestag's summer break. Thus none of the immediate controversy surrounding it took place in parliament. The 'Bahr paper', the 'Gromyko paper' and finally the treaty text itself had been leaked to the press before the signing and had been greeted with a wide range of objections from opposition politicians, especially from the CSU. The opposition had been invited to be represented in Moscow, but had declined. The first wave of reaction had died down by the time the treaty was

188 Verhandlungen, p. 3322.
189 Ibid., p. 3375.
first announced to the Bundestag by Brandt on 18th September, 1970. His statement was followed by those of each Fraktion. For the CDU/CSU Barzel was consistent with the opposition action in declining to go to Moscow. He declared that Berlin should have first been settled and that the government's signature had been given against the advice of the opposition. The opposition therefore dissociated itself from the signing: "Das verantwortet - die Folgen eingeschlossen - die Bundesregierung allein". However, Barzel did not commit the opposition to rejection but stated that they wished to consider the Ostpolitik as a whole and would for now limit themselves to six points for government consideration: 1. the future of European union, 2. the future of American troop presence, 3. the future of Berlin, 4. improvements in the situation of the whole of Germany, 5. the future of German-Polish talks since a) the Federal Republic should not have settled first with the Russians on a Polish question, and b) settlement of borders should be left for a final peace treaty, 6. the opposition wish to see all the papers concerning the negotiations on the Moscow treaty and to test the treaty's conformity with the constitution.

Barzel also listed various ways in which the opposition would judge the treaty: a) no reduction in tension yet visible, b) no improvements for the people yet obvious, c) the right of self-determination seemed to be in danger, d) the Soviet Union seemed to have retained its right of intervention. In view of these points, said Barzel, the opposition must reaffirm its earlier attitude: "Der

190 Verhandlungen, p. 3633.
The budget discussions of 23rd and 24th September, 1970.

Although the statements on the Moscow treaty were not followed by a bitter debate, as might have been expected, the budget discussions of a few days later saw a renewal of previous outright antagonism between government and opposition. On this occasion the issue was another very emotive one in the German context - inflation. Finance Minister Moller spoke on accusations about the causes of the present and previous inflations in Germany. He told the opposition: 

"Die, die diese Weltkriege und die darauffolgende Inflationen zu verantworten haben, stehen Ihnen geistig näher als der SPD". 192

The CDU/CSU walks out in protest at this but Moller refuses to withdraw his statement. The following day he claims that he did not mean to imply any connection between the opposition and the National Socialists. The CDU/CSU hold up parliamentary proceedings for an hour to consider their position and return to say that Moller's

191 Verhandlungen, p. 3636.
192 Ibid., p. 3684.
statement is insufficient, since he had said on television that he would use the same formulation again. "Sie, Herr Bundesminister der Finanzen," says Barzel, "haben sich als Demokrat disqualifiziert".¹⁹³ In reply the government side remind the opposition of some of the accusations they have made: Strauß likened the treaty with the Soviet Union to the Ribbentrop-Molotov pact and has often referred to the government as 'Volksverräter', 'Verzichtspolitiker'.¹⁹⁴

The situation worsens when Kirst (FDP) begins to speak, causing many opposition members to walk out.¹⁹⁵ He turns his attention to the behaviour of the CDU/CSU in opposition during the year since the change of roles: "Unter dem Schmerz über den Verlust der Macht hat die Opposition in diesen zwölf Monaten hier und draußen unkontrolliert um sich geschlagen - . Das von uns vertretene Volk hat einen besseren politischen Stil verdient".¹⁹⁶ The government side is again successful at a later date in pointing out the CDU/CSU's difficulties in accepting the new role of opposition. After von Wrangel for the opposition has brought a motion of censure against Möller¹⁹⁷ the CDU/CSU plead for a change in the style of the government towards the opposition. However, Schäfer (SPD) replies that the CDU/CSU have become over-sensitive as opposition, since as government in 1965 they had simply rejected and forgotten

¹⁹³ Verhandlungen, p. 3722.
¹⁹⁴ Ibid., p. 3737.
¹⁹⁵ Ibid., p. 3743.
¹⁹⁶ Ibid., p. 3749.
¹⁹⁷ Ibid., p. 3869.
a similar suggestion made by Höller. Their present indignation is purely obstructive. - This whole incident does not only illustrate the sensitiveness of the opposition, but also shows that 'ideologically hostile' language can obviously become a habit with members of the Bundestag, and that behind its tactical use there may still lie a conviction that an opposing political party is potentially extremist and a danger to democracy.

The nature of exchanges on Ostpolitik and Deutschlandpolitik at this time is in contrast to the atmosphere prevailing in the financial discussions described above. The opposition specialists continue to put related questions to the government, especially on the situation of the former German territories. However, conciliatory attitudes are adopted when Scheel announces that the treaty with the Soviet Union has been greeted with enthusiasm in the world as part of the Ostpolitik, which is an important contribution to détente. His statement that Berlin must be settled before the ratification of the Moscow treaty, because of the close connection between the two, brings applause from both sides of the Bundestag. In answer to opposition demands Scheel replies that the government will make every effort to inform the opposition and hope that cooperation will be the result. It does seem likely during October 1970 that more efforts will be made to achieve some form of 'Gemein-

198 Verhandlungen, p. 3871.
199 Ibid., p. 3872.
200 Ibid., pp. 3931 - 3935.
201 Ibid., p. 3945.
202 Ibid.
203 Ibid., p. 3959.
samkeit' on Ostpolitik and Deutschlandpolitik, especially since the government majority is narrowing. On October 4th it is announced by the CDU/CSU that former FDP members Mende and Starke have now joined the opposition Fraktion, while Zoglmann is a 'guest' member. 204 This is the beginning of the process of evening out the numerical difference between the two sides in the Bundestag, and, as already mentioned, an example of how 'back-benchers' can exercise control over the government. 205

3 The treaty with Poland

On October 15th, 1970, the opposition Fraktion adopted a resolution on relations between the Federal Republic and Poland which came out in favour of reconciliation, but stressed that final settlement could only be on the basis of self-determination in a wider European context. 206 There were no debates on the subject of Poland in the period leading up to the signing of the treaty; instead, antagonism continued at the basic level of 'enemies of democracy'. The opposition becomes preoccupied with a government statement which had mentioned "die rechten Kräfte, die einen Anschlag auf die Bundesregierung planen". 207 They object to the term 'Anschlag', and after much questioning request an 'Aktuelle Stunde' on the subject. 208 Benda claims that such language shows that Brandt is 'nervös' and

204 72nd Sitting; Verhandlungen, p. 3973.
205 Cf. p. 22.
206 Repr. in Texte zur Deutschlandpolitik (Bonn, 1971), 6, p. 164.
207 Verhandlungen, p. 3977; Breidbach.
208 Verhandlungen, p. 3987.
'unfähig', and adds: "wer das neue Deutschland schaffen will, muß ja deswegen noch nicht in die Tonart des „Neuen Deutschland" verfallen". The SPD object strongly to this comparison and reply with similar insinuations. Exchanges on the subject continue in the two following sittings.

In contrast, exchanges on the subject of the Polish treaty are avoided. On 13th November, 1970, there is no formal discussion on Poland and it becomes clear that the opposition questions have been withdrawn to await the return of Scheel. The text of the treaty is published and Brandt appears on television to make a statement, but does not address the Bundestag. The CDU/CSU declines an invitation to be represented in Warsaw and proposes a motion on relations between the Federal Republic and Poland on 4th December, 1970, which is not debated. Although there is much hostility to the treaty from expellee groups and from the CSU, there is only sporadic questioning in the Bundestag, and no official opposition statement is made to the house. The treaty is signed on December 7th, 1970, and once again this is announced on television by Brandt. The official position of the opposition is still open, and Barzel undertakes a personal visit to Poland to judge the situation for himself and to seek assurances from the Polish government.

209 Verhandlungen, p. 3988.
210 Ibid., p. 4476; Scheel initialled the treaty on 14th November.
211 Repr. in Texte zur Deutschlandpolitik 6, pp. 214 - 215.
212 Deutscher Bundestag, Anlagen 144, 1970; Drucksache VI/1523, 4th December, 1970.
The opposition task here is a difficult one. Throughout the 6th Bundestag it had clearly espoused the expellee cause, yet tactical considerations prevented outright rejection of the Warsaw treaty. The expellee and CSU objections were likely to be unacceptable to moderate CDU voters, with whom the gesture of reconciliation with Poland could be expected to be popular. As leader of the opposition, Barzel could not hope to have any meaningful dealings with the Polish government that could alter the treaty or its interpretation, but by his visit he presumably sought to show that the opposition decision would be a reasoned, rather than an emotional or irrational one.

4 The debate on the 'Bericht zur Lage der Nation, 1971', in conjunction with an SPD/FDP 'Große Anfrage' on foreign policy.

This debate is the occasion of very lengthy and thorough discussion of the government's Deutschlandpolitik and Ostpolitik. After the government position has been stated by Brandt, Barzel replies for the opposition stressing that all foreign policy should be on the basis of 'Gemeinsamkeit', that it should achieve concrete results and should be based on the idea of European peace. The opposition will judge the treaties by their contents rather than their form, he says, and consider the right of self-determination and the

status of Berlin most important. He states again that the CDU/CSU will judge the whole Ostpolitik and Deutschlandpolitik together, but warns that so far the treaties do not come up to opposition expectations. 214

As before, the government side replies with sharp criticism of the opposition. Apel maintains that they are simply trying to find excuses for refusing to ratify the treaties when the time comes. In his opinion, "Die Opposition hier im Hause und draußen muß wissen, daß sie die Grenzen der vertretbaren Opposition längst überschritten hat". 215 Since the opposition so often mention the right of self-determination he warns them: "Es wird Ihnen schwerfallen, zu beweisen, daß die Ostverträge diesem Recht auf Selbstbestimmung zuwiderlaufen oder es gar unmöglich machen". 216 Apel seems here to be voicing the opinion that the CDU/CSU is no longer acting as a 'loyal' opposition. As already mentioned, opposition in 'national' questions may be thought to be too divisive in the German context. 217

The opposition side continue to question the compatibility of the right of self-determination with the recognition of the DDR and the Oder-Neiße line. 218 Grave doubts are also expressed about the intentions of the Federal Republic's Eastern partners. Von Weizsäcker warns that the SED do not want self-determination, but only

214 Verhandlungen, pp. 5057-8.
215 Ibid., p. 5060.
216 Ibid., p. 5063.
217 Cf. p. 75.
218 Verhandlungen, p. 5100; von Weizsäcker.
socialist unity.219 Becher makes a similar point, but in much more emotional terms when he claims that the other side do not want detente, but world revolution.220 In his opinion the Ostpolitik plays into the hands of the Soviet Union: “Ich bin der Überzeugung, daß die Sovjets recht haben, daß Breschnew recht hat, wenn er von seiner Seite den Moskauer Vertrag als einen Teil der Offensivstrategie der Sowjetunion auf der politischen Ebene ausdeutet und zitiert…”221 Becher refers to the Ostpolitik as "ein Kartenhaus auf tönernen Füßen"222 and stresses the opposition's concern at the loss of the Eastern territories and the plight of the expellees, which, he says, should not be recognized and therefore legalized. He claims that many people think the Ostverträge are unconstitutional, and he is convinced they are.223 In his opinion German detente is only possible on the basis of a broad parliamentary majority: "Wenn wir die Politik, die Sie vorhaben, hier unter der Konfrontation durchziehen, dann sehe ich schwarz um die Lage der Nation. So gefestigt ist diese Nation nicht, daß sie die dann ausgelöste Spannung ertragen könnte. Vielleicht ist das wiederum sogar ein Teil des Konzepts der sowjetischen Seite, daß sie durch die Infiltrierung der neuen Ostpolitik, die in Wahrheit ja von Moskau aus motorisiert wurde und wird und nicht von Bonn aus, gerade die Aufspaltung hervorrufen will, um die es hier geht.”224

219 Verhandlungen, p. 5102.
220 Ibid., pp. 5113 - 4.
221 Ibid., p. 5114.
222 Ibid.
223 Ibid., pp. 5116 - 7.
224 Ibid., p. 5117.
This rejection of government policy as 'pro-Soviet' and dangerously divisive for the nation may be seen as similar to the attitude of the opposition in the 1st Bundestag, with which a parallel has been drawn above. A further example of this style occurs in the continuation of this debate when Marx declares that the opposition regard the Ostpolitik and Deutschlandpolitik of the government as 'falsch und gefährlich angelegt'. He refers to Wehner's remark that it would be a disaster if the treaties were not ratified, and claims: "In Wirklichkeit hat diese Politik bereits zum Desaster geführt".

The more moderate members of the opposition attempt to put forward reasons for their hostility towards the treaties. Birrenbach contends that the much-quoted favourable foreign opinion is not really relevant since: "Die Opfer im Rahmen der Ostverträge bringen nicht die Ausländer, sondern die Deutschen". He also points to alleged discrepancies in the wording of the German and Russian versions of the Moscow treaty and to possible dangers to European stability which may arise from it. Kiesinger returns to the argument that the whole Ostpolitik is over-hasty and bound to fail without a broad majority; also, it has not brought any noticeable improvements in the attitude of the DDR, rather the reverse.

225 Cf. pp. 72 - 73.
227 Cf. the point made by Lütkens, p. 73 above.
228 Verhandlungen, p. 5135.
229 Ibid., p. 5152.
230 Ibid., pp. 5154 - 7.
231 Ibid., p. 5163.
232 Ibid., pp. 5164 - 5.
The reply to this from the government side is to use the usual tactic of discrediting the opposition, this time by remarks about past political affiliations. Apel claimed that Kiesinger had said that the Führer had once been elected 'Man of the Year', just as Brandt had; but Kiesinger should not say such things with his past. A similar reference is made by Arndt (SPD) to Becher's past. He says that Becher is not qualified to speak of constitutionality in view of his previous political affiliations.

In spite of the antagonism and the fundamental differences displayed in this debate, both the Chancellor and the leader of the opposition return in their summing up to the subject of 'Gemeinsamkeit'. Brandt still hopes for cooperation from the opposition and points out that there is nothing to prevent them agreeing to the treaty with Poland, since his government has not made concessions or given up legal positions, but simply acted on the real situation. Barzel confirms that there are some points on which the government and the opposition agree, but questions whether these are sufficient for 'Gemeinsamkeit', especially since the government does not pay any attention to the opposition. "Es ist schon ziemlich merkwürdig, wenn ein Bundeskanzler mit dieser schwachen Mehrheit übersieht, daß eine Opposition öffentlich davon spricht, daß auch Mitverantwortung für Verträge denkbar sei". Barzel repeats his

233 Verhandlungen, p. 5166.
234 Ibid., p. 5178.
235 Ibid., p. 5183.
236 Ibid., p. 5185.
237 Ibid., p. 5187; the recent defections of Mende, Zoglmann and Starke prompt the mention of the government majority.
conditions for this, the most important of which is that the German question should remain open, and attempts to make clear that the opposition attitude is not a purely negative one.

