

Also in this series:

SOCIETY MUST BE DEFENDED
(North America & Canada)

ABNORMAL
(North America & Canada)

HERMENEUTICS OF THE SUBJECT
(North America & Canada)

PSYCHIATRIC POWER

SECURITY, TERRITORY, POPULATION

Forthcoming in this series:

THE WILL TO KNOW

PENAL THEORIES AND INSTITUTIONS

THE PUNITIVE SOCIETY

ON THE GOVERNMENT OF THE LIVING

SUBJECTIVITY AND TRUTH

THE GOVERNMENT OF SELF AND OTHERS

THE COURAGE OF TRUTH

135.57
F36

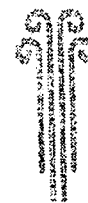
MICHEL FOUCAULT



The Birth of Biopolitics

LECTURES AT THE COLLÈGE DE FRANCE,

1978-79



Edited by Michel Senellart

General Editors: François Ewald and Alessandro Fontana

English Series Editor: Arnold I. Davidson

TRANSLATED BY GRAHAM BURCHELL

palgrave
macmillan



This book is supported by the
French Ministry of Foreign Affairs
as part of the Burgess programme
run by the Cultural Department of
the French Embassy in London
(www.frenchbooknews.com)

17 JANUARY 1979

Liberalism and the implementation of a new art of government in the eighteenth century. ~ Specific features of the liberal art of government (I): (1) The constitution of the market as site of the formation of truth and not just as domain of jurisdiction. ~ Questions of method. The stakes of research undertaken around madness, the penal order, and sexuality: sketch of a history of "regimes of veridiction." ~ The nature of a political critique of knowledge (savoir). ~ (2) The problem of limiting the exercise of power by public authorities. Two types of solution: French juridical radicalism and English utilitarianism. ~ The question of "utility" and limiting the exercise of power by public authorities. ~ Comment on the status of heterogeneity in history: strategic against dialectical logic. ~ The notion of "interest" as operator (opérateur) of the new art of government.

I WOULD LIKE TO refine a little the theses or hypotheses that I put forward last week with regard to what I think is a new art of government that began to be formulated, reflected upon, and outlined around the middle of the eighteenth century. I think an essential characteristic of this new art of government is the organization of numerous and complex internal mechanisms whose function—and this is what distinguishes them from *raison d'État*—is not so much to ensure the growth of the state's forces, wealth, and strength, to ensure its unlimited growth, as to limit the exercise of government power internally.

This art of government is certainly new in its mechanisms, its effects, and its principle. But it is so only up to a point, because we should not imagine that this art of government is the suppression, obliteration, abolition, or, if you prefer, the *Aufhebung* of the *raison d'État* I tried to talk about last week. In fact, we should not forget that this new art of government, or this art of the least possible government, this art of governing between a maximum and a minimum, and rather minimum than maximum, should be seen as a sort of intensification or internal refinement of *raison d'État*; it is a principle for maintaining it, developing it more fully, and perfecting it. It is not something other than *raison d'État*, an element external to and in contradiction with *raison d'État*, but rather its point of inflection in the curve of its development. If you like, to use a not very satisfactory expression, I would say that it is the reason of the least state within and as organizing principle of *raison d'État* itself, or again: it is the reason of least government as the principle organizing *raison d'État* itself. There is someone, unfortunately I've not been able to find his name in my papers, but when I do I will tell you, but certainly from the end of the eighteenth century, who spoke about "frugal government." Well, I think that actually at this moment we are entering what could be called the epoch of frugal government, which is, of course, not without a number of paradoxes, since during this period of frugal government, which was inaugurated in the eighteenth century and is no doubt still not behind us, we see both the intensive and extensive development of governmental practice, along with the negative effects, with the resistances and revolts which we know are directed precisely against the invasive intrusions of a government which nevertheless claims to be and is supposed to be frugal. Let's say—and this will be why we can say that we are living in the age of frugal government—that this extensive and intensive development of a government that is nevertheless supposed to be frugal has been constantly accompanied, outside and within government, by the question of the too much and the too little. Stretching things and giving a caricature of them, I would say that whatever the extension and intensive development of government there may be in fact, the question of frugality has been at the very heart of the reflection which has revolved around

government.* The question of frugality has, if not replaced, at least overtaken and to an extent forced back and somewhat marginalized a different question which preoccupied political reflection in the sixteenth and seventeenth centuries, and even up to the start of the eighteenth century, which was the problem of the constitution. Certainly, all the questions concerning monarchy, aristocracy, and democracy do not disappear. But just as they were the fundamental questions, I was going to say the royal questions, in the seventeenth and eighteenth centuries, so starting from the end of the eighteenth century, throughout the nineteenth century, and obviously more than ever today, the fundamental problem is not the constitution of states, but without a doubt the question of the frugality of government. [The] question of the frugality of government is indeed the question of liberalism. I would now like to take up two or three of the points I mentioned last week in order to clarify and refine them.