5 The debate on the 1971 Chancellery budget

This debate is again the scene of confrontation when Wörner (CDU/CSU) makes a strong attack on the government and refers to Brandt as follows: ".. wer sich nicht mehr traut Unmenschlichkeit Unmenschlichkeit und Unfreiheit Unfreiheit und Diktatur Diktatur zu nennen .." Brandt's oversensitive reaction is to walk out and return only at the end of the speech; the government side (Schäfer) reacts by accusing the opposition of appealing to the extreme right. This causes von Guttenberg to make insinuations about SPD connections with the extreme left. It is again the task of the FDP (Kirst) to deplore these 'ghosts of Weimar' and to express regret at this confrontation and polarisation. The opposition is seen as at fault: "Es liegt .. daran, daß die CDU/CSU immer noch nicht in der Lage ist, ihre Rolle in diesem Staat so zu begreifen, wie sie ist, nämlich als die Rolle einer Partei und nicht einer Staatspartei." At this point voices from the opp-

239 Verhandlungen, pp. 5296 - 5304.
240 Ibid., p. 5302.
241 Ibid., p. 5308.
242 Ibid., p. 5310.
243 Ibid., p. 5313.
sition side insist that the polarisation is the fault of the government and remind the house that it was Wehner who once said "ich brauche keine Opposition" and referred to the CDU/CSU as 'Volksverhetzer'. Kirst replies that the opposition was talking of 'Ausverkauf' and 'Inflation' before Brandt had even been sworn in. He expresses the concern that would appear to be shared by all that confrontation and polarisation are bad for democracy, especially for a democracy which is just being tested by the first change of power. Kirst makes a plea for more concrete debates and points out: "daß noch nie eine Regierung dieses Staates so konzentrischen Angriffen ausgesetzt gewesen ist seitens der Opposition innerhalb und außerhalb dieses Hauses".

This remark from the government side reveals a sentiment similar to that of the government in the 1st Bundestag and the CDU/CSU are now quick to refer to the opposition under Schumacher. Kiep (CDU/CSU) tells Brandt that while Adenauer remained in the chamber after being called 'Kanzler der Alliierten' by the opposition, his (Brandt's) behaviour was a "schlechtes Zeugnis über Ihr Demokratieverständnis" and such behaviour was unknown in the history of the Bundestag. On Ostpolitik, Kiep maintains that Brandt's concept is illusory and only wishful thinking, that he is a do-gooder who speaks a great deal of peace, but does not therefore have the mono-

244 Verhandlungen, p. 5313.
245 Ibid., p. 5315.
246 Ibid., p. 5331.
The government, says Kiep, regard the opposition as a nuisance and even as non-democratic, unless it agrees with the government. He ends by stressing the importance of 'Gemeinsamkeit' in Ostpolitik and Deutschlandpolitik and says that the opposition must now try to stop the treaties doing any damage.

There is further controversy later in the debate when Reddemann (CDU/CSU) insinuates that Brandt must have been indebted in some way to the journalist Henri Nannen, since Nannen was invited to go to Poland. There are some roars of protest from the SPD at this personal attack, but Barzel demonstrates opposition Fraktion solidarity by shaking hands with Reddemann at the end of his speech. The antagonism is continued the next day when, after von Fircks has accused the government of 'giving away one quarter of Germany' and ignoring human rights, a government side questioner (Würtz) asks if von Fircks had been concerned with human rights as a former SS 'Umsiedlungskommissar'. This causes the usual accusations on both sides.

Much more serious criticism of the government is made in a further budget debate when Strauß speaks on the polarisation of political forces and the 'Barrieren des Hasses im Deutschen Bundestag'.

247 Verhandlungen, p. 5333.
248 Ibid., p. 5335.
249 Ibid., p. 5345.
251 Verhandlungen, pp. 5416 - 7.
252 102nd Sitting, 12th February, 1971.
253 Verhandlungen, p. 5917.
He points out 1. that the government is unable to take criticism, 2. that it blames 20 years of CDU/CSU rule for everything, 3. that 'reforms' have not materialized, and as a 4th point he says: "nenne ich den geradezu glaubenskämpferischen Fanatismus des Eintretens für eine in den Denkansätzen leider falsche, unter mehrdeutigen Auslegungen leidende, aber fast in den Rang einer Heilslehre der Welt erhobene neue Ostpolitik, die mit trügerischen Formulierungen wie "den Frieden sicherer machen" aufgeputzt wird, als ob die Frage "Krieg oder Frieden" von der Durchsetzung dieser Ostpolitik, von ihrem Erfolg oder Mißerfolg abhängen würde". This is a clear, fundamental rejection of government policy, comparable with that in the 1st Bundestag.

Strauß continues his speech on this occasion by defending the opposition against accusations of extreme, right-wing views: "CDU und CSU sind und bleiben Parteien der Mitte, mit scharfer Abgrenzung zu jenem irrationalen und verhängnisvollen Rechtsradikalismus, der mit dem Linksradikalismus mehr gemeinsam hat als mit uns. CDU und CSU bieten auch denen eine politische Heimat, die ein durch Geschichte gereiftes und durch persönliche Erfahrung geläutertes Nationalbewuβtsein haben und ein von obrigkeitstaatlichem Denken freies, aber die Staatsautorität bejahendes Verhältnis der staatlichen Ordnung demagogi ... demokratischer Prägung besitzen". It is not the Opposition which tends to the right, says Strauß, but the government to the left. The government has changed from its

254 Verhandlungen, p. 5917.
255 Cf. p. 73.
256 Verhandlungen, p. 5925.
one-time position of 'Verzicht ist Verrat' to one in which it labels such opinions 'nationalist'; it has ceased to favour 'Gemeinsamkeit' and now seeks to divide the Germans into the good, who favour security, detente and peace and are therefore for the treaties, and the bad, who are against detente, against peace, for war and therefore against the treaties. 257 Admittedly, says Strauß, the government is right to speak of a disaster: "Ein Desaster besteht darin, daß Sie sich in Ihrer Ostpolitik in eine ausweglose Lage versetzt haben, unter der wir alle leiden". 258

This last part of the speech by Strauß can be seen as another round in the battle for the voters of the centre 259 and also as a further indication of the degree of polarisation on the issue of the Ostpolitik. The fact that this polarisation and the resulting confrontation in the Bundestag is felt to be a bad thing is illustrated by statements from the government side. Kirst (FDP) expresses the opinion that the Bundestag is now tending much more towards being a 'Redeparlament' than previously, and this causes too much repetition in debating. He blames the repeated opposition attempts to associate the government with 'Ausverkauf' and 'Inflation' for the 'barriers of hatred' in the Bundestag. 260 Brandt also regrets the confrontation and claims that it is the opposition intention to create mistrust and insecurity by deliberately misinterpreting

257 Verhandlungen, pp. 5926 - 8.
258 Ibid., p. 5929.
259 Cf. p. 114.
260 Verhandlungen, p. 5936.
government foreign policy instead of putting national interests first. 

Talk of 'Ausverkauf deutscher Interessen', he says, can be dangerous; he is concerned 'daß hier ein Ungeist ... wachgerufen werden könnte, durch den unser Volk schon einmal ins Unheil gestürzt worden ist'.

Brandt accuses the CDU/CSU of choosing confrontation because it cannot accept the role of opposition, of seeing itself as a 'geborene Staatspartei' and thus slipping into the role of 'Neinsager' and of seeking 'Kollision um jeden Preis' instead of being constructive.

These accusations cause the opposition (von Wrangel) to mention a 'defamation' attempt by Günter Graß, who had allegedly said that Strauß, Barzel, Kiesinger and Heck had created an atmosphere "die den politischen Mord nicht mehr ausschließe". Von Wrangel warns that this kind of statement, and also the attempt by Jochen Steffen to associate Strauß and Springer with the SS, will ensure that the Federal Republic follows the same course as Weimar. Other opposition members add that the government side had even stated that not to ratify the treaties would be to play with war. However, in spite of the government-opposition polarisation over the treaties, von Wrangel shows a reluctance to accept the division of parliament into two sides; in the same speech he says to the government side that he has a feeling "daß die Kontrollfunktion nur noch von der

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261 Verhandlungen, pp. 5939 - 41.
262 Ibid., p. 5941.
263 Ibid., p. 5945.
264 Ibid., p. 5952.
265 Ibid., p. 5953.
266 Ibid., p. 5954.
Opposition wahrgenommen wird, weil Sie sich als konformistisches
gouvernementales Anhängsel der Bundesregierung betrachten". He
complains that the other Fraktionen receive more information and de­
mands that all members of the Bundestag should receive the same in­
formation. This view of parliament as a whole as the true counter­
part to government has been noted earlier among other members of the
opposition.

The various 'attacks' on the opposition mentioned by von Wrangel
here are referred to again by Barzel at the close of the debate
when he repeatedly asks Brandt to dissociate himself from them, and the same points are raised by opposition questioners at a
later date. The government answer does state that politicians
should be careful in their use of vocabulary and then points out
that certain terms used by the opposition "sehr unangenehm an be­
stimmte Vokabeln antidemokratischer Kräfte in der Weimarer Repub­
lrik erinnern". This familiar government tactic is a further illu­
stration of the difficulties facing a conservative or right-wing
opposition in the German context.

267 Verhandlungen, p. 5954.
268 Cf. pp. 127/8; 190; also Barzel, 'Die Rolle der Opposition', p. 34.
269 Verhandlungen, pp. 5962 - 4.
271 Verhandlungen, p. 6304; Moersch.
The Berlin agreement of 3rd September, 1971, and Brandt’s visit to the Crimea

There were no further debates on Deutschlandpolitik and Ostpolitik during the spring and summer of 1971, although the opposition continued to submit questions. As the four-power talks on Berlin progressed, the CDU/CSU made clear their concern that the ties between the city and the Federal Republic should remain: "Aus Berlin darf kein drittes Deutschland werden". Both Brandt and Scheel made television appearances to speak on Berlin, but there was no government statement in the first autumn sitting of the Bundestag, nor was there any account of Brandt’s visit to the Crimea, from which he had returned on 18th September. Not surprisingly, opposition questioners raised both subjects at the first opportunity. There is particular concern with the German text of the Berlin agreement and with the subject of the discussions between Brandt and Brezhnev in 'Yalta', as the opposition cannot resist calling it.

The opposition regard the government answers to their questions as inadequate and call for an 'Aktuelle Stunde', since 1. the government is apparently no longer prepared to answer questions and is

272 E.g., Marx, Verhandlungen, p. 6505, 6844; Czaja, Verhandlungen, p. 6685; Reddemann, Verhandlungen, p. 7247.
273 Verhandlungen, pp. 7248, 7762; Barzel.
274 Scheel on 23rd August, Brandt on 3rd September, 1971.
275 135th Sitting, 23rd September, 1971.
ignoring its responsibility to parliament, 2. the government is not informing parliament, but is informing the public and bypassing parliament, 3. the government is degrading parliament to a propaganda platform.\textsuperscript{277} However, the ensuing debate did not deal so much with the information/communications function of parliament\textsuperscript{278} as with the government's alleged lack of commitment to Europe as compared with its willingness to help the Soviet Union and the DDR achieve their ends.\textsuperscript{279} Marx claims that the Crimea communique confirmed the opposition's fears of a turning point in German policies: there was no positive statement on German interests and the impression abroad would be: "Die Deutschen sind wieder unberechenbar geworden".\textsuperscript{280} Von Weizsäcker adds that the government, instead of seeking European cooperation on Ostpolitik, is pursuing 'national' Ostpolitik.\textsuperscript{281}

The government side reply as usual by accusing the opposition of wanting confrontation; their deliberate use of the name Yalta, says Wehner, is not a simple mistake, but a "nationalistisch-chauvinistischer Versuch, aufzuhetzen".\textsuperscript{282} Dorn refers to opposition accusations that the government is not acting sufficiently in the German interest and warns: "Hier... beginnt das verteufelte Spiel der Opposition mit der parlamentarischen Demokratie."\textsuperscript{283}

\textsuperscript{277} Verhandlungen, pp. 79-212.
\textsuperscript{278} Cf. p. 98.
\textsuperscript{279} Verhandlungen, pp. 7922-3.
\textsuperscript{280} Ibid., p. 7925.
\textsuperscript{281} Ibid., p. 7927.
\textsuperscript{282} Ibid., p. 7926.
\textsuperscript{283} Ibid., p. 7929.
Bhmke's meaning is similar when he claims that the opposition tactic of confrontation, whose real architect is Strauß and not Barzel, is designed to stir up 'politische Ressentiments in diesem Lande' and may harm the democracy which all parties have worked hard to build. These speakers from the government side again attempt to show that the CDU/CSU is unacceptable to the voters of the centre and that opposition in the present situation lacks legitimacy.

An antagonistic atmosphere prevails in the following debates and a further blow is dealt to the opposition by the announcement during the 144th Sitting (20th October, 1971) of the award of the Nobel Peace prize to Brandt. This award naturally tended to add legitimacy to the policies pursued by the government, and the opposition continued to claim that it really wished to cooperate with the government. On the following day, Barzel made a speech deploring the 'Unversöhnlichkeit und Feindschaft' between government and opposition, and denying that the CDU/CSU wanted total confrontation. He explained that the opposition had been given no real chance to cooperate on the treaties, in spite of the need, particularly in Germany, for 'Solidarität der Demokraten'. The opposition continue to seek information on the treaties by submitting a 'Große Anfrage' on Deutschlandpolitik and foreign policy on 11th November, 1971, which was answered in writing by the government. After the rati-

284 Verhandlungen, p. 7934.
285 Ibid., p. 7935.
286 Ibid., p. 8289.
287 Ibid., pp. 8330 - 1.
288 Drucksache VI/2828; also Repr. in Texte zur Deutschlandpolitik 9, p. 190.
fication procedure for the treaties had been started by the govern-
ment (following the conclusion of the inter-German transit agree-
ment on December 11th, 1971,\textsuperscript{289}), the opposition Fraktion issued a
resolution on the treaties declaring that they were incomplete, had
not solved the problems of the 'Germans in Germany' and that the
grave doubts of the opposition remained.\textsuperscript{290} Thus the Bundestag
faced the certainty that the opposition would reject the treaties,
and the antagonistic attitude of the CDU/CSU was retained.

\textbf{C} \textit{The ratification of the Ostverträge}

1 \textit{The 'Bericht zur Lage der Nation, 1972' and the first reading
of the ratification}

The 23rd February, 1972, was seen in the Bundestag as "eine
große Stunde für unser Parlament und unseren Staat".\textsuperscript{291} The 'Bericht
zur Lage der Nation, 1972' was introduced by Brandt, the ratifi-
cation of the Ostverträge by Scheel, and these were then discussed
in conjunction with the opposition 'Große Anfrage' of 11th November,
1971, and an opposition motion on relations between the Federal Re-
public and Poland.\textsuperscript{292} The government emphasis lay on efforts to

\textsuperscript{289} There was a government statement on the agreement of Dec. 11th,
1971, in the Bundestag on Dec. 15th.
\textsuperscript{290} Texte zur Deutschlandpolitik 9, p. 447.
\textsuperscript{291} Verhandlungen, p. 9743; Scheel.
\textsuperscript{292} Drucksache VI/1523.
maintain self-determination and the unity of the nation, and on a German contribution to international detente. Scheel stressed that the Ostverträge were a necessary complement to the Westverträge, that world interest now centred on the way in which the Bundestag would deal with them and that the Federal Republic must ensure that respect for parliament is maintained, not as in Weimar. He appealed for a controlled debate and asked for "den Beweis der Zuverlässigkeit und der demokratischen Reife". Scheel admitted that the government now had a difficult task, since the opposition had already decided to refuse to ratify the treaties, but still spent a considerable time endeavouring to show that the opposition objections were groundless. He also stressed the possible consequences of a failure to ratify.