Last week I tried to show you that this idea, this theme, or this regulative principle rather, of frugal government was formed on the basis of what could be called or what I roughly designated as the connecting up of *raison d'État* and its calculation with a particular regime of truth that finds its theoretical expression and formulation in political economy. I tried to suggest that the appearance of political economy and the problem of least government were linked. But I think we should try to be a bit clearer about the nature of this connection. When I say connecting up of political economy with *raison d'État*, does this mean that political economy put forward a particular model of government? Does it mean that statesmen were initiated into political economy or that they began to listen to the economists? Did the economic model become the organizing principle of governmental practice? Clearly this is not what I wanted to say. What I meant, what I tried to designate, was something of a rather different nature and situated at a different level. The principle of this connection between the practice of government and a regime of truth that I tried to identify would be this: [...] there was something in the regime of government, in the governmental practice of the sixteenth and seventeenth centuries, and already of the Middle Ages also, that was

* Foucault adds: and which it has posed.

one of the privileged objects of governmental intervention and regulation, that was the privileged object of government vigilance and intervention. And it is not economic theory but this place itself that from the eighteenth century became a site and a mechanism of the formation of truth. And [instead of] continuing to saturate this site of the formation of truth with an unlimited regulatory governmentality, it is recognized—and this is where the shift takes place—that it must be left to function with the least possible interventions precisely so that it can both formulate its truth and propose it to governmental practice as rule and norm. This site of truth is not in the heads of economists, of course, but is the market.

Let's put it more clearly. The market, in the very general sense of the word, as it operated in the Middle Ages, and in the sixteenth and seventeenth centuries, was, in a word, essentially a site of justice. In what sense was it a site of justice? In several senses. In the first place it was, of course, invested with extremely prolific and strict regulations: it was regulated with regard to the objects brought to market, their type of manufacture, their origin, the duties to be paid, the procedures of sale, and, of course, the prices fixed. So, the market was a site invested with regulations. It was also a site of justice in the sense that the sale price fixed in the market was seen, both by theorists and in practice, as a just price, or at any rate a price that should be the just price,² that is to say a price that was to have a certain relationship with work performed, with the needs of the merchants, and, of course, with the consumers' needs and possibilities. The market was a site of justice to such an extent that it had to be a privileged site of distributive justice, since as you know, for at least some basic products, like food products, the rules of the market operated to ensure that, if not all, then at least some of the poorest could buy things as well as those who were more well-off. So in this sense the market was a site of distributive justice. Finally, what was it that essentially had to be ensured in the market, by the market, or rather by the regulations of the market, and which makes it a site of justice? Was it the truth of prices, as we would say now? Not at all. What had to be ensured was the absence of fraud. In other words, it was the protection of the buyer. The aim of the regulation of the market was, on the one hand, a distribution of goods that was as just as possible, and

then, on the other hand, the absence of theft and crime. In other words, the market was basically seen at this time as a risk, maybe for the merchant, but certainly for the buyer. The buyer had to be protected against the danger of bad goods and the fraud of the person selling them. It was necessary then to ensure the absence of fraud with regard to the nature of the objects, their quality, and so forth. This system—regulation, the just price, the sanction of fraud—thus meant that the market was essentially, and really functioned as, a site of justice, a place where what had to appear in exchange and be formulated in the price was justice. Let's say that the market was a site of jurisdiction.

Now this is where the change takes place for a number of reasons that I will mention shortly. In the middle of the eighteenth century the market no longer appeared as, or rather no longer had to be a site of jurisdiction. On the one hand, the market appeared as something that obeyed and had to obey "natural,"* that is to say, spontaneous mechanisms. Even if it is not possible to grasp these mechanisms in their complexity, their spontaneity is such that attempts to modify them will only impair and distort them. On the other hand—and this is the second sense in which the market becomes a site of truth—not only does it allow natural mechanisms to appear, but when you allow these natural mechanisms to function, they permit the formation of a certain price that Boisguilbert³ will call the "natural" price, the physiocrats will call the "good price,"⁴ and that will later be called the "normal price,"⁵ that is to say, a certain price—natural, good, normal, it's not important—which will adequately express the relationship, a definite, adequate relationship between the cost of production and the extent of demand. When you allow the market to function by itself according to its nature, according to its natural truth, if you like, it permits the formation of a certain price which will be called, metaphorically, the true price, and which will still sometimes be called the just price, but which no longer has any connotations of justice. It is a certain price that fluctuates around the value of the product.

The importance of economic theory—I mean the theory constructed in the discourse of the *économistes* and formed in their brains—the importance

* In inverted commas in the manuscript.

of the theory of the price-value relationship is due precisely to the fact that it enables economic theory to pick out something that will become fundamental: that the market must be that which reveals something like a truth. This does not mean that prices are, in the strict sense, true, and that there are true prices and false prices. But what is discovered at this moment, at once in governmental practice and in reflection on this governmental practice, is that inasmuch as prices are determined in accordance with the natural mechanisms of the market they constitute a standard of truth which enables us to discern which governmental practices are correct and which are erroneous. In other words, it is the natural mechanism of the market and the formation of a natural price that enables us to falsify and verify governmental practice when, on the basis of these elements, we examine what government does, the measures it takes, and the rules it imposes. In this sense, inasmuch as it enables production, need, supply, demand, value, and price, etcetera, to be linked together through exchange, the market constitutes a site of veridiction, I mean a site of verification-falsification for governmental practice.⁶ Consequently, the market determines that good government is no longer simply government that functions according to justice. The market determines that a good government is no longer quite simply one that is just. The market now means that to be good government, government has to function according to truth. In this history and formation of a new art of government, political economy does not therefore owe its privileged role to the fact that it will dictate a good type of conduct to government. Political economy was important, even in its theoretical formulation, inasmuch as (and only inasmuch as, but this is clearly a great deal) it pointed out to government where it had to go to find the principle of truth of its own governmental practice. In simple and barbaric terms, let's say that from being a site of jurisdiction, which it remained up to the start of the eighteenth century, the market, through all the techniques I discussed last year with regard to scarcity and grain markets, etcetera,⁷ is becoming what I will call a site of veridiction. The market must tell the truth (*dire le vrai*); it must tell the truth in relation to governmental practice. Henceforth, and merely secondarily, it is its role of veridiction that will command, dictate, and prescribe the jurisdictional mechanisms, or absence of such mechanisms, on which [the market] must be articulated.

When I spoke of the coupling carried out in the eighteenth century between a regime of truth and a new governmental reason, and the connection of this with political economy, in no way did I mean that there was the formation of a scientific and theoretical discourse of political economy on one side, and then, on the other, those who governed who were either seduced by this political economy, or forced to take it into account by the pressure of this or that social group. What I meant was that the market—which had been the privileged object of governmental practice for a very long time and continued to be in the sixteenth and seventeenth centuries under the regime of *raison d'État* and a mercantilism which precisely made commerce one of the major instruments of the state's power—was now constituted as a site of veridiction. And this is not simply or so much because we have entered the age of a market economy—this is at once true, and says nothing exactly—and it is not because people wanted to produce the rational theory of the market—which is what they did, but it was not sufficient. In fact, in order to reach an understanding of how the market, in its reality, became a site of veridiction for governmental practice, we would have to establish what I would call a polygonal or polyhedral relationship between: the particular monetary situation of the eighteenth century, with a new influx of gold on the one hand, and a relative consistency of currencies on the other; a continuous economic and demographic growth in the same period; an intensification of agricultural production; the access to governmental practice of a number of technicians who brought with them both methods and instruments of reflection; and finally a number of economic problems being given a theoretical form.

In other words, I do not think we need to look for—and consequently I do not think we can find—the cause* of the constitution of the market as an agency of veridiction. If we want to analyze this absolutely fundamental phenomenon in the history of Western governmentality, this irruption of the market as a principle of veridiction, we should simply establish the intelligibility of this process⁸ by describing the connections between the different phenomena I have just referred to. This would involve showing how it became possible—that is to say, not

* Foucault repeats the words, stressing the article: *the* cause

showing that it was necessary, which is a futile task anyway, nor showing that it is a possibility (*un possible*), one possibility in a determinate field of possibilities ... Let's say that what enables us to make reality intelligible is simply showing that it was possible; establishing the intelligibility of reality consists in showing its possibility. Speaking in general terms, let's say that in this history of a jurisdictional and then veridictional market we have one of those innumerable intersections between jurisdiction and veridiction that is undoubtedly a fundamental phenomenon in the history of the modern West.

It has been around these [questions] that I have tried to organize a number of problems—with regard to madness, for example. The problem was not to show that psychiatry was formed in the heads of psychiatrists as a theory, or science, or discourse claiming scientific status, and that this was concretized or applied in psychiatric hospitals. Nor was it to show how, at a certain moment, institutions of confinement, which had existed for a long time, secreted their own theory and justifications in the discourse of psychiatrists. The problem was the genesis of psychiatry on the basis of, and through institutions of confinement that were originally and basically articulated on mechanisms of jurisdiction in the very broad sense—since there were police type of jurisdictions, but for the present, at this level, it is not very important—and which at a certain point and in conditions that precisely had to be analyzed, were at the same time supported, relayed, transformed, and shifted by process of veridiction.

In the same way, studying penal institutions meant studying them first of all as sites and forms where jurisdictional practice was predominant and we can say autocratic. [It meant studying] how a certain practice of veridiction was formed and developed in these penal institutions that were fundamentally linked to a jurisdictional practice, and how this veridictional practice—supported, of course, by criminology, psychology, and so on, but this is not what is essential—began to install the veridictional question at the very heart of modern penal practice, even to the extent of creating difficulties for its jurisdiction, which was the question of truth addressed to the criminal: Who are you? When penal practice replaced the question: "What have you done?" with the question: "Who are you?" you see the jurisdictional function of the penal

system being transformed, or doubled, or possibly undermined, by the question of veridiction.

In the same way, studying the genealogy of the object "sexuality" through a number of institutions meant trying to identify in things like confessional practices, spiritual direction, the medical relationship, and so on, the moment when the exchange and cross-over took place between a jurisdiction of sexual relations, defining the permitted and the prohibited, and the veridiction of desire, in which the basic armature of the object "sexuality" currently appears.