For the opposition, Barzel agreed that there was a very serious and historic decision to be taken, but stressed that the government had not 'achieved' peace, since the situation in Berlin and at the DDR border remained. He points out that German democrats have always been in favour of peace, those in Weimar too, where only the National Socialists and the Communists were not: the communists are still not. Further on the subject of the communists, Barzel

293 Brandt, Verhandlungen, pp. 9739, 9742.
294 Scheel, Verhandlungen, p. 9743.
295 Verhandlungen, p. 9742.
296 Ibid., p. 9744.
297 Ibid., pp. 9744 - 9750.
298 Ibid., pp. 9750 - 51.
299 Ibid., pp. 9752 - 3.
claims that the German division is not a direct result of the war, but of Stalin's policies and that the Federal Republic depends for its security and freedom on the Western Alliance, regardless of the treaties. The main opposition contention is that the treaties have not settled the situation in Germany itself. The treaties, says Barzel, give the Soviet Union, Poland and the DDR nearly everything they want, but mean no progress for the Europeans or the Germans: "zu diesem unvollständigen, in Leistung und Gegenleistung unausgewogenen, im Inhalt mißdeutbaren Vertragswerk sagen wir, die CDU/CSU, in aller Verantwortung: so nicht". This rejection was supported by Kiesinger, who repeated the opposition's objections to the treaties and claimed that they had deepened the division of Germany and made the unity of Germany more difficult than before.

The reaction of the government side (Wehner) is to point out that Jaeger, a fairly prominent member of the opposition, has said: "Die Ostverträge drohen für das deutsche Volk nicht nur territorial, sondern auch finanziell zu einem Super-Versailles zu werden" and that this is a tactic of the 'national opposition' in the years after the first World War, for which CSU influence is particularly to blame. However, Barzel defends the opposition's right to stand up for its beliefs and poses the question: how do you hope to im-

300 Verhandlungen, p. 9754.
301 Ibid., pp. 9761 - 2.
302 Ibid., pp. 9786 - 90.
303 Ibid., p. 9765.
304 Ibid., pp. 9770 - 1.
prove things in Germany "wenn Sie vorher alles weggeben".\(^{305}\) In a further remark he insinuates that the government is less than German in its actions: "Wenn Sie hier schon dauernd mit auswärtigen Quellen arbeiten, um eine deutsche Politik im deutschen Parlament zu begründen".\(^{306}\) Barzel then makes a serious and important point about treaty politics. It is one thing, he says, to see realities and to proceed from them, but quite another to put them down in writing in such a way that they cannot be changed.\(^{307}\) As already mentioned, treaty politics can be particularly disruptive for internal politics, and the end of 'Gemeinsamkeit' during the 6th Bundestag is an illustration of this.\(^{308}\)

An indication of the emotional mood of this debate is that some opposition members walk out when Mischmick speaks.\(^{309}\) Also, as has already been seen in Barzel's opening speech, anti-communist sentiments tended to come to the surface. Stücklen points out that only the Soviet interpretation of the treaties will count\(^{310}\) and that the aims of communism must not be ignored.\(^{311}\) He claims that the opposition would not lead the Federal Republic to socialism or bolshevism. Nor would they have signed a treaty so little in the German interest: the CSU had produced its own draft treaty.\(^{312}\)

\(^{305}\) Verhandlungen, p. 9796.
\(^{306}\) Ibid.
\(^{307}\) Ibid., p. 9798.
\(^{308}\) Cf. p. 72.
\(^{309}\) Verhandlungen, p. 9799.
\(^{310}\) Ibid., p. 9804.
\(^{311}\) Ibid., p. 9805.
\(^{312}\) Ibid., p. 9807; see also Texe zur Deutschlandpolitik 9, pp. 558 - 560.
draft was based on the Adenauer-Bulganin agreement of 1955 and did not accept the existing situation, unlike the present treaty, which "sanktioniert die Kriegsbeute Stalins".\footnote{Verhandlungen, p. 9810.} With mounting emotion Stücklen asks: "Kann es Aufgabe der Bundesrepublik sein, den Hitler-Stalin Pakt von 1939 zumindest moralisch nachträglich noch zu sanktionieren?".\footnote{Ibid., p. 9811.} He then claims: "Dieser Vertrag trägt die Handschrift Moskaus."\footnote{Ibid.} later he again displays the profound mistrust of the government within the CDU/CSU by referring to the fact that the opposition had not been permitted to see the minutes of the Moscow negotiations as "eine Zumutung für die parlamentarische Opposition, für die stärkste Fraktion dieses Deutschen Bundestages".\footnote{Ibid., p. 9813.} This reminder of the opposition's view that the 'rule of the majority' principle had been broken by the formation of the SPD/FDP government reflects the CDU/CSU's continuing reluctance to accept their role, although the fact that the debate was being televised\footnote{The government side uses the term 'Fernsehhetze' to describe Stücklen's speech. (Wehner, Verhandlungen, p. 9813).} may have encouraged a return to this theme.

Stücklen later mentions another popular opposition theme: Brandt's emigration, albeit in an apparently positive connection. He says that it is wrong to be resigned to the 'realities' in the DDR, that Brandt had not been resigned in 1933 but had emigrated and continued to oppose the regime. If brutal realities have to be recog-
nized, he continues, "das ist das Ende des Rechts insgesamt".\textsuperscript{318} This emotional tone is not taken up by Schröder, the next opposition speaker, but his attitude is equally negative. He deplores the lack of cooperation and the advent of a 'Glaubenskrieg' over the Ostpolitik, but blames the government.\textsuperscript{319} The opposition, he says, does not agree with the timing of the treaties and fears that the advantages expected from them are no more than hopes.\textsuperscript{320} He emphasizes the danger that "die formalen Vorbehalte der Regierung als verbale Pflichtübung entwertet werden"\textsuperscript{321} and the likelihood that falling in with Soviet demands, as the treaties have done, will make it more difficult to act in the German interest: "... in unseren Augen ist das keine solide Außenpolitik".\textsuperscript{322} With this thought in mind, Schröder makes it clear that the government alone has the responsibility for its policies, that it alone takes the risks involved and that it alone will face disaster if the treaties are not ratified. His concluding statement, which is applauded by his Fraktion, is a definite rejection of the treaties: "Ich bin der Überzeugung, daß die Interessen Deutschlands ohne diese Verträge besser wahrgenommen werden können".\textsuperscript{323}

The debate is continued on 24th February when von Weizsäcker expresses some concrete objections of the opposition. He points out that the previous all-party goals of unity and self-determination

\textsuperscript{318} Verhandlungen, p. 9815.  
\textsuperscript{319} Ibid., pp. 9820 - 1.  
\textsuperscript{320} Ibid., pp. 9822 - 3.  
\textsuperscript{321} Ibid., p. 9824.  
\textsuperscript{322} Ibid., p. 9825.  
\textsuperscript{323} Ibid.
for the Germans are not compatible with the recognition of the DDR which has in fact taken place, whatever terms are used to describe it. Further, once both Germanies are members of the UN, the world will regard them as separate subjects of international law, says von Weizsäcker, leaving no chance of Germany being anything other than a 'Kulturnation'.\(^{324}\) The government side attempt to defend their position in various ways. It is pointed out by Mattick (SPD) that reunification has not been taken seriously for years,\(^{325}\) while later Achenbach (FDP) takes it upon himself as a lawyer to prove to the opposition that nothing is given away by the Moscow treaty. He explains the treaty point by point and concludes: "daß meine Interpretation juristisch einwandfrei ist, wollen Sie doch hoffentlich nicht bestreiten".\(^{326}\) This is dismissed as frivolous by the opposition foreign policy spokesman, Marx, who then embarks on a lengthy speech against the treaties.

Marx claims that the government policy is irresponsible, based on a "verfehlte Einschätzung des Gegners", badly timed and likely to strengthen Soviet hegemony.\(^{327}\) He is critical especially of Egon Bahr, terming his negotiations 'dieses undurchsichtige Spiel' and 'Geheimgespräche' about which the DKP was better informed than the democratically elected Members of the Bundestag.\(^{328}\) He then goes further to say that the treaty is the work of the other side and that

\(^{324}\) Verhandlungen, p. 9840.
\(^{325}\) Ibid., pp. 9845 - 7.
\(^{326}\) Ibid., p. 9858.
\(^{327}\) Ibid., p. 9860.
\(^{328}\) Ibid., p. 9861.
Brandt's visit to the Crimea showed "wie sehr sich dieses Land bereits im Sog sowjetischer Politik befindet".\textsuperscript{329} After demanding more clarity on a number of points, Marx attacks the government on its alleged change of attitude, maintaining: "Für die CDU/CSU haben sich die Kategorien des Rechts und der Freiheit, der Wahrheit und des Friedens nicht verändert".\textsuperscript{330}

This last remark by Marx caused noisy scenes as the government side objected strongly and replied with 'ideological insults' such as Wehner's comment: "Sportpalast! Hier fehlt nur noch die Frage: wollt ihr den totalen Krieg?!"\textsuperscript{331} When the debate resumed Ehmke makes similar associations: "Herr Kollege Marx, die Rede, die Sie hier gehalten haben, war eine Rede, die in Weimar manche Deutschenationale gehalten haben."\textsuperscript{332} Later Ehmke also criticizes the opposition for having "dieses obrigkeitstaatliche Verhältnis zur Regierung", since the CDU/CSU expect to ask questions and receive answers instead of entering into a two-way dialogue.\textsuperscript{333} These provocative remarks about the opposition are rejected by Windelen (CDU/CSU), who then attempts to throw doubt upon the legitimacy of the government's position. He claims that the Polish treaty means that one quarter of Germany is lost, but there is no majority for such a decision; one vote could decide the issue and this amounted to pure chance and lacked credibility. The government, he said had no mandate for this.\textsuperscript{334}

\textsuperscript{329} Verhandlungen, pp. 9862 - 3.
\textsuperscript{330} Ibid., p. 9869.
\textsuperscript{331} Ibid.
\textsuperscript{332} Ibid., p. 9885.
\textsuperscript{333} Ibid., p. 9889.
\textsuperscript{334} Ibid., p. 9899.
A further contribution for the opposition is made by Strauß, who admits that various arguments for the treaties are acceptable: the moral argument that war must be paid for, the humanitarian argument that the people must be helped, the peace argument that peace must be secured and the reality argument that reality must be faced. However, he claims that the really relevant and important questions concern the right of self-determination and the true cause of peace and reconciliation: the first is omitted from the treaty, the second is not compatible with the Soviet ideology and imperialist policies. Strauß also warns that everyone expected peace after the Munich agreement. He goes on to list all the objections to the treaties and then decides that to say 'no' is the lesser evil since "Ein Ja zu diesen Verträgen bedeutet einen Bruchpunkt auf der Straße ins Unheil". Schmidt replies for the government side with sharp reminders of 'Vilshofen' and again later has the last word of the day: "Legen Sie endlich ihren deutsch-nationalen Größenwahn ab".

This antagonistic atmosphere still prevailed on the third day of the debate when Zimmermann for the opposition termed Schmidt's speech a 'Schmutzkübel' emptied over the house. Zimmermann firmly rejected the treaties and emphasized that they were the responsibility of the government. Dissatisfaction with the Polish treaty

335 Verhandlungen, pp.9910 - 9915.
336 Ibid., p. 9918.
337 Cf. p. 108.
338 Verhandlungen, p. 9934.
340 Verhandlungen, pp. 9941 - 9947.
was expressed by Czaja who asked 1. how were the interests of Ostpreußen, Westpreußen, Brandenburg, Pommern, Schlesien and Oberschlesien represented in the treaty negotiations? 2. was the treaty a description of the situation or a final agreement? 3. how can the government say that nothing substantial has happened to our homeland when these areas have suddenly become parts of a foreign country? 341 The opinion that the government had failed the expellees was also expressed by Becher, who claimed that the Chancellor's absence during Czaja's speech was a 'Mißachtung der Interessen der deutschen Heimatvertriebenen'. 342 Also for the opposition Katzer reminds the house that the Germans in 'Mitteldeutschland' have no right of self-determination 343 and regrets that those who seek more freedom and justice for all should by taunted by the government side with the words 'Deutschnational' and 'Sportpalast'. 344

The following speech for the government side by Schmid was a lengthy account of German history, which even drew applause from the opposition. 345 However, it is an indication of the atmosphere of the debate that a demonstrator had to be removed from the gallery and viewers were reportedly telephoning to complain about the noise in the chamber. 347 There were also further displays of emotion when Mende, only recently a member of the opposition, asked

341 Verhandlungen, p. 9961.
342 Ibid.
343 Ibid., p. 9969.
344 Ibid., p. 9970.
345 Ibid., pp. 9972 - 82.
346 Ibid., p. 9979.
347 Ibid., p. 9985.
if there was still any belief in human rights as laid down in the Basic Law; how could the UN membership of the DDR, which disregards these rights, otherwise be contemplated? Nende also makes an emotional address to 'meine Landsleute in Schlesien', giving the following promise: "Die größte Partei der Bundesrepublik Deutschland ... wird ihre Fürsorge- und Obhutspflicht für die Landsleute in Schlesien, für unsere Deutschen in Schlesien, Ostpreußen, Pommern niemals preisgeben, weil wir den Menschenrechten mehr verpflichtet sind als der Macht und dem Opportunismus". Other prominent opposition members also stressed human rights, as well as reconciliation, self-determination, unity and freedom of movement in their summing up of their position on the treaties. The expectation that the conflict between government and opposition might become unbearable during this debate is illustrated by the closing remark of Bundestag President von Hassel, who congratulated all on good parliamentary debating.

2 The constructive vote of no confidence

During the period following the first debate on the ratification there were further defections from the government side: Hupka left the SPD on 29th February, 1972, and joined the CDU/CSU on 3rd March, Seume left the SPD on March 2nd and later became a

348 Verhandlungen, p. 9988.
349 Ibid., p. 9989.
350 Ibid., p. 10000.
351 Ibid., p. 10003.
352 Reported to 177th Sitting, 15th March, 1972.
353 Announced on April 12th, 1972; Verhandlungen, p. 10445.
'guest' of the opposition Fraktion. On 26th April it was announced that Helms had left the FDP.\textsuperscript{354} The resultant narrowing of the government majority was obviously one factor in deciding the CDU/CSU to attempt to gain power by making the first ever use of the constructive vote of no confidence in the Bundestag. This intention is first mentioned in a plenary session of the Bundestag on 26th April\textsuperscript{355} by Althammer (CDU/CSU) who expresses surprise and shock at reports of 'Warnstreiks' in various towns against what is the opposition's legitimate use of an instrument of the constitution. He claims that the Young Socialists have called for extra-parliamentary action against what they term a 'Machtübernahme durch die CDU/CSU', an attempt 'die Macht zu erschleichen'.\textsuperscript{356} Althammer also deplores alleged attempts to influence parliament from abroad and asks why this action is thought in Germany to be an abuse, when members of the Bundestag are supposed to be free agents.\textsuperscript{357}

As Althammer describes, sections of public opinion in the Federal Republic felt that a change of power through a constructive vote of no confidence would be lacking in legitimacy, despite the constitutional provision for it. This provision was made expressly to avoid what was seen as a major weakness of the Weimar constitution, however, as Leicht has pointed out\textsuperscript{358} there was some con-

\textsuperscript{354} 182nd Sitting, \textit{Verhandlungen}, p. 10589.
\textsuperscript{355} \textit{Verhandlungen}, pp. 10594/5; the motion had been proposed on 24th April.
\textsuperscript{356} \textit{Verhandlungen}, p. 10594.
\textsuperscript{357} Ibid., p. 10595.
\textsuperscript{358} \textit{Grundgesetze und politische Praxis}, p. 45.
fusion between the stability of government and the stability of the system. According to Leicht, the constructive vote of no confidence was criticized at the time the Basic Law was drafted because of fears "daß ehrgeizige Politiker versuchen, sich auf diese Weise hinter den Kulissen in den Vordergrund zu schieben und zum Bundeskanzler zu avancieren. Das würde bedeuten, daß die Bundesverfassung quasi formalrechtlich die Intrigen der Politik zum Gegenstand der verfassungsmäßigen Ordnung macht". In April 1972 there was undoubtedly some public aversion to 'political intrigues' which meant that the formation of the government would be totally divorced from elections; a characteristic, incidentally, of the Weimar Republic. As seen above, critics of the opposition were tempted to use vocabulary firmly associated with Hitler's rise to power 'using the provisions of the constitution'.

Following Althammer's speech there was bitter controversy about strikes on the left and campaigns on the right which used the terms 'Untergang Deutschlands', 'Kommunisten', 'Verbrecher' and 'Hurerei', and even made death threats. For the government, Ertl warns that "mit Angeboten versucht wird, Mehrheiten zu bilden". The opposition retaliate with accusations of manipulation of the vote of no confidence the next day, since the government are apparently planning to abstain. Wohlrahe claims that the government are

359 Grundgesetz und politische Praxis, p. 44.
360 Verhandlungen, p. 10598.
361 Ibid., p. 10599.
362 Ibid.
363 Ibid.
using 'Volkskammer' methods. The government side again make use of the opposition choice of terminology by informing the house that Strauß has called the Moscow treaty a 'kalter Staatsstreich'. Dorn points out the different 'Demokratieverständnis' of the opposition indicated by Althammer's use of the verb 'ertragen' in connection with the role of opposition. He adds: "Die Christlich-Demokratische und die Christlich-Soziale Union sollten doch gerade auf diesen Sektor mal auf ihre eigene Vergangenheit in Deutschland zurückschauen." Returning to the subject of the vote of no confidence, Sperling (SPD) warns that everyone who votes the following day is "unter dem Verdacht, einen honorierten Gang zur Urne zu tun."

During the debate on the Chancellery budget 1972, on this occasion there were further exchanges about the CDU/CSU in the role of opposition. Katzer for the opposition accuses the government of "der unentwegte und dauernde Versuch, die Opposition in die Ecke der Nein-Sager, der ewig Gestrinken, der zu neuen Lösungen schlichtweg Unfähigen zu drängen." This is an accusation often levelled at the government by members of the CDU/CSU, and the reply from the government side (Schäfer) is that the opposition has a guilty conscience that it is not respecting the decision of the

364 Verhandlungen, p. 10601.
365 Ibid., p. 10600; Wehner.
366 Ibid., p. 10601.
367 Ibid., p. 10603.
368 Ibid., p. 10609.
369 Cf. p. 73.
voters. Later, the character of the Bundestag is discussed by Kirst (FDP) when he suggests that the activities of the opposition have been more in keeping with a 'Redeparlament' than an 'Arbeitsparlament'. In his opinion the opposition have indulged in too much questioning "aus polemisch-demagogischen Gründen" and made parliament ineffective. Kirst claims that the CDU/CSU could not get used to the change of power and to their role as opposition, and, in their desire to remain the 'Staatspartei', they launched a campaign to spread insecurity and cause polarisation, with talk of 'Ausverkauf' in the area of Ostpolitik and Deutschlandpolitik and of 'Inflation' in the area of finance and the economy. These criticisms of the opposition had often been made before, but were now levelled anew as the CDU/CSU was about to attempt to escape from its oppositional role. Kirst seeks to underline that the government side sees this attempt as illegitimate when he speaks of "Das Wahlergebnis durch das konstruktive Mißtrauensvotum zu verfälschen", and his comment on Barzel becoming Chancellor is "Nicht so!". For the opposition, von Wrangel defends the decision to use the vote of no confidence and the action of the members of the government side who have joined the opposition. He claims that they will ensure that the second republic does not go the way of the first. Barzel also stresses that members of the Bundestag should

370 Verhandlungen, p. 10610.
372 Ibid., pp. 10623 - 4.
373 Ibid., p. 10624.
374 Ibid., p. 10626.
follow their consciences and not any 'Wählerauftrag' and reminds the house yet again that it was Ollenhauer, Brandt and Wehner who first said 'Verzicht ist Verrat'. He goes on to claim that the government did not tell the truth concerning the Bahr paper and acted altogether irresponsibly in conducting foreign policy and signing treaties without assured majority backing. Strauß objects to the use by government supporters of the expression 'CDU/CSU Machtergreifung' and for the government, Schiller replies that if Strauß talks of 'Volksfront', his side will say 'Harzburger Front'. This kind of exchange makes further debating impossible and there are repeated cries of 'Nazi', 'SA-Mann' and 'Nazi-Professor', as well as 'Sie sind Professor von Hitlers Gnaden', before the debate has to be adjourned in disorder.

The vote of no confidence against Brandt was brought in the next day, 27th April, 1972, by Kiesinger. In putting the motion he stressed that since the government had failed and 'den Interessen unseres Volkes geschadet', the opposition had chosen a positive method of democratic parliamentarism in order to uphold the interests of the people; their action was not for the sake of power. Kiesinger contended that the government's foreign policy had not

375 Verhandlungen, p. 10652.
376 Ibid., p. 10654.
377 Ibid., pp. 10658 - 9.
378 Ibid., p. 10680.
379 Ibid., p. 10689.
380 Ibid.
381 Drucksache VI/3380: Antrag der CDU/CSU nach Art. 67 des GG.
382 Verhandlungen, pp. 10697 - 8.
been in harmony with international tendencies, that the treaties had barred the way to national unity for the Germans and that the SPD/FDP had not adhered to the wishes of the electorate, yet now insulted men of conscience by calling them 'Überläufer'. For the government side, after the SPD and FDP Fraktionen had pledged their support for Brandt, Scheel expressed the opinion that the vote would be an important test of democracy. He warned that it should not become the rule to replace the government without an election and that it was wrong to base a government on men without the nerve or character to stand by their party or give up their mandate! Such a government would be weak. The final word was spoken by Brandt himself, who said of the opposition attempt: "Dies ist der Versuch einer Flucht nach vorn, heraus aus der Unverantwortlichkeit eines sterilen Nein zu Schicksalsfragen unseres Volkes".

The attempt did not succeed, but it became obvious that the government had lost its majority. The Chancellery budget debate was continued later during the same sitting, with the government attempting to avoid a vote by filibustering. The opposition became very abusive when their demands for a vote were ignored and even accused a government minister of being drunk. This antagonistic atmos-

383 Verhandlungen, p. 10698.
384 Ibid., pp. 10704 - 5.
385 Ibid., p. 10708.
386 Barzel needed 249 votes, but received only 247.
387 Verhandlungen, p. 10750.
phere returns the following day, but only after Brandt has made a
government statement about the need to avoid polarisation and the
desirability of some agreement between government and opposition on
Ostpolitik and Deutschlandpolitik. He suggests a new joint resolu-
tion on these policies, as well as more cooperation in other areas
and advocates immediate all-party talks on the possibility of fresh
elections. Barzel claims that the opposition has always been
ready to cooperate, but these offers from the Chancellor have only
been achieved by the action of the previous day. Some discus-
sions on an election follow, with the inadequacy of the arrangements
becoming apparent. One difficulty is that the government does not
wish "unseren eigenen Mann wegen der komplizierten Vorschriften des
Grundgesetzes zu desavouieren". An important point about the
attitude of the opposition is also made here. Schmidt sees the fact
that the opposition brought its no confidence motion on a budget
issue and not on the Ostpolitik as an indication that it may be
changing its thinking on the treaties. After some further time-
wasting by Schmidt and other ministers, during which Brandt was
apparently trying to persuade Helms to vote with the government,
a vote was taken and resulted in a tie; Helms had voted against
and von Kühlmann-Stumm (FDP) had abstained. This was the
final proof that the government was powerless.

389 Ibid., pp. 10759 - 63.
390 Ibid., p. 10769; Schmidt.
391 Verhandlungen, p. 10772; Cf. Leicht, p. 36.
392 See remark by Stücklen, Verhandlungen, p. 10784.
393 Verhandlungen, pp. 10787 - 9.
The joint resolution and the final vote on the treaties

By 10th May, 1972, an all-party resolution on the treaties had been prepared and it seemed that 'Gemeinsamkeit' might after all have been achieved. However, in the 186th Sitting of the Bundestag on that date the opposition state their concern that there are apparently Soviet objections and ask for a postponement of the further reading and vote on the treaties. The vote on this is a tie so that the opposition request is refused. Very long, detailed and thorough reports from the Bundestag foreign policy committee are given by Achenbach (FDP) and Heck (CDU/CSU), Haack (SPD) and Bach (CDU/CSU) and both treaties are explained and interpreted fully. The debate is opened in conciliatory mood by Brandt, who expresses his thanks to all sides for their efforts and declares that everyone in the Bundestag favours peace. This even receives some applause from the opposition. However, after a break for Fraktion meetings the opposition seems less inclined to cooperate. Barzel declares that it is irresponsible to call for a vote in such an unclear parliamentary situation and claims that the 'so nicht' of the opposition was a real alternative. He objects to the pressure for haste and states he has advised his Fraktion to vote 'no' if there is to be a vote that day, since they have not been allowed enough time for discussion and consideration. He

395 Verhandlungen, p. 10872; Wagner.
396 Verhandlungen, pp. 10872 - 3.
397 Ibid., pp. 10873 - 10888.
398 Ibid., pp. 10888 - 10891.
399 Ibid., p. 10901.
400 Ibid., p. 10903.
goes on to explain that the opposition is not satisfied that Soviet objections to parts of the joint resolution have been cleared up and it is revealed that a frantic series of meetings and exchange of letters between the Soviet representative Falin and the government has been taking place, in order to satisfy the doubts of the opposition. In spite of this the opposition ask for an adjournment, with Barzel explaining that they only agreed to the joint resolution 'wenn sonst alles stimmt', and this did not seem to be the case.

The debate on the treaties was resumed on 17th May, 1972, with a statement by Schmid for the SPD, emphasizing that the treaties are part of the process of overcoming the divisions in Europe, the only way in which self-determination may one day be possible for Germany. Mischnick also saw them as favourable for peace and for the end of German-German confrontation. It was then announced by the opposition spokesman, Kiesinger, that after very long deliberations, the CDU/CSU had decided to abstain. He admitted that they had rejected the treaties, but now the government had lost its majority it had been forced to seek cooperation and a joint resolution had been produced. Therefore the opposition would not be the cause of a failure to ratify. In spite of this decision Schütz, the mayor of Berlin, and Scheel both make last appeals for a 'yes'.

401 Verhandlungen, pp. 10904 - 8.
402 Ibid., p. 10913.
403 Ibid., pp. 10931 - 2.
404 Ibid., pp. 10932 - 3.
405 Ibid., pp. 10933 - 4.
vote, but unsuccessfully. Most of the opposition abstained, but there were 10 votes against the Moscow treaty, including Becher, Czaja, von Guttenberg, Hupka, Jaeger, Zoglmann and von Kühlmann-Stumm, and 17 against the Warsaw treaty, the above members being joined by notably von Fircks and Mende. There were even 5 abstentions on the joint resolution: Becher, Czaja, Hupka, Riedel and Zoglmann.\textsuperscript{406}

Broadly speaking, those who voted against had been consistent in their sincere and outright rejection of government Ostpolitik and Deutschlandpolitik throughout the 6th Bundestag and, unlike the rest of the opposition, seem not to have been swayed by any tactical considerations. Many issued written statements giving their reasons and the opposition published a resolution which was something of a concession to them. It stated that the treaties did not change the right to freedom of movement and did not legalize the expulsion of Germans from their homeland. After the vote on the treaties further members left the Bundestag or joined the opposition and there were protracted deliberations on how to overcome the paralysis of government and parliament. The treaties with the Soviet Union and Poland, and the Berlin agreement, went into effect on 3rd June, 1972, amid demands for Brandt to resign.

\textsuperscript{406} Verhandlungen, pp. 10939 - 10945.
\textsuperscript{407} E.g., von Kühlmann-Stumm, von Guttenberg, Müller.
It was not until the 197th Sitting on 20th September that Brandt made the dissolution of the Bundestag possible by asking for a vote of confidence which he intended to lose. Barzel claims that Brandt should have resigned on 28th April when his budget had been rejected, instead of seeking "am Grundgesetz vorbei . . . eine Parteiverabredung über Neuwahlen". He then lists the members of the SPD and FDP who changed Fraktionen or resigned and describes their reasons. These people are discussed again in the 199th Sitting when the confidence motion is continued; Scheel condemns the change of party without the agreement of the electorate as the end of parliamentary democracy. However, Schulz (Berlin) claims that the 'Überläufer-Legende' is a new 'Dolchstoßlegende' and rejects the government 'defamation' as a deplorable return to the Freund-Feind relations of Weimar. He says that if the government had paid more attention to dissenters, the treaties would have been different and Brandt would not have lost his majority: the dissenters "wußten, daß man Außenpolitik nicht ohne eine so große und machtvolle Opposition machen kann." Müller, who, like Schulz, left the SPD to join the opposition, later claims that people with the
courage to follow their consciences are 'Träger wahrhaft humanistischer Gesinnung', as the SPD had once said in a similar situation. He claims that he and others changed parties just in time to prevent a "neue totalitäre Schlagseite der deutschen Geschichte." A further defector, Mende, blames the whole situation on the "falsification of the 1969 election result", and is called a liar by FDP members. Kleinert recognizes the situation for what it is when he calls it the 'peinlichste wahlkampferöffnung' ever.