You can see that all these cases—whether it is the market, the confessional, the psychiatric institution, or the prison—involve taking up a history of truth under different angles, or rather, taking up a history of truth that is coupled, from the start, with a history of law. While the history of error linked to a history of prohibitions has been attempted fairly frequently, I would propose undertaking a history of truth coupled with a history of law. Obviously, a history of truth should not be understood in the sense of a reconstruction of the genesis of the true through the elimination or rectification of errors; nor a history of the true which would constitute a historical succession of rationalities established through the rectification or elimination of ideologies. Nor would this history of truth be the description of insular and autonomous systems of truth. It would involve the genealogy of regimes of veridiction, that is to say, the constitution of a particular right (*droit*) of truth on the basis of a legal situation, the law (*droit*) and truth relationship finding its privileged expression in discourse, the discourse in which law is formulated and in which what can be true or false is formulated; the regime of veridiction, in fact, is not a law (*loi*) of truth, [but] the set of rules enabling one to establish which statements in a given discourse can be described as true or false.

Undertaking the history of regimes of veridiction—and not the history of truth, the history of error, or the history of ideology, etcetera—obviously means abandoning once again that well-known critique of European rationality and its excesses, which has been constantly taken up in various forms since the beginning of the nineteenth century. From romanticism to the Frankfurt School,⁹ what has always been called into question and challenged has been rationality with the weight of power

supposedly peculiar to it. Now the critique* of knowledge I would propose does not in fact consist in denouncing what is continually—I was going to say monotonously—oppressive under reason, for after all, believe me, insanity (*déraison*) is just as oppressive. Nor would this political critique of knowledge consist in flushing out the presumption of power in every truth affirmed, for again, believe me, there is just as much abuse of power in the lie or error. The critique I propose consists in determining under what conditions and with what effects a veridiction is exercised, that is to say, once again, a type of formulation falling under particular rules of verification and falsification. For example, when I say that critique would consist in determining under what conditions and with what effects a veridiction is exercised, you can see that the problem would not consist in saying: Look how oppressive psychiatry is, because it is false. Nor would it consist in being a little more sophisticated and saying: Look how oppressive it is, because it is true. It would consist in saying that the problem is to bring to light the conditions that had to be met for it to be possible to hold a discourse on madness—but the same would hold for delinquency and for sex—that can be true or false according to the rules of medicine, say, or of confession, psychology, or psychoanalysis.

In other words, to have political significance, analysis does not have to focus on the genesis of truths or the memory of errors. What does it matter when a science began to tell the truth? Recalling all the erroneous things that doctors have been able to say about sex or madness does us a fat lot of good ... I think that what is currently politically important is to determine the regime of veridiction established at a given moment that is precisely the one on the basis of which you can now recognize, for example, that doctors in the nineteenth century said so many stupid things about sex. What is important is the determination of the regime of veridiction that enabled them to say and assert a number of things as truths that it turns out we now know were perhaps not true at all. This is the point, in fact, where historical analysis may have a political significance. It is not so much the history of the true or the history of the false as the history of veridiction which has a political

* The manuscript adds, p. 10bis: "political"

significance. That is what I wanted to say regarding the question of the market or, let's say, of the connecting up of a regime of truth to governmental practice.

Now let's consider the second question, the second point on which I would like to refine a little what I said to you last week. I said, you recall, that governmentality in the regime of pure *raison d'État*, or at least its tendency, was interminable, without an end. In a sense, governmentality was unlimited. This was precisely the main characteristic of what was called at the time police and which at the end of the eighteenth century will be called, already with a backward glance, the police state. The police state is a government that merges with administration, that is entirely administrative, and an administration which possesses, which has behind it, all the weight of a governmentality.

I have tried to show how this complete governmentality, this governmentality with a tendency to be unlimited, had in fact, not exactly a limit, but a counter-weight in the existence of judicial institutions and magistrates, and in juridical discourses focusing precisely on the problem of the nature of the sovereign's right to exercise his power and the legal limits within which the sovereign's action can be inserted. So, governmentality was not completely unbalanced and unlimited in *raison d'État*, but there was a system of two parts relatively external to each other.

I also pointed out that in the new system of governmental reason perfected in the eighteenth century, frugal government, or the reason of the least state, entailed something very different. This was a limitation on the one hand, and an internal limitation on the other. Nevertheless we should not think that the nature of this internal limitation is completely different from law. In spite of everything it is always a juridical limitation, the problem being precisely how to formulate this limitation in legal terms in the regime of this new, self-limiting governmental reason. As you can see, this is a different problem. In the old system of *raison d'État* there was a governmentality with its tendency to be unlimited on one side, and then a system of law opposing it from outside, but within concrete and well-known political limits: the contrast was between royal power [on one side], and those upholding the judicial institution on the other. In the new system we are dealing with a different

problem: How can the necessary self-limitation of governmentality be formulated in law without government being paralyzed, and also—and this is the real problem—without stifling the site of truth which is exemplified by the market and which must be respected as such? In clear terms, the problem raised at the end of the eighteenth century is this: If there is political economy, what is its corresponding public law? Or again: What bases can be found for the law that will structure the exercise of power by public authorities when there is at least one region, but no doubt others too, where government non-intervention is absolutely necessary, not for legal, but for factual reasons, or rather, for reasons of truth? Limited by respect for the truth, how will power, how will government be able to formulate this respect for truth in terms of laws which must be respected? After all, the fact that for a long time, until recently, faculties of law in France were also faculties of political economy—to the great discomfort of economists and jurists—is only the extension, no doubt excessive in historical terms, of an original fact, which was that you could not think of political economy, that is to say, the freedom of the market, without at the same time addressing the problem of public law, namely that of limiting the power of public authorities.