The government side take the opportunity here to remind the house and the TV audience of the record of the opposition. Wehner accuses them of holding up even very necessary reforms, just because these were initiated by the government, of not accepting their role and of 'Propaganda mit der Angst'. Most deplorable, says Wehner, was von Hassel's statement that the opposition only allowed the treaties to be accepted by abstaining because 'bürgerkriegsähnliche Zustände' existed outside the parliament buildings. Brandt also emphasizes the negative attitude of the opposition: "Die Opposition hat sich in die Rolle des ewigen Neinsagers hineinmanövriert", and criticizes their indecision on the treaties: "Wer in einer Schicksalsfrage der Nation in die Enthaltsamkeit flüchtet, insoweit in einer Schicksalsfrage der Nation vor dem Gewissen flieht, der sollte nicht vom Gewissen reden, wenn von Mandatsüberträgern die Rede ist."

415 Verhandlungen, p. 11752.
416 Ibid.
417 Ibid., pp. 11754 - 5; Ertl.
418 Ibid., p. 11755.
419 Ibid., p. 11760.
420 Ibid., p. 11771.
Many further antagonistic remarks are contained in a lengthy reply by Strauß, who claimed that the government did not ban the NPD because they would then have had to ban the DKP too,\textsuperscript{421} that they had misled the public on the vote of confidence procedure for dissolving the Bundestag and that they might be ruling unconstitutionally, since the budget had not been passed.\textsuperscript{422} He again declared that the CDU/CSU was a party of the centre and that democrats should distance themselves from revolutionaries.\textsuperscript{423} A reply by Kirst becomes very provocative when he says that the 'Überläufer' would provide material for a chapter in 'Verrat im 20. Jahrhundert'.\textsuperscript{424} Equally provocative is Schmidt's defence of ministers who have resigned: at least they were not tainted by a 'brauner Fleck' like some people who had had to resign.\textsuperscript{425} After this the atmosphere became extremely hostile until the vote was taken, which Brandt lost, allowing the dissolution of the 6th Bundestag.

\begin{footnotes}

\item[421]Verhandlungen, p. 11774.
\item[422]Ibid., pp. 11776 - 7.
\item[423]Ibid., pp. 11777 - 8.
\item[424]Ibid., p. 11785; some members walked out even as Kirst began to speak.
\item[425]Presumably a reference to Strauß and the 'Spiegel Affair'; Verhandlungen, p. 11803.
\end{footnotes}
III SUMMARY AND CONCLUSIONS

A The development of the CDU/CSU Deutschlandpolitik and Ostpolitik

1 The position of the opposition towards the policies of the government

The period preceding the signing of the treaty between the Federal Republic and the Soviet Union was that during which the CDU/CSU parliamentary opposition was most active in plenary sessions concerning Ostpolitik and Deutschlandpolitik. This period, the first year of the 6th Bundestag, was also the time of adjustment by the opposition to its new role and has therefore been dealt with at greatest length. From the outset, in opposing the Ostpolitik and Deutschlandpolitik of the Brandt/Scheel government, the CDU/CSU took up a conservative attitude, more conservative, it might be argued, than when it had been in power itself.\(^1\) Of Kiesinger it has been remarked that in 1969 "he and his party had retreated far from their position at the outset of the grand coalition".\(^2\) However, the stance of the opposition at this time has also been described as consistent with its relatively negative attitude throughout the 60s when, in contrast, the SPD began to look for more progressive

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2 Merkl, p. 151.
policies which were more in tune with the changing international situation.  

Important debates such as those on the government declaration, the 'state of the nation', the Chancellery and other budgets CDU/CSU 'Große Anfrage' on Deutschlandpolitik and Ostpolitik were the occasions of very detailed and sometimes very differing accounts of the opposition position. The overall impression of the opposition approach is of caution and conservatism, since heavy emphasis is placed on the retention of the previous goals of reunification and self-determination for Germany. While support for the aims of the government's Ostpolitik and Deutschlandpolitik is affirmed, there is general disapproval of its methods, ranging from outright rejection to the voicing of 'doubts'. The CDU/CSU's main objection at the outset was to the two state theory adopted in the government declaration of 1969. This was seen by the opposition as incompatible with the continuing aims of self-determination, reunification and the restoration of human rights. The signing of the nuclear non-proliferation treaty was also condemned by the opposition since, they claimed, it would mean a change in the relationship between the Soviet Union and the Federal Republic. This negative reaction to the beginning of a period of 'treaty politics' seemed to be conditioned by the parties' basic conservatism and anti-communism.

3 Hacke, p. 85.
By early 1970 the opposition obviously wished to appear less negative and clearly expressed its support for the aims of the government's Ostpolitik and Deutschlandpolitik, for talks with the DDR and for efforts towards a non-aggression agreement with the Soviet Union. At the same time, CSU and expellee elements in the Bundestag reacted against the government by condemning any efforts to negotiate with communist regimes, but the official opposition position remained one of qualified support, or at least of non-obstruction, while the Erfurt and Kassel meetings were going on and while talks went ahead in Moscow. However, by April, 1970, demands were being voiced by the opposition for progress on a Berlin settlement before other talks went any further. There were also repeated requests for more information and more clarity, and the CDU/CSU began to stress an 'ideal' foreign policy of 'Ausgleich' and 'Lö sung', while denying the usefulness of the 'formulae' being sought by the government. Nevertheless, the Bundestag opposition made it clear that it would do nothing to prejudice the final negotiations.

The Moscow treaty of August, 1970, was the first and most important stage in the Ostpolitik of the new government and was not officially rejected by the opposition in the Bundestag. They preferred to keep their options open by deferring a final decision until further stages of the policy had been successfully completed. Reactions from individual CDU/CSU members were decidedly negative,

however. Essentially the same reception was given to the Warsaw treaty, although the reaction of the CSU and expellee members was one of immediate rejection. In early 1971, Barzel stated that the opposition were still intending to judge the government's Ostpolitik as a whole, but were so far disappointed with the treaties, since their greatest concern was German self-determination. He further claimed that the opposition was ready to share responsibility for the treaties, but that the government was not interested in cooperation. CSU opinion was obviously not in agreement with this, since their statements suggest that they reject the Ostpolitik, which they regard as the cause of the atmosphere of hatred in the Bundestag.

One point about which there did seem to be agreement in 1971 was that the conclusion of a satisfactory Berlin agreement should be a condition for ratification of the treaties with the Soviet Union and Poland. However, once the four-power agreement was concluded, the attitude of the opposition was ambivalent, although it had to admit that some progress had been accomplished. It expressed a desire to reserve judgement until the inter-German arrangements had been completed, but even then the CDU/CSU claimed that the treaties were incomplete and seemed intent on rejecting them.

5 Cf. p. 143.
6 Cf. p. 154.
In early 1972, the ratification of the treaties received its first reading in the Bundestag and the opposition attitude appeared unchanged. They contended that the treaties had not settled the German problem, had given away more than they had achieved and therefore still caused opposition doubts to remain. The decision of the CDU/CSU was formulated as 'so nicht', although the CSU used much more negative terms and pointed to their own counter proposal for a treaty with the Soviet Union. There were again claims that the goals of self determination and unity for the Germans had been neglected and that expellee and refugee interests had been ignored. Particularly the controversy over the 'letter on German unity' was an illustration of the confusion within the opposition Fraktion as to the exact reason for its objections. To an outside observer, however, the basically conservative reaction of the CDU/CSU was only to be expected: "The motives of their opposition were obvious: the ustpolitik was a radical challenge to the cold war shibboleths of twenty years of CDU/CSU government." Merkl clearly does not consider any of the concrete objections raised at this stage by the opposition to be valid.

By the time the second reading of the ratification laws took place, the government majority had narrowed, the opposition had

7 Cf. Hacke, p. 48/49.
8 Merkl, p. 165.
9 In his opinion "The treaty drafters made sure to cover also the points raised by the opposition spokesmen of the CDU/CSU and the refugee and expellee organisations. They left undiminished the German right of self-determination and reserved the final disposition of the frontier questions to a peace conference"; (German foreign Policies, p. 135).
failed to replace Brandt by Barzel using the constructive vote of no confidence, but had succeeded in defeating the government on a tied budget vote. The ensuing new efforts for cooperation between government and opposition had produced a joint resolution, which was expected to make the treaties acceptable to the opposition, but the CDU/CSU were still not ready to make a decision. After a postponement they decided that they could not vote in favour of the treaties but, as they did not wish to be the cause of a failure to ratify, they would abstain from voting. The vast majority of opposition members followed this tactic but 'no' votes were recorded by a handful of outright opponents, which gave some indication of the strength of truly fundamental opposition to the treaties from within the CDU/CSU Fraktion.

2 Division of opinion within the opposition on the question of Ostpolitik and Deutschlandpolitik

The detailed examination of the behaviour of the opposition in the 6th Bundestag given in Section II showed clearly that with regard to the Ostpolitik and Deutschlandpolitik of the government, there were many shades of opinion and fluctuations of attitude within the CDU/CSU. These can usefully be divided simply into three overlapping groups: CDU, conservative but later tactical; CSU, remaining conservative; upholders of the refugee and expellee cause from all parties, fundamental.10 This division serves to show the

10 Cf. M. Haag, The opposition to the Ostpolitik, unpbl. case study, University of Surrey, 1972.
broad differences, but the party labels cannot be clear cut, since individuals appeared to be in different groups on different occasions. Even less distinct are the divisions into four\textsuperscript{11} or five\textsuperscript{12} groups which have been suggested. These show agreement at the extremes of opposition opinion, but confusion about more moderate groups. The CSU is taken to be the broad label for the most negative group of absolute opponents of Ostpolitik, and refugee and expellee elements, both from the CSU and from other parties, can be included under this heading.\textsuperscript{13} This group splits only for the final voting on the ratification, when the 'absolute opponents' who vote 'no' are clearly those espoused to the refugee/expellee cause. The four-way and five-way divisions also agree on the 'positive' group exemplified by Kiep. This is omitted from the simple three-way division suggested above, since it did not emerge until after the 1972 elections.

The central groups within the CDU/CSU opposition to the Ostpolitik are exemplified mainly by prominent members of the CDU: a 'conservative' group represented by Kiesinger and Marx\textsuperscript{14} and a group of 'conditional critics' (Pridham), who were 'undecided' (Hacke), represented by von Weizsäcker and Birrenbach. The examination of the Bundestag debates in Section II confirms that there were consistent differences between these two suggested groups, in

\textsuperscript{11} Pridham, 'The Ostpolitik and the Opposition', pp. 49 - 51.
\textsuperscript{12} Hacke, pp. 75/76.
\textsuperscript{13} Hacke omits the refugee/expellee group but points out that it has been suggested by others; p. 59 & n. 261.
that the first tended very much towards the antagonistic approach, while the second was more restricted to concrete criticism. The suggestion made by Hacke that Gerhard Schröder should represent a separate group of opinion\(^\text{15}\) is borne out by the indication that he did not share the governmental approach to foreign policy of Kiesinger and other 'conservatives' since he stressed that the government alone should assume the responsibility for its policies.\(^\text{16}\) In his view the opposition should accept that foreign policy initiative was the responsibility of the government,\(^\text{17}\) and as Hacke points out, the final action of the opposition on the ratification of the treaties was very much in line with this viewpoint.\(^\text{18}\)

B The CDU/CSU as the parliamentary opposition

1 The CDU/CSU's 'governmental' approach to opposition

The CDU/CSU opposition in the sixth Bundestag was operating somewhat self-consciously in a new parliamentary role: as shown in Section II\(^\text{19}\) the early part, particularly, of the sixth legislative

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15 Die Ost- und Deutschlandpolitik der CDU/CSU, p. 76.
16 Cf. p. 159.
17 Cf. Hacke, p. 61.
18 Ibid., p. 71.
19 p. 82 ff.
period was a time of adjustment to what must be regarded as the
beginning of a system of alternation between government and oppo-
sition for the two major political parties (or two groups) in the
Federal Republic. The change of power was not immediately accepted
by the opposition, however, since the important democratic principle
of the rule of the majority seemed to have been broken. The result
of the 1969 election had not clearly assigned the roles of govern-
ment and opposition. The CDU/CSU had retained its position as the
largest Fraktion, but the SPD and FDP together could now form a
majority. This is an example of the case pointed out by Gehrig, in
which the 'rule of the majority' principle may be ignored in a
two group system such as the Federal Republic. The CDU/CSU were
quick to point this out, just as oppositions in similar circum-
stances at Land level had in the past. However, as several authors
indicate, the representative aspect of the system allows the
parties to decide upon government formation if no absolute majority
is reached. Nevertheless the CDU/CSU felt the 1969 situation to be
illegitimate and claimed the election result gave them a mandate to
lead the government, either by continuing the Grand Coalition or by
joining with the FDP. They pointed to past precedents: the largest
party had always led the coalition government, and the FDP had pre-

20 Parlament - Regierung - Opposition, p. 196 - 197.
21 Cf. p. 95.
22 E.g., Seidel, Die Funktion der Opposition.
23 E.g., Gehrig, p. 197; Grube, p. 7; Dolf Sternberger, Lebende
Verfassung: Studien über koalition und Opposition (Meisenheim,
viously always adhered to the principle of coalescing with the strongest party. On the other hand, the SPD claimed the 1969 election result gave it a mandate to join with the FDP. Just before polling day the FDP had made it known that it would coalesce with the SPD if possible. The situation was certainly not clear and the government formation was divorced from the election to some extent, since there were theoretically three possibilities on the basis of the same results.

According to Kaltefleiter, the structural weakness of the West German party system which allowed this unclear situation to arise was one of the main causes of the constitutional crises which developed between 1969 and 1972. It was well known that some FDP members had only accepted the new coalition out of party loyalty. The CDU/CSU could therefore count on some internal opposition in the coalition, which might provide a chance for it to regain power before its term was completed. "Diese Chance, verbunden mit dem Selbstverständnis, die Wahl von 1969 nicht verloren zu haben und 'zu Unrecht' in die Opposition verwiesen worden zu sein, verstärkte die Bereitschaft zum 'Umkoalieren' " In this situation the opposition chose to attempt to regain power without waiting for the next election and therefore not to use the time out of office to regenerate. This leads critics to the conclusion that it did not

24 Zwischen Konsens und Krise, p. 6.
25 Ibid., p. 9.
'understand' the role of opposition. The attempt to take over government failed and the 1972 elections were to show that the opposition's 'governmental' approach was not honoured by the electorate. Surveys have shown that all legislation tends to be credited to the government, and that the public expected that the opposition would concentrate more on offering alternatives.

This 'governmental' approach was recognised as inevitable by CDU authors such as Dietrich Rollmann: "Bei einer Partei, die so lange in der Regierung und noch nie in der Opposition war, ist das Oppositionsverständnis notgedrungen gouvernemental". It has also been pointed out by Pridham that the main concern is apparently with the organisational structure and governmental expectations of the CDU, with the CSU somewhat more prepared for opposition in the form of confrontation. The role of opposition is described by the opposition Fraktion leader, Rainer Barzel, as that of an ever-present alternative government, not polemical but constructive in criticism. Barzel warns that the government side, and Herbert Wehner in particular, must not be allowed to brand the CDU/CSU a 'Nein-Sager-Partei', composed of nationalists incapable of offering alternatives. This image of the CDU/CSU would mean the "Verbannung

27 Die CDU in der Opposition, p. 149.
28 'The CDU/CSU opposition in West Germany', p. 212.
29 'Die Rolle der Opposition' in Rollmann, p. 30.
30 Ibid. p. 31; see also Blüm, p. 8.
auf die harten Bänke der Opposition" for several further legislative periods.\(^{31}\) In fact the experience of other two party or two group systems has shown that a party's regeneration and the return of its electoral attractiveness through opposition, as suggested for the CDU/CSU by Rollmann,\(^{32}\) usually take more than one period out of office. It is characteristic of the predominant CDU attitude during this period that Barzel refers to the role of opposition in this way and emphasizes a speedy return to office rather than a period of regeneration. This emphasis meant that many of the demands for party reforms went at least temporarily unheeded\(^{33}\) and the parliamentary party and its leader became all-important.\(^{34}\)

It is further made clear in the same article by Barzel that the CDU/CSU intended to oppose and yet to bring positive influence to bear by continuing their legisatory work as before. According to Rollmann, the aim of this work was to return the CDU/CSU to its government position: "Die CDU hat eine Opposition immer für notwendig gehalten, aber sie hat sie für sich selbst niemals erstrebt, ihr Ziel war die Regierung . . . Dem gilt ihre Arbeit, dem gilt ihr Kampf."\(^{35}\) This statement again reflects the CDU's image of itself as the 'natural' governing party.\(^{36}\) In fact the 1969 - 1972

\(^{31}\) Barzel, 'Die Rolle der Opposition' in Rollmann, p. 31.
\(^{32}\) Die CDU in der Opposition, p. 149.
\(^{33}\) E.g., those of Blüm, Becker & Wiesendahl.
\(^{34}\) Cf. Pridham, Christian Democracy in Western Germany, p. 193.
\(^{35}\) Die CDU in der Opposition, p. 153.
\(^{36}\) Cf. p. 53.
opposition did turn out to be the most hard-working opposition ever, although the SPD opposition had also been very active in initiating legislation, amending government legislation and cooperating in joint legislation, even in the first Bundestag. The concept of parliament as a legislative body is still very strong in the Federal Republic and the Bundestag must be regarded as tending more towards an 'Arbeitsparlament' than towards a 'Redeparlament'. This contrast between its legislative function and its representative function has been pointed out by Loewenberg and is considered likely to make the opposition's important tasks of criticising government and offering alternatives very difficult, since these may often be incompatible with strong emphasis on the legislative function. According to Hereth, some reforms and new rulings have improved the situation of the opposition in plenary sessions, but politicians and constitutional lawyers continue to regard parliament as a whole as the counter-weight to government. One example of this is Barzel's reference to the opposition's intended efforts to strengthen the position of parliament, and he adds: "Wenn sich die Koalitionsfraktionen als reine Hilfstruppe der Regierung betrachten und ihre Kontrollfunktion nicht wahrnehmen, dann kommt der Opposition ein besonderes Wächteramt zu." As noted in the previous section, almost identical statements were made on a number of

38 C.f. Kralewski & Neunreither.
40 Parliament in the German political system, p. 383.
41 Hereth, Die parlamentarische Opposition, p. 141.
42 'Die Rolle der Opposition', p. 34.
occasions in plenary sessions of the sixth Bundestag.

As regards legislation, then, the overall impression of the opposition's activity was one of broad cooperation with government. The CDU/CSU introduced 122 draft laws during its first period in opposition; the largest number of opposition initiatives ever in the history of the Bundestag, amounting to 70% of all the initiatives originating there in the sixth legislative period. Further, the opposition agreed to 93% of all legislation passed.\textsuperscript{43} However, the sixth Bundestag still tended more towards a mixture of 'Arbeitsparlament' and 'Redeparlament' than its predecessors. As shown, in the plenary sessions the opposition dominated the question periods, brought a large number of 'Große Anfragen', forced debates on several issues in 'Aktuelle Stunden' and finally was the first to use the constructive vote of no confidence, thus making very full use of the parliamentary methods available to it. The use of these methods predominated above all in the foreign policy area and, as Veen has pointed out,\textsuperscript{44} this is traditionally an area of executive initiative. Treaties with foreign countries need the agreement of the legislature in the form of a law, but members of the Bundestag, and this also applies to the opposition as a body, have no right of legislative initiative in foreign policy matters. Also the scope


\textsuperscript{44} \textit{Die CDU/CSU Opposition}, p. 45.
for influencing government legislation is limited in this area, since, according to § 81 of the Bundestag rules of procedure, no amendments are permitted in the second or third readings of foreign treaty laws. The vote is taken on the whole treaty only, leaving the opposition only a straight choice of acceptance or rejection, and therefore with no opportunity for legislative influence. The intensive work on legislation in all other areas, however, was the main aspect of the CDU/CSU approach to opposition which Kaltefleiter terms 'quasi governmental'. This approach was not only based on long-standing habit, but was the logical continuation of the conviction held by many CDU/CSU politicians that they had not lost the election but had been cheated of office by the FDP. It was consistent with repeated assertions from all the parliamentary parties that opposition should be 'cooperative' and 'constructive'.

2 The 'antagonistic' approach in opposing the Ostpolitik

Two areas of confrontation were chosen by the opposition in the sixth Bundestag. One was the economy and inflation, an area very sensitive in Germany and generally one in which opposition

45 Kaltefleiter, Zwischen Konsens und Krise, p. 29.
can successfully gain support. In this case however, economic issues were overshadowed by the second area chosen by the opposition, the SPD/FDP Deutschlandpolitik and Ostpolitik, which was the main area of government activity. As already indicated, the foreign policy area is a particularly difficult one for opposition. Government can usually count on public sympathy, due to a feeling of national solidarity, and since foreign policy is seen less as a party issue than other areas. Therefore, an opposition which makes foreign policy the main target of its attack is less likely to enjoy public support. It was largely the choice of the CDU/CSU opposition that the Deutschlandpolitik and Ostpolitik of the government became the central theme of public controversy during the sixth Bundestag. As during the first Bundestag, the opposition tended to become unrealistic in its hostility to these parts of government foreign policy, while neglecting the opportunity to oppose internal policies. On many occasions in the sixth Bundestag a debate on some other topic was turned into a foreign policy debate by the opposition. This is another aspect of the self perception of the CDU/CSU as the 'natural' government party. It had always been in government, had a great deal of foreign policy experience as a result, and a number of its leading members were especially interested in foreign policy. Thus its at times almost obsessional hostility to government foreign policy became the main characteristic of the CDU/CSU's 48

In this policy area there was a lack of basic agreement between government and opposition as to the permissable rate of change and there was an absence of trust between the two sides. The 'rule of the majority' principle, which the opposition had claimed was unjustly broken by the government formation after the 1969 elections, was now seen as inappropriate for decision making on Ostpolitik. Members of the opposition suggested that a narrow majority was not sufficient in the case of the treaties with the Soviet Union and Poland, especially since there was particularly intense minority feeling against them. As suggested by Dahl, such a situation can be avoided by appropriate responsiveness of the system to all claims, and the constant demands for cooperation between government and opposition, from both sides, but particularly from the opposition, reflect the desire to overcome these minority objections by a return to the power-sharing and 'unanimity' of the past. However, by the spring of 1972, as the final approach of the CDU/CSU to the ratification of the treaties would suggest, the opposition had begun to realise that the only realistic course was to accept and adapt to government foreign policy. This, according to

49 Cf. p. 10 above on Kirchheimer's conditions for the functioning of loyal opposition.
50 E.g., Becher, p. 141; Windelen, p. 161.
51 Cf. p. 6.
52 The joint resolution of May 1972 was a last attempt to do so.
53 See Hacke, p. 84 - 85 on 'Adaption' or 'Negation'.
Pridham, is "one primary characteristic of 'loyal opposition' ", and in choosing Ostpolitik and Deutschlandpolitik as areas of confrontation the CDU/CSU had found particular difficulty in reconciling 'responsibleness' with criticism in order to appear 'loyal'. It had reacted in a negative fashion sufficiently often for the 'Nein-Sager' label given it by the government to appear credible. Also, the continuing sentiment that opposition may be harmful to the system allowed the government plausibly to suggest that CDU/CSU antagonism towards the Ostpolitik was irresponsible and illegitimate.

This antagonistic side of the CDU/CSU's approach to opposition has tended to overshadow the 'governmental-cooperative' attitude displayed in matters of legislation. Obviously, most publicity was attracted by those plenary sessions in which most controversy was apparent. The public image of the opposition, and even that portrayed by some observers such as Manfred Friedrich, was more one of 'total confrontation'. Friedrich refers to "der damalige oppositionelle Kampfstil" as "ein buchstäblich lehrbuchhaftes Beispiel für das Verhaltensmuster der "kompetitiven" Opposition" and finds the most remarkable characteristic of the CDU/CSU opposition in the sixth

54 'The Ostpolitik and the Opposition', p. 47.
55 Cf. Butt, p. 296.
56 E.g., p. 124, Dorn suggests it is wrong to oppose a democratic government; p. 140, Apel; p. 170, Brandt.
58 Ibid.; Friedrich, Veen and others use 'competitive' in an apparently positive sense to denote an 'opposing' opposition, offering alternatives, while Kirchheimer speaks of opposition being 'reduced' to competitive elements only (p. 52).
Bundestag to have been its all-out effort to regain power: "Nur eine Partei, die sich keine andere Lösung ihrer Probleme als ihre baldige Rückkehr in den Regierungsbesitz vorstellen kann, konnte sich so bedenkenlos auf diesen Stil einlassen." This assessment of the CDU/CSU opposition's approach has caused Veen to comment that the statistically demonstrable cooperative stance of the CDU/CSU in matters of legislation in the sixth Bundestag has either not been noticed or ignored, "weil das Image einer 'Kanzlersturz-Partei' evident zu sein schien". Veen claims that the CDU/CSU attempted to put equal emphasis on cooperation and on confrontation, and that the result was that its public image was determined, and in fact distorted, to a large extent by its behaviour in the important foreign policy debates and finally by its decision to use the constructive vote of no-confidence.

The evidence given in the previous section of this study of the antagonistic approach of the CDU/CSU opposition to the Ostpolitik in particular confirms this image, and it is not necessarily an incorrect one; the assessment is based on a 'classical' concept of 'British-type' parliamentary opposition, whose activities begin and

60 Opposition im Bundestag (Bonn, 1976), p. 193; an extended version of Friedrich's article does now refer to opposition cooperation in legislation in the sixth Bundestag - 'Parlamentarische Opposition in der Bundesrepublik Deutschland: Wandel und Konstanz' in Oberreuter, p. 257.
61 Opposition im Bundestag, p. 193; Veen's example here is the work by Becker & Wiesendahl.
62 Ibid.
end in the plenary sessions of parliament and, as already noted, this is the conscious or unconscious model for the majority of authors on opposition. In any case, it is interesting to note that the antagonistic approach of the CDU/CSU opposition in the sixth Bundestag can also be 'statistically demonstrated'. The 'most hardworking opposition ever' was also the 'most antagonistic opposition ever' (with the exception of the SPD opposition in the first Bundestag): the number of times members were called to order or reprimanded was well over double the average for the previous eight years and there was a more than fourfold increase in the number of times a member was called upon to return to the subject under discussion or was not allowed to continue speaking. 63 The most notable of these occasions have been described in the previous section of this study, showing, of course, that the at-times almost obsessional hostility of the CDU/CSU opposition towards the government and its foreign policy was repaid in kind by the SPD/FDP. As already suggested, some members of the government side may have sought to encourage the more extremely negative style of opposition, or at least to keep it in the public memory, in the knowledge that the antagonistic and ideological approach had been sufficiently discredited and could only harm electoral chances.

Loyalty to the system as a primary function of opposition

The CDU/CSU opposition in the sixth Bundestag attempted not only to combine cooperation with confrontation, but also to continue in its role as a 'pillar of the state', although no longer the governing 'Staatspartei'. In line with accepted definitions, it saw preservation of the system as a primary aim of 'loyal' opposition, which, as mentioned earlier, may be seen as 'part of government' or 'part of the state'. Since past experiences of political successes or failures obviously act to condition the pattern of opposition, this was not unexpected. In the sixth Bundestag, great emphasis was placed on German political history by both sides, with the most obviously relevant period being the Weimar Republic. The experience of the disintegration of the Weimar system meant that political parties in the Federal Republic felt obliged, and to a large extent still feel obliged, to preface important policy statements, especially when changes are involved, by affirming their allegiance to the system. Although there were occasions in the sixth Bundestag when it was expressly stated that no one doubted the democratic and peace-loving nature of all the parliamentary parties, both sides manifestly felt that there was still enough doubt in the public mind to provide useful election material based on fears of a return of

64 Cf. p. 25 above; this appears to be another way of saying that opposition does, should or must at times behave 'governmentally'.
65 Cf. p. 19/20 above.
the ideological cleavages of the past. 66

The fact that the Federal Republic was set up with the conscious aim of avoiding a repetition of the collapse of the Weimar Republic and that the new political system was based on an anti-communist (and to a lesser extent anti-Nazi) 'negative consensus' has been demonstrated in the previous section of this study to have still affected the behaviour and self-perception of the government and opposition in the sixth Bundestag. Firstly, the 'continuous election campaign' in the Bundestag centres on the question of preserving the system, when each side attempts to discredit the other by suggesting that it is endangering the system. The stability of voting and the usually high turn-out at elections in the Federal Republic mean that this election campaign is largely a battle for the few floating voters of the centre, although there must also be attempts to retain the more extreme votes. In the sixth Bundestag the CDU/CSU tended to appeal to continuing anti-communist sentiment and to denounce the SPD for its past activities as 'opposition of principle' towards the end of the Empire, as the government that signed the treaty of Versailles and as a socialist, 'natural' opposition party perhaps still suspected of communist sympathies. 67

66 E.g., p. 88, Brandt; p. 125/126, von Guttenberg; p. 120, CDU/CSU.
67 It has been suggested that the SPD/FDP Ostpolitik and Deutsch-landpolitik were 'ideologically determined', and even that Marxism had penetrated the FDP by Anton Böhm, 'Opposition - so oder anders?', p. 93.
Secondly, the anti-communist sentiment necessarily affected the reaction of the CDU/CSU to the Ostpolitik and its ability to suggest alternatives. Towards the end of the sixth legislative period, when most of the concrete opposition objections to the treaties had been removed, the opposition case appeared to rest on two pillars: the 'conservative' argument that the major objectives of self-determination and reunification had been endangered, and the anti-communist argument that the SPD/FDP Ostpolitik and Deutschlandpolitik were playing into the hands of the communists, and that the treaties were the 'work of the other side'.