A number of precise and concrete things are proof of this moreover. After all, the first economists were at the same time jurists and people who addressed the problem of public law. Beccaria, for example, who was a theorist of public law, basically in the form of penal law, was also an economist.¹⁰ You only have to read *The Wealth of Nations*, and not even his other works, to see that the problem of public law runs through all of Adam Smith's work.¹¹ Bentham, a public law theorist, was at the same time an economist and wrote books on political economy.¹² In addition to these facts, which show the original link between the problem of political economy and the problem of limiting the power of public authorities, there is ample proof in the problems raised during the nineteenth and twentieth centuries concerning economic legislation, the separation of government and administration, the constitution of

* Foucault adds: This coupling between political economy and public law, which now seems very bizarre to us ... [unfinished sentence]

administrative law, whether specific administrative courts are needed,¹³ and so on. So, when I spoke last week of the self-limitation of governmentality I was not referring to a disappearance of law, but to the problem raised by the juridical limitation of an exercise of political power which problems of truth were making it necessary to determine.

So, there is a shift of the center of gravity of public law. The fundamental problem of public law will no longer be the foundation of sovereignty, the conditions of the sovereign's legitimacy, or the conditions under which the sovereign's rights can be exercised legitimately, as it was in the seventeenth and eighteenth centuries. The problem becomes how to set juridical limits to the exercise of power by a public authority. Schematically, we can say that at the end of the eighteenth and the beginning of the nineteenth century there were basically two ways of resolving this. The first I will call the axiomatic, juridico-deductive approach, which was, up to a point, the path taken by the French Revolution—we could also call it Rousseau's approach.* In what does it consist? It does not start from government and its necessary limitation, but from law in its classical form. That is to say, it tries to define the natural or original rights that belong to every individual, and then to define under what conditions, for what reason, and according to what ideal or historical procedures a limitation or exchange of rights was accepted. It also consists in defining those rights one has agreed to cede and those, on the other hand, for which no cession has been agreed and which thus remain imprescriptible rights in all circumstances and under any possible government or political regime. Finally, on this basis, and only on this basis, having thus defined the division of rights, the sphere of sovereignty, and the limits of the right of sovereignty, you can then deduce from this only what we can call the bounds of governmental competence, but within the framework determined by the armature constituting sovereignty itself. In other words, put clearly and simply this approach consists in starting from the rights of man in order to arrive at the limitation of governmentality by way of the constitution of the sovereign. I would say that, broadly speaking, this is the revolutionary approach. It is a way of posing right from the start the problem of legitimacy and the

* In the manuscript, the other way is called (p. 15), "the inductive and residual way"

inalienability of rights through a sort of ideal or real renewal of society, the state, the sovereign, and government. Consequently, you can see that if, historically and politically, this is the revolutionaries' approach, we can call it a retroactive, or retroactionary approach inasmuch as it consists in taking up the problem of public law that the jurists had constantly opposed to the *raison d'État* of the seventeenth and eighteenth centuries. In this respect there is continuity between the seventeenth century theorists of natural law and the jurists and legislators of the French Revolution.

The other approach does not start from law but from governmental practice itself. It starts from government practice and tries to analyze it in terms of the de facto limits that can be set to this governmentality. These de facto limits may derive from history, from tradition, or from an historically determined state of affairs, but they can and must also be determined as desirable limits, as it were, as the good limits to be established precisely in terms of the objectives of governmentality, of the objects with which it has to deal, of the country's resources, population, and economy, etcetera. In short, this approach consists in the analysis of government: its practice, its de facto limits, and its desirable limits. On this basis, it distinguishes those things it would be either contradictory or absurd for government to tamper with. Better still, and more radically, it distinguishes those things that it would be pointless for government to interfere with. Following this approach means that government's sphere of competence will be defined on the basis of what it would or would not be useful for government to do or not do. Government's limit of competence will be bounded by the utility of governmental intervention. The question addressed to government at every moment of its action and with regard to each of its institutions, old or new, is: Is it useful? For what is it useful? Within what limits is it useful? When does it stop being useful? When does it become harmful? This is not the revolutionary question: What are my original rights and how can I assert them against any sovereign? But it is the radical question, the question of English radicalism; the problem of English radicalism is the problem of utility.

Don't think that English political radicalism is no more than the projection of a utilitarian ideology on the level of politics. It is, rather, an

attempt to define the sphere of competence of government in terms of utility on the basis of an internal elaboration of governmental practice which is nevertheless fully thought through and always endowed and permeated with philosophical, theoretical, and juridical elements. In this respect utilitarianism appears as something very different from a philosophy or an ideology. Utilitarianism is a technology of government, just as public law was the form of reflection, or, if you like, the juridical technology with which one tried to limit the unlimited tendency of *raison d'État*.

A comment with regard to this word "radicalism" or "radical." The word "radical," which I think dates from the end of the seventeenth and the start of the eighteenth century, was employed in England to designate—and it is this that is quite interesting—the position of those who, faced with the sovereign's real or possible abuses, wanted to assert those famous original rights supposedly possessed by the Anglo-Saxons prior to the Norman invasion (I talked about this two or three years ago¹⁴). This is radicalism. So it consisted in the assertion of original rights in the sense of basic rights identified by the historical reflections of public law. However, for English radicalism, "radical" designates a position which involves continually questioning government, and governmentality in general, as to its utility or non-utility.

So, there are two approaches: the revolutionary approach, basically structured around traditional positions of public law, and the radical approach, basically structured around the new economy of government reason. These two approaches imply two conceptions of the law. In the revolutionary, axiomatic approach, the law will be seen as the expression of a will. So there will be a system of will-law. The problem of the will is, of course, at the heart of all the problems of right, which again confirms the fact that this is a fundamentally juridical problematic. The law is therefore conceived as the expression of a collective will indicating the part of right individuals have agreed to cede, and the part they wish to hold on to. In the other problematic, the radical utilitarian approach, the law is conceived as the effect of a transaction that separates the sphere of intervention of public authorities from that of the individual's independence. This leads us to another distinction which is also very important. On one side you have a juridical conception of freedom: every

individual originally has in his possession a certain freedom, a part of which he will or will not cede. On the other side, freedom is not conceived as the exercise of some basic rights, but simply as the independence of the governed with regard to government. We have therefore two absolutely heterogeneous conceptions of freedom, one based on the rights of man, and the other starting from the independence of the governed. I am not saying that the two systems of the rights of man and of the independence of the governed do not intertwine, but they have different historical origins and I think they are essentially heterogeneous or disparate. With regard to the problem of what are currently called human rights, we would only need look at where, in what countries, how, and in what form these rights are claimed to see that at times the question is actually the juridical question of rights, and at others it is a question of this assertion or claim of the independence of the governed vis-à-vis governmentality.

So, we have two ways of constituting the regulation of public authorities by law, two conceptions of the law, and two conceptions of freedom. This ambiguity is a characteristic feature of, let's say, nineteenth and also twentieth century European liberalism. When I say two routes, two ways, two conceptions of freedom and of law, I do not mean two separate, distinct, incompatible, contradictory, and mutually exclusive systems, but two heterogeneous procedures, forms of coherence, and ways of doing things. We should keep in mind that heterogeneity is never a principle of exclusion; it never prevents coexistence, conjunction, or connection. And it is precisely in this case, in this kind of analysis, that we emphasize, and must emphasize a non-dialectical logic if want to avoid being simplistic. For what is dialectical logic? Dialectical logic puts to work contradictory terms within the homogeneous. I suggest replacing this dialectical logic with what I would call a strategic logic. A logic of strategy does not stress contradictory terms within a homogeneity that promises their resolution in a unity. The function of strategic logic is to establish the possible connections between disparate terms which remain disparate. The logic of strategy is the logic of connections between the heterogeneous and not the logic of the homogenization of the contradictory. So let's reject the logic of the dialectic and try to see—this is what I will try to show in these lectures—the connections which succeeded in holding together and

conjoining the fundamental axiomatic of the rights of man and the utilitarian calculus of the independence of the governed.

I wanted to add something to this, but I think it would take too long; I will come back to it later.* I would like to return for a moment to what I said at the start with regard to the market—and it is a point to which I will come back later.¹⁵ Still, just now, I would like to stress that between these two heterogeneous systems—that of the revolutionary axiomatic, of public law and the rights of man, and that of the empirical and utilitarian approach which defines the sphere of independence of the governed on the basis of the necessary limitation of government—there is, of course, a ceaseless connection and a whole series of bridges, transits, and joints. Consider the history of property rights, for example.[†] But it is quite clear (I will talk about this in the lectures) that of the two systems, one has been strong and has held out, while the other has receded. The one that has been strong and has stood fast is, of course, the radical approach which tried to define the juridical limitation of public authorities in terms of governmental utility. This tendency will characterize not only the history of European liberalism strictly speaking, but the history of the public authorities in the West. Consequently, this problem of utility—of individual and collective

* Foucault passes quickly over pages 18-20 of the manuscript:

"Obviously we would find many examples of this in the discourse of the American revolutionaries. And maybe revolutionary thought is precisely this: to think at the same time the utility of independence and the axiomatic of rights (American revolution).

[p. 18a] Contemporaries were perfectly aware of this heterogeneity. Bentham, Dumont, the Rights of Man. And it remained perceptible for two centuries, since it has proved impossible to find a genuine coherence and equilibrium between these procedures. Overwhelmingly, and not without some reversals, regulation of the public authorities in terms of utility prevails over the axiomatic of sovereignty in terms of original rights. Collective utility (rather than collective will) as general axis of the art of government.

[p. 19] General tendency, but which does not cancel the other. Especially since they produce similar, although undoubtedly not superimposable, effects. For the axiomatic of sovereignty is led to mark imprescriptible rights so strongly that it cannot in fact find any place for an art of government and the exercise of power by a public authority, unless the juridical constitution of the sovereign as the collective will is so strong that the exercise of basic rights are reduced to pure ideality. Totalitarian orientation. But the radicalism of utility, on the basis of the distinction individual utility/collective utility, will also be led to emphasize general utility over individual utility and infinitely reduce the independence of the governed as a consequence.

[p. 20] Orientation of indefinitely extended governmentality."

[†] Foucault adds: you will see it function very well in the two [inaudible word] and in a way [inaudible word]

utility, the utility of each and all, the utility of individuals and the general utility—will be the major criteria for working out the limits of the powers of public authorities and the formation of a form of public law and administrative law. Since the beginning of the nineteenth century we have been living in an age in which the problem of utility increasingly encompasses all the traditional problems of law.

So, on the basis of this I would like to make a remark. With regard to the market, we found that one of the points of anchorage of the new governmental reason was an understanding of the market as a mechanism of exchange and a site of veridiction regarding the relationship between value and price. Now we find a second point of anchorage of the new governmental reason. This is the elaboration of the powers of public authorities and the measure of their interventions by reference to the principle of utility. So, we have exchange on the side of the market, and utility on the side of the public authorities. Exchange value and spontaneous veridiction of economic processes, measures of utility and internal jurisdiction of acts of the public authorities. Exchange for wealth and utility for the public authorities: this is how governmental reason articulates the fundamental principle of its self-limitation. Exchange on one side and utility on the other: obviously, the general category covering both or for thinking both—that is, exchange which must be respected in the market since the market is veridiction, and utility to limit the power of the public authorities since it must only be exercised where it is positively and exactly useful—is, of course, interest, since interest is the principle of exchange and interest is the criterion of utility. Governmental reason in its modern form, in the form established at the beginning of the eighteenth century with the fundamental characteristic of a search for the principle of its self-limitation, is a reason that functions in terms of interest. But this is no longer the interest of an entirely self-referring state which only seeks its own growth, wealth, population, and power, as was the state of *raison d'État*. In the principle to which governmental reason must conform, interest is now interests, a complex interplay between individual and collective interests, between social utility and economic profit, between the equilibrium of the market and the regime of public authorities, between basic rights and the independence of the governed. Government, at any rate, government in this new governmental reason, is something that works with interests.

More precisely, we can say that it is through interests that government can get a hold on everything that exists for it in the form of individuals, actions, words, wealth, resources, property, rights, and so forth. We can put this more clearly, if you like, with a very simple question: On what did the sovereign, the monarch, the state have a hold in the previous system, and on what was its right to exercise this hold based, legitimized, and founded? It was things, lands. The king was often, not always, considered to be the owner of the realm, and it was as such that he could intervene. Or at any rate he owned an estate. He could exercise a hold over the subjects since, as subjects, they had a personal relation to the sovereign that meant that whatever the rights of the subjects themselves he could exercise a hold over everything. In other words, there was a direct hold of power in the form of the sovereign, in the form of his ministers, a direct hold of government over things and people.

On the basis of the new governmental reason—and this is the point of separation between the old and the new, between *raison d'État* and reason of the least state—government must no longer intervene, and it no longer has a direct hold on things and people; it can only exert a hold, it is only legitimate, founded in law and reason, to intervene, insofar as interest, or interests, the interplay of interests, make a particular individual, thing, good, wealth, or process of interest for individuals, or for the set of individuals, or for the interest of a given individual faced with the interest of all, etcetera. Government is only interested in interests. The new government, the new governmental reason, does not deal with what I would call the things in themselves of governmentality, such as individuals, things, wealth, and land. It no longer deals with these things in themselves. It deals with the phenomena of politics, that is to say, interests, which precisely constitute politics and its stakes; it deals with interests, or that respect in which a given individual, thing, wealth, and so on interests other individuals or the collective body of individuals.

I think we have a striking example of this in the penal system. I have tried to show how in the penal system of the seventeenth century, and still at the start of the eighteenth century, basically when the sovereign punished he intervened himself, and this was the true reason for the torture and execution (*la supplice*); he intervened individually so to speak, or anyway as the sovereign, but physically on the individual's body, and

this gave him the right of public torture and execution: it was the manifestation of the sovereign himself over someone who had committed a crime and who, by committing a crime, had of course wronged some people, but above all had struck the sovereign in the very body of his power.¹⁶ This was the site of the formation, justification, and even foundation of public torture and execution.

From the eighteenth century the well-known principle of mildness of punishment appears (you can see it very clearly in Beccaria¹⁷) which, once again, was not the expression of something like a change in people's sensibility. If you wanted to analyze it better than I have done, on what was this moderation of punishments based? Something is interposed between the crime, on the one hand, and the sovereign authority with the right to punish, possibly with death, on the other. This is the thin phenomenal theme of interests, which henceforth is the only thing on which governmental reason can have a hold. As a result, punishment appeared as having to be calculated in terms of the injured party's interests, in terms of redress for damages, etcetera. Punishment will be rooted only in the play of the interests of others, of the family circle, of society, and so on. Is it worthwhile punishing? What interest is there in punishing? What form must punishment take for it to be in society's interests to punish? Is there an interest in torturing, or is it more worthwhile to re-educate, and if so, how and up to what point? How much will it cost? The insertion of this thin phenomenal film of interest as the only sphere, or rather, as the only possible surface of government intervention, is what explains these changes, all of which must be referred back to this reorganization of governmental reason.

In its new regime, government is basically no longer to be exercised over subjects and other things subjected through these subjects. Government is now to be exercised over what we could call the phenomenal republic of interests. The fundamental question of liberalism is: What is the utility value of government and all actions of government in a society where exchange determines the true value of things?^{*} I think

^{*} Foucault adds: Utility value of government faced with a system in which exchange determines the true value of things. How is this possible?

this question encapsulates the fundamental questions raised by liberalism. With this question liberalism posed the fundamental question of government, which is whether all the political, economic, and other forms which have been contrasted with liberalism can really avoid this question and avoid formulating this question of the utility of a government in a regime where exchange determines the value of things.

1. In the "Course summary" Foucault refers to Benjamin Franklin (see below, p. 322). See, for example, the letter from Franklin to Charles de Weissenstein of 1 July 1778 in A.H. Smyth, ed., *The Writings of Benjamin Franklin* (New York: Macmillan, 1905-1907) vol. VII, p. 168, quoted in D.R. McCoy, "Benjamin Franklin's vision of a republican political economy for America," *The William and Mary Quarterly*, 3rd series, vol. 35 (4), October 1978, p. 617: "A virtuous and laborious people could always be 'cheaply governed' in a republican system."
2. The just price (*justum pretium*) was fixed as the ideal model of transactions by medieval scholasticism on the basis of the Aristotelian doctrine of commutative justice (*Nicomachean Ethics*, Book V). See S.L. Kaplan, *Bread, Politics and Political Economy in the Reign of Louis XV* (The Hague: Martinus Nijhoff, 1976), Volume One, pp. 58-59: "Lieutenants general of police, commissaires, inspectors, grain measurers and local officials repeatedly invoked the 'just price' which they construed as their obligation to assure ... The just price was a price which would neither 'disgust' merchants nor 'wound' consumers. It was predicated upon an ideal of moderation which tended to vary with the circumstances. A price was thought just when merchants settled for a moderate profit and the bulk of the people, who lived in a state of chronic misery, did not suffer immoderately, that is to say, more than they did usually. In untroubled moments the just price was simply the current price (as the theologians had recommended), fixed by common estimation rather than imposed by merchant maneuvers or governmental fiat." See J.W. Baldwin, *The Medieval Theories of the Just Price: Romanists, canonists and theologians in the twelfth and thirteenth centuries* (Philadelphia: American Philosophical Society, 1959); Joseph A. Schumpeter, *History of Economic Analysis*, edited from a manuscript by E. Boody Schumpeter (London and Boston: Allen & Unwin, 1982) pp. 60-61, and pp. 88-89. See the complementary bibliography given in S.L. Kaplan, *Bread, Politics and Political Economy*, p. 59, note 14. On the question of price, see *Les Mots et les Choses* (Paris: Gallimard, 1966) ch. 6, section 4; English translation by A. Sheridan, *The Order of Things. An Archeology of the Human Sciences* (London: Tavistock and New York: Pantheon, 1970) ch. 6, section 4: "The pledge and the price" (where the question of price is essentially treated in relation to the function of money).
3. Pierre Le Pesant, seigneur de Boisguilbert (1646-1714), the author notably of *Détail de la France* (1695) and the *Traité de la nature, culture, commerce et intérêt des grains* (1707). He is seen as being the precursor of the physiocrats. See Joseph A. Schumpeter, *History of Economic Analysis*, p. 215 note 1, and especially A. Sauvy, *Pierre de Boisguilbert, ou la Naissance de l'économie politique* (Paris: INED, 1966) 2 volumes. However, it seems that Boisguilbert does not use the concept of "natural price." He sometimes speaks of "price of proportion" (or "proportional" price) without a precise analytical content (buyers and sellers draw the same advantage) and "price of rigueur," with reference to (minimum acceptable) cost of production.
4. See, E. Dupitre, introduction to Dupont de Nemours, *De l'exportation et de l'importation des grains* (1764), (Paris: P. Geuthner, 1911) pp. xxiii-xxiv: "In the physiocratic system nothing is easier to determine than the good price: it is the common and hardly varying price of the general market, the one established by competition between freely trading nations." See also, *Sécurité, Territoire, Population*, lecture of 5 April 1978, note 25; *Security, Territory, Population*, p. 361.
5. See A. Marshall, *Principles of Economics* (London: Macmillan and Co., 1890), and Joseph A. Schumpeter, *History of Economic Analysis*, p. 189 and p. 220.
6. On this new definition of the market as site of veridiction or of the truth of prices, see, for example, E. [Bonnot de] Condillac, *Le Commerce et le Gouvernement considérés relativement l'un à l'autre* (Amsterdam-Paris