These two arguments may perhaps be regarded as two sides of the same coin since, as already stated, the whole system of the Federal Republic was based on anti-communism, especially its foreign policy. It could be argued that the CDU/CSU, as the former government party closely identified with the state and the political system, regarded the foreign policy tenets of twenty years as essential to the system itself. It saw the preservation of that system as a primary function of loyal opposition and was therefore obliged to oppose any changes in foreign policy that might affect the status of the Federal Republic, which it still regarded as 'Prosorium Bundesrepublik'. In fact, it could be said that the 'real' status of the Federal Republic had long been that of a permanent

68 Cf. Hacke, p. 17/18; he refers to the competition between government and opposition "jeweils besser bzw. effektiver das Primat der Systemerhaltung zu gewährleisten".
state and not of a provisional creation of the international situation, and that the system had long ago survived the break with any chances of reunification or self-determination which resulted from Adenauer's Westpolitik. Nevertheless, it was almost a reflex action on the part of the CDU/CSU opposition to defend the traditional stance towards Eastern Europe, and it apparently failed to appreciate that both the international situation and public opinion at home had changed. The hope of detente brought about a reduction in the need for security and reassurance, and therefore a lack of understanding of the CDU/CSU position. It was clear that preservation of the system was no longer enough, and in any case something not compatible with the role of opposition, since it amounted to stagnation. Popular demand favoured progress and alternatives to previous policies, and now looked to the government for these.

The CDU/CSU was therefore unable to offer itself as a credible alternative government because it chose to concentrate on Ostpolitik and Deutschlandpolitik. Its attitude in the plenary sessions of the sixth Bundestag dealing with these areas was generally antagonistic, and the resultant clashes were the occasion of renewed exaggeration of old ideological differences, a type of conflict often felt to be undesirable. These may be seen as useful and informative for

69 Cf. p. 71.
70 Cf. p. 79.
72 E.g. by Achenbach, p. 111, by Kirst, p. 168.
the electorate, however, if the statements made by each side about
the other are regarded as presenting "an extreme case from which it
is perhaps easier to make a choice . . . than it would be from more
circumspect and 'accurate' utterances. Each side's caricature of the
other represents a kind of truth which it is useful for voters to
apprehend." From the result of the 1972 election it may be suggested
that the government's efforts to 'caricature' the opposition were
the more successful, since the parallels which could be drawn between
the Federal Republic's first 'right-wing' opposition and the oppo­
sition of the right to the previous republic were all too obvious. The
threat that the activity of the CDU/CSU opposition would en­
danger the system appeared greater than the likelihood that the
Ostpolitik and Deutschlandpolitik of the SPD/PDP government would
do so.

73 Butt, p. 300.
74 Merkl, an outside observer, states quite categorically: "Strauß
and his adherents conducted themselves as the 'national Oppo­
sition' against the Nuclear Non-Proliferation Treaty and the
Ostpolitik" (p. 131).
C  The concept of opposition in the Federal Republic

1  The West German assessment of the importance of opposition

It was made clear in the sixth Bundestag that both sides were conscious of the great importance of the 'proper' functioning of parliamentary opposition for the stability and proven 'maturity' of West German democracy. There was nevertheless an ambivalence of attitude, since the continuing presence of anti-oppositional sentiments was also apparent. The stress that many members of the Bundestag felt obliged to put on the significance even of details of the opposition's behaviour might perhaps be regarded as overcompensation for the remains of an underlying 'German aversion to opposition'. There were suggestions on the one hand that to undervalue and even insult the opposition was to 'fail as a democrat', but on the other, and much more frequently, that to oppose the government in other than the 'prescribed ways' was to endanger democracy. It is interesting to note that in spite of the absence of a 'constitutional-legal warrant' for the parliamentary opposition, its functioning in the sense of 'control,

75 E.g., p. 82.
76 E.g., p. 134/5, p. 137.
77 Reference to an opposition 'ideology' will be made below.
78 E.g., p. 124, p. 152.
criticism, alternative' appears to be considered by some as almost a 'Verfassungsgebot', while others deplore the fact that the opposition is obliged to take on the functions of control and criticism alone, only because parliament as a whole is no longer conforming to the separation of powers laid down in the Basic Law.

The difficulty in coming to terms with the fusion of government and parliamentary majority is not confined to the politicians: it is recognised by German political observers and constitutional lawyers as a 'neue Phase der Gewaltenteilung', an expression used in an attempt to make the parliamentary situation in the 'party state' conform to the traditional idea of the separation of powers, which the Basic Law is interpreted as perpetuating.

The legacies of German political and constitutional history are apparent here as they have been throughout the development of the West German idea of opposition. Confusion has been caused by the suggested incompatibility of plebiscitary and representative democratic concepts. It has been claimed that the ideas of Rousseau still predominate over the Anglo-Saxon conception in that "Identität und Homogenität des Volkes Ansatzpunkte aller staats-

80 E.g., p. 104, 130/131, 149.
82 Ernst Fraenkel, Die repräsentative und die plebiszitäre Komponente im demokratischen Verfassungsstaat (Tübingen, 1958).
Hennis maintains that the term 'pluralism' is still used in West Germany today as a "Hilfsbegriff, um die im Hintergrund nicht kleinzukriegende Idee der 'Einheit' des Volkswillens mit der Realität der von Parteien und Verbänden bestückten Konkurrenzdemokratie in Einklang zu bringen". The term was most notably used by Ernst Fraenkel in an attempt to reconcile the West German and Anglo-Saxon concepts of democracy. He found that the idea that parliament is a place where pluralistic forces of society seek a balance of interests never took root in Germany; the German idea of the general good was fixed, so that all opposition must be 'opposition of principle'. The ideas of Rousseau and the English parliamentary model had earlier been found incompatible by Siegfried Landshut, since, as he comments, opposition to the volonté générale would be treason. The fact that German tradition automatically regards opposition as being anti-system is also dealt with at length by Waldemar Besson, whose article seeks to explain why "Die deutsche Einschätzung der Opposition ist durch die Erfahrungen der Vergangenheit schwer belastet." The same

83 Hennis, 'Parlamentarische Opposition und Industriegesellschaft', p. 206.
84 'Die Rolle des Parlaments', p. 207.
85 Deutschland und die westlichen Demokratien (Stuttgart, 1973).
87 'Form und Funktion der parlamentarischen Opposition', Eisermann, p. 221.
88 'Regierung und Opposition in der deutschen Politik',
89 Ibid., p. 226.
theme was later dealt with by Michael Hereth, and most recently by Dieter Grosser, whose later version of his article still claims that because "Verständnis für die Aufgaben der Opposition ist in Deutschland aus historischen Gründen erschwert", and because of the pressure put on the opposition by the traditional German 'common interest' ethic, the impression is created that "die Allparteienregierung der geheime Wunsch nicht nur vieler Politiker, sondern auch einer durch den Parteienstreit verunsicherten Öffentlichkeit ist".

It is seen as part of this traditional German dislike of opposition that "Parlamentarische Opposition wird in der Bundesrepublik von Wählern, Journalisten und Wissenschaftlern unterbewertet". It is perhaps surprising to see this statement in an article of such recent date, since there is now a considerable amount of West German literature on the subject. However, it is a claim that has been made repeatedly in various forms since Dolf Sternberger first pointed out the somewhat paradoxical situation in the Federal Republic, where opposition was a new and important phenomenon, yet not recognised in law and hardly noticed by political scientists. In 1966, Gerd

90 Die Parlamentarische Opposition in der Bundesrepublik Deutschland.
91 'Die Opposition in Deutschland' in Doeker & Steffani (1973), later extended as 'Die Sehnsucht nach Harmonie' in Oberreuter (1975).
92 'Die Sehnsucht nach Harmonie', p. 208.
93 Ibid. p. 227.
94 Ibid. p. 206.
95 'Über parlamentarische Opposition', Eisermann, p. 303.
Schumann could still justify terming opposition the 'Stiefkind der deutschen Forschung', and could comment on the continuing absence of reference to the term in standard works and specialist handbooks on German politics. Three years later, Paul Kevenhörster again remarked on the lack of interest in opposition in Germany, and as recently as 1972 Franz Nuscheler claimed "Wenn das Vorhandensein einer institutionalisierten Opposition das entscheidende Kriterium der Unterscheidung liberal-demokratisch-pluralistischer von diktatorisch-autoritär-monolithischen politischen Systemen bilden soll, . . . dann muß die politikwissenschaftliche Vernachlässigung dieser Institution in der Tat verwundern." Admittedly, an increased interest in opposition during and following the sixth legislative period could not be fully taken into account by Nuscheler. Nevertheless, it must at least be suggested that in view of the apparently unchanged feeling in Germany that opposition research is being neglected, there must be a continuing failure, or perceived failure, to come to terms with the presence and functioning of opposition in the political system. The impression given is that the 'Identifizierung der Demokratie durch Opposition' has been driven home hard in West Germany, and the result now seems to the outside observer more like over-preoccu-

96 Schumann, 'Die Opposition - Stiefkind der deutschen Forschung?', Der Staat 1966, Heft 1, p. 81 - 95.
97 Ibid. p. 81/82.
98 'Opposition in der Bundesrepublik', Die neue Ordnung 1969, Heft 3, p. 204.
100 Oberreuter, p. 8.
pation with opposition than neglect: perhaps the 'Stiefkind' is being over-indulged. The facts of the matter would not seem to justify the concern expressed by the authors mentioned above: in 1974, Hans-Peter Schneider was able to produce a bibliography of almost 200 German titles, mostly directly concerned with parliamentary opposition and nearly all dated between 1950 and 1972.  

The point of concern is perhaps rather that the contents of most opposition research has remained unchanged, and this was mentioned by Nuscheler. Control, criticism, debate, alternative continue to be prescribed and continue to be at odds to some extent with both the 'Verfassung' and the 'Verfassungswirklichkeit'. The problem of parliamentary opposition in West Germany, in as far as one can still be said to exist, is partly the specifically German one of reconciling the concepts of opposition and democracy as discussed above, and partly the general one of reconciling the prescribed functions of the opposition with the realities of the 'modern, executive-oriented, welfare state'. The considerable attention paid in the sixth Bundes­tag to the effect of the history of opposition in Germany on present conceptions and to the relationship between the functioning of opposition and the stability of the system may thus be seen as an expression of the coincidence of these two problems in West Germany.

101 Die parlamentarische Opposition im Verfassungsrecht der Bundesrepublik Deutschland, p. 415 ff; Schneider states categorically: "Seit dem Zusammenbruch des Nationalsozialismus hat die staats- und politikwissenschaftliche Beschäftigung mit Fragen der parlamentarischen Opposition in der Bundesrepublik bis zur Gegenwart eine Breite und Intensität erreicht wie nie zuvor in der neueren deutschen Verfassungsgeschichte" (p. 123).
The reference made several times above to 'proper' or 'prescribed' functioning of parliamentary opposition was intended to refer to the universally accepted 'classical' opposition functions of control, criticism, alternative. As already noted, two of these functions are mentioned explicitly in the 1971 Hamburg Constitution, 'control' presumably having been omitted in deference to a continuing commitment to the separation of executive and legislative powers. Statements in the sixth Bundestag have shown that the West German concept of parliamentary opposition was for the majority of politicians, as it is for most of the political observers referred to in this study, not unexpectedly still modelled on the 'classical' British type of opposition. There was a conscious effort by both sides in the sixth Bundestag to express their espousal to this model and by the CDU/CSU opposition to conform to it. At the same time, the self-perception of the opposition seems to have changed little with the change of roles: the fifth Bundestag members' conception of the role of opposition was found by a survey to be either of a powerless permanent minority or of a parliamentary 'Mitarbeiter'. These conceptions are reflected in the CDU/CSU distaste for the role of

102 Cf. p. 45.
opposition and reluctance to accept it, and in the emphasis placed on working on legislation. It was made clear that members of the opposition also felt themselves to be members of parliament as a whole and their attitudes fluctuated according to which group they were identifying with. Because of the continuing uncertainty as to the 'division of powers' and the character of the Bundestag as on balance an 'Arbeitsparlament', the functions of cooperation and 'behaving constructively' must be added to those prescribed by the 'classical' model of opposition. The numerous allusions to the desirability of cooperation and 'constructive' behaviour in the sixth Bundestag have already been noted, especially in relation to the Ostpolitik. However, the addition of cooperation to the list of opposition functions may be seen as a contradiction; in as far as 'Mitarbeiten', in parliamentary committees for example, is 'Mitregieren', there is no clear group out of government and ready to provide an alternative government. This is in fact a return to the problem of considering opposition as 'part of government' or of terming its activities 'governmental'. It is perhaps a reflection of the imprecise Anglo-Saxon conception of government, as against parliament, as the legislator that cooperation in legisla-

104 See also Anton Böhm, 'Opposition - so oder anders?', p. 89.
105 Cf. p. 2 above, Lipset; also Schneider, p. 119/120.
106 See p. 185 - 192; cf. p. 198, n. 64.
tion is seen as a governmental activity: it is seen by German observers and by the members of the Bundestag as a parliamentary activity, in which the parliamentary groups of 'ins' and 'outs' are not necessarily decisive.

Both sides in the sixth Bundestag stated that they expected control, criticism, alternatives and cooperation from the opposition. In spite of the many outbursts to the contrary it was taken for granted that the opposition should be and wished to be 'responsible', 'loyal' and 'constitutional'; it was obviously also the desire of the CDU/CSU to be seen as 'competitive', 'systematic', 'cohesive' and 'distinct', and above all 'temporary'. It is clear that these terms of opposition classification can be used in a confusing array of combinations, but they are merely the attributes thought to be most conducive to the 'proper' functioning of opposition. In total they describe the West German public 'ideal' of opposition, which seems, predictably, to be a mixture of the British-type opposition model and the 'continental-European-German' parliamentary model. The British model, with modifications, was a natural choice in post-war West Germany and was advocated notably by Sternberger and Seidel. German studies of parliamentary opposition tended to concentrate on the ideas of Bolingbroke and the development of the British parlia-

107 See p. 17 above.
Kurt Kluxen at one time even described the confrontation between government and opposition in 18th century England as corresponding to the "sittlichen Kampf im Einzelmenschen". While this is an exceptional example, it indicates the direction of some German thinking on the 'classical' model of opposition. The fact that neither the present-day British opposition nor other oppositions such as the West German opposition, which attempts to combine an imitation of the British model with 'continental-European' parliamentary legislative duties, can continue to operate along 'classical' lines in modern industrialised states is one major reason for the pessimistic thinking on opposition referred to above.

In particular, some problems concerned with the function of parliamentary opposition stem from a gap between the 'ideology' and the perceived real possibilities regarding control of the government. The liberal democratic notion that the power of the majority must be controlled and the rights of minorities protected has led to the assumption that dualism is basic to democracy. The function

111 E.g., Kurt Kluxen, Das Problem der politischen Opposition (Freiburg, 1956); Ingeborg Bode, Ursprung und Begriff der parlamentarischen Opposition (Stuttgart, 1962).
112 Parliamantarismus, p. 395.
113 This adherence to the British model has prompted Schneider to claim: "Wer . . . glaubt, den englischen Parlamentarismus einer bestimmten geschichtlichen Epoche verabsolutieren und als Idealmodell . . . empfehlen zu können, muß sich den Vorwurf der Ideolisierung gefallen lassen" (p. 128); see also p. 52 above.
114 Cf. p. 21 - 23.
115 Cf. p. 22.
116 Most recently in West Germany Gehrig, Parlament - Regierung - Opposition, p. 18; see also p. 10 - 12 & 14 above.
of controlling government has been seen to have passed from parliament as a whole to the parliamentary opposition according to the 'classical' model. This 'new division of powers' has then led to opposition being seen as the guarantee of freedom and therefore of democracy. The continuing adherence to the executive/legislative conception of the division of powers in the sixth Bundestag is therefore perhaps not only an indication of the belief of some members in the unity of parliament; acceptance of the 'new division of powers' theory is also hindered by the realisation that ultimate control of the government by the opposition appears impossible in the party state. Too much is expected of the parliamentary opposition if its very existence is identified with the control of government power and even with democracy itself. While it may be an exaggeration to speak of an 'ideology' of opposition, the fact that West German politicians and political observers seem to have accepted what may now be seen as a somewhat dogmatic or at least narrow definition of the functions of parliamentary opposition, in the face of conditions and practices in parliamentary/party states such as the Federal Republic, is arguably a major cause for dissatisfaction with or distaste for the role of opposition.

117 Siegfried Landshut has used the term 'Wächter der Freiheit', Eisermann p. 228; similarly Günther Olzog, 'Große Koalition oder Opposition?' Politische Studien 17 (1966), p. 284; with reference to the sixth Bundestag, Barzel, 'Die Rolle der Opposition' p.30.
118 Cf. p. 204.
119 S.g. p. 104, 131/2, 149.
120 As by Gehrig, p. 83; see also Theodor Eschenburg, Staat und Gesellschaft in Deutschland 4th ed. (Stuttgart, 1965), p. 291.
121 Cf. p.1 - 3 above; also introductory speech to 6th Bundestag by Borm, p. 82 above.
Pessimistic views of opposition in West Germany

The difficulty of combining the 'classical' functions of parliamentary opposition with legislative cooperation, and of carrying out the control function in particular, has been shown above to contribute to pessimistic views of opposition in West Germany. The additional problem of the 'alternative' function is, however, perhaps the most responsible for the ideas already described above under 'the decline of opposition' \(^{122}\) and 'Oppositionspessimismus' \(^{123}\).

As already discussed, the rise of catch-all parties and the decrease in class differences in modern societies such as the Federal Republic has been considered likely to minimise differences of interest, making alternatives often superfluous. Alternatives are in any case claimed to be a practical impossibility in complex, industrialised, executive-oriented, welfare states, where government information, planning and provision can meet every need. Yet in the sixth Bundestag the CDU/CSU opposition often claimed to be offering alternatives and saw this as an important part of its role. \(^{124}\) The government, too, constantly replied to opposition objections to the Ostpolitik by demanding, albeit somewhat cynically, to know the alternatives. There was certainly no sign in the plenary sessions of a general resignation to the 'Opposition ohne Alternative' theory.

\(^{122}\) p. 27 - 29.
\(^{123}\) p. 52 ff.
\(^{124}\) E.g., Barzel's statement on the CDU/CSU concept of the role of opposition, p. 86 above.
As suggested above, the views of Kirchheimer, Friedrich, Hennis, Forsthoff, Krippendorff and others may perhaps be seen as part of the traditional criticism of parliament and parties in Germany. It must also be remembered that they originated during the period of 'permanent' CDU/CSU supremacy in the Federal Republic. It has been suggested that the claims of the constraints of modern industrialised society on the functioning of opposition may be exaggerated and anyway are based on an out-dated conception of alternatives. Otto Kirchheimer, especially, was firstly concerned to explain the disappearance of 'opposition of principle', which is based on fundamental differences between government and opposition, on ideological antagonisms of the past. He saw the limitation and eventual decline of 'loyal' opposition as a logical consequence of the removal of these fundamental differences and the resultant end of 'opposition of principle'. However, some West German observers have now rejected this theory and the related ones of the above-mentioned authors. They argue, for example, that "die Entwicklung zur "modernen Industriegesellschaft" auch die Oppositionsfunktionen verändert hat, daß also insbesondere die Alternativfunktion zugunsten anderer, wesentlich wirksamerer Oppositionsstrategien (Innovation, Aggregation, Publikation, Partizipation) völlig in den Hintergrund tritt, ja sogar

125 Cf. p. 55.
126 Schneider, p.154; see also Kevenhörster (p.207), who claims the loss of function of the opposition cannot be explained by the welfare state.
bewußt vernachlässigt werden kann, ohne die Effektivität der Opposition ernstlich zu beeinträchtigen";\textsuperscript{127} or similarly that the 'pessimists' were mistaken: "Ihren Irrtum hatten sie einer rigiden Interpretation der Alternativfunktion und der unzutreffenden Annahme automatischer Machtalternation im parlamentarischen Regierungssystemen zu verdanken."\textsuperscript{128}

As shown, however, the CDU/CSU opposition in the sixth Bundestag expected, and was expected, to offer alternatives. Anton Böhmb has claimed that the government constantly demanded 'constructive alternatives' in order to be able to choose the best ideas for its own use.\textsuperscript{129} He further maintained that the opposition had offered its 'better ideas' in order to avoid the negative results of government policies:\textsuperscript{130} this would seem to be a version of 'mitregieren'. Other authors state similarly that it has become the custom in the Federal Republic for criticism by the parliamentary opposition to evoke demands for 'constructive alternatives' so that criticism without alternatives is seen as irresponsible or even unpatriotic.\textsuperscript{131} A credible critical opposition must have an alternative programme as well as alternative personnel, it is claimed.\textsuperscript{132} Confusingly, a member of the CDU/CSU opposition, Manfred Hättich, appears to regard

\textsuperscript{127} Schneider, p. 154.
\textsuperscript{128} Oberreuter, p. 21.
\textsuperscript{129} 'Opposition - so oder anders?', p. 89; see also Veen, p. 21.
\textsuperscript{130} Ibid., p. 91.
\textsuperscript{131} Muscheler & Steffani, p. 63.
\textsuperscript{132} Ibid.
the offering of alternatives as possibly irresponsible and seems to be resigned to the constraints of modern, complex society: "Es kann nicht Aufgabe der Opposition sein, in einem System mit hochgradigem Konsens durch angestrengte Suche nach Alternativprogrammen konsens sprengend zu wirken". The opposition in the sixth Bundestag did, however, offer alternatives, even on the Ostpolitik, where consensus was apparently regarded by both sides as most desirable.

The theory of the decline of opposition due to the loss, particularly, of its function as an alternative government was regarded by some non-German observers as having been disproved even before the change of power in West Germany and the "revival of not only a strong but an articulate opposition" in the sixth Bundestag. It was suggested that the welfare state might increase expectations so that more disappointed voters would wish to effect a change of power. Following the election results in a number of countries, as well as in West Germany in 1969, there was wider acceptance that parliamentary opposition could still hope to function as an alternative government. The previous acceptance of the concept of overwhelming consensus in the 'classless, welfare state' had perhaps been a reflection, in Germany at least, of a continuing traditional desire

133 'Die Opposition in der parlamentarischen Demokratie' in G. Göler & E. Pieroth (2nd ed.) p. 111.
136 Ibid.
137 Cf. Roland Schneider, Die CDU/CSU Opposition, p. 5.
for harmony.\textsuperscript{138} It has been pointed out by Adolf Arndt that opposition would only die out in the welfare state if such a state could really create a conflict-free society.\textsuperscript{139} According to Dahl, conflict potentials are not necessarily reduced by economic satisfaction, since 'classless' societies still contain enough political and other inequalities.\textsuperscript{140} Hennis, too, admits that his previously stated views do not justify "daran zu zweifeln, daß für die Bundesrepublik das parlamentarische System alternierender Regierungen noch immer von hinreichenden gesellschaftlichen Spannungen und "Polarisierungen" gespeist und motiviert wird. Es zum alten Eisen zu werfen, besteht kein Anlaß".\textsuperscript{141} It is agreed that differences must remain, and the fact that they are not fundamental in terms of traditional ideologies does not mean that the opposition's function is no longer to offer alternatives; rather, "der Begriff der Alternative [verliert] ... seine terminologische Starrheit. Nicht das zwanghafte Beziehen konsequenter Gegenpositionen, auch nicht die Ritualisierung eines "advocatus diaboli", sondern nicht mehr und nicht weniger als die Ermöglichung einer anderen Option ist die reale Alternativfunktion der Opposition. Das setzt keine sachliche Gegensätzlichkeit, aber graduelle Verschiedenheiten voraus."\textsuperscript{142}

\textsuperscript{138} Cf. Dahrendorf’s 'Sehnsucht nach Synthese', D. Grosser's 'Sehnsucht nach Harmonie', etc.
\textsuperscript{139} 'Opposition', p. 15.
\textsuperscript{141} 'Die Rolle des Parlaments', p. 227.
\textsuperscript{142} Veen, Opposition im Bundestag, p. 20.
This last argument by Veen appears realistic and persuasive in relation to the actual differences between government and opposition by the end of the sixth Bundestag. Nevertheless, the markedly ideologically 'loaded' controversies over the SPD/FDP Ostpolitik and Deutschlandpolitik would seem, at least superficially, to confirm the view of Günther Gaus, who claimed in 1965 that ideology was only 'scheintot'. Differences between the government and opposition were exaggerated by the use of ideological rhetoric and what seem to the outside observer as transparently groundless insinuations of extreme ideological affiliations. The apparently devastating effect of a single word or name has already been noted. Both government and opposition seemed to believe that controversies must appear fundamental in order to be credible, in spite of repeated concern that such open conflict could be damaging to West German democracy. Although these controversies did not reflect deep existing differences in West German society, they stirred memories of the past and latent fears effectively. Increased polarisation of opinion on the Ostpolitik was the result and the impression was created that the CDU/CSU opposition had revived 'classical' opposition.

144 E.g., p. 88 'Hugenberg', p. 141 'Moskau', p. 156 'Versailles', p. 161 'Sportpalast'. 
Political conflict and political stability in the Federal Republic

The conflict between the revived parliamentary opposition and the government in the sixth Bundestag was regarded with distaste and even apprehension by many of the participants and observers, demonstrating the continuation of the German tradition of the avoidance of conflict. Individual members of all the parliamentary parties expressed their disapproval of conflict, especially on issues of such national importance as the Ostpolitik. However, as fears proved groundless, the open controversy may perhaps in retrospect be seen as advantageous, rather than damaging, to the stability of the political system. The completion of the Ostpolitik had the end effect of legitimising the separate and permanent existence of the West German state. The fact that the system withstood the conflict and crises of the sixth Bundestag further lent legitimacy to the party system and to government by either party. The outcome of the 1972 election following the premature dissolution of the sixth Bundestag showed that a two group system of alternation between government and opposition had been accepted by the electorate of the Federal Republic. The fact that there had been demonstrations against the use of the constructive vote of no confidence illustrated the feeling of the electorate that it should assign the roles of govern-

merit and opposition. In the opinion of some commentators, the fact that in 1972 the FDP firmly declared its intention of coalescing with the SPD before the election set a precedent, so that the electorate will in future always be able to vote directly for a potential government. The elections will therefore take on more of the character of a plebiscite on the government.

The polarisation of opinion over the Ostpolitik divided the Bundestag clearly into government and opposition sides, and although the concept of parliament as a body was still upheld to varying degrees, and even very consistently by some members of the opposition, the factual situation was unmistakable in the plenary sessions. The separation of the two sides of parliament was effectively demonstrated in the controversy over the Ostpolitik, as was the dependence of the government on parliament when the opposition used the constructive vote of no confidence. As Hennis has pointed out, this may have led to a change in the concept of parliamentary democracy in the Federal Republic. He suggests that the stabilisation of a two group system is now seen to be not so much the result of constitutional provisions or even of changes in society as of the functioning and development of the Bundestag and of the fact that it appears to have passed on its elective function to the electorate. A weakening of the German tradition of legalism might possibly result from this experience.

146 E.g., Hennis, 'Die Rolle des Parlaments', p. 234.
147 E.g., von Wrangel.
and particularly from the management of the parliamentary crisis of 1972. Hennis expresses the hope that the common sense 'manipulation' of the Basic Law in order to effect the dissolution of the sixth Bundestag "dem Syndrom Verfassung/Verfassungswirklichkeit einiges an Brisanz genommen hat." 149

It would seem that the experience beginning in 1969 of the successful functioning of the parliamentary system is most important in helping to solve Germany's 'historic problem of reconciling political conflict with political stability'. 150 The traditions of German political culture referred to above 151 continue to be present and to influence the development and perception of the political system, but they may now in some instances be regarded as less disadvantageous than was previously supposed. The change in the pattern of opposition in 1969 from the 'invisibility' and 'decline' seen as part of the 'conflict-avoidance' tradition to an apparently almost 'classical' pattern demonstrated the stability and maturity of the West German political system and the viability of parliamentary opposition and of a system of alternation: the experience was particularly effective since it coincided with what must be regarded as the settlement of the international status of the Federal Republic.

149 'Die Rolle des Parlaments', p. 234.
150 Gerhard Loewenberg, 'The patterns of political opposition in Germany', p. 338.
151 See p. 30/31.
The endorsement of the Ostpolitik by the electorate in the 1972 elections may be regarded as evidence of acceptance on the one hand of a realistic rather than legalistic stance in foreign policy, and on the other of the ability of either major party to govern, conduct foreign policy and be identified with the state. The change of power in 1969 had spelt the end of the permanent identification of one party with the state and the beginning of the concept of both government and opposition as part of the state and responsible for it. Indeed the parties are claimed to have assimilated the state tradition and thus brought about the acceptance of the party state.

Opinion varies as to whether the 1969 - 72 pattern of opposition was closer to the norm for the Federal Republic than the pattern of 'invisible' opposition under the Grand Coalition. The circumstances and issues were obviously exceptional, but it is impossible to say whether, without the Ostpolitik, the pattern would have been different. As Loewenberg has claimed, the pattern changed independently of the socio-economic conditions and political-cultural traditions thought to be decisive in determining it. He explains the change of power in terms of coalition theory: simply that "coalitions tend toward the minimum size which permits them to govern", since this size is most advantageous for the participants. It may also be argued.

152 E.g., by Dyson, Party, State and Bureaucracy, p. 11.
153 'The patterns of political opposition in Germany', p. 338.
154 Ibid., p. 339.
that the centripetal two group system which resulted meant that there was increased incentive for lively controversy and more competition for the votes of the centre than previously. In contrast, therefore, to the often pessimistic views of the past, the conclusion may be drawn here that the evolution of a system of government and opposition alternation, which began with the sixth Bundestag, and the resulting increased political stability of the Federal Republic, were demonstrated to have been determined as much by the practicalities of politics as by their specifically German environment.

155 Statements in the sixth Bundestag such as that of Strauß, p.147, confirm this, although the predominance of 'ideological' controversies does not.
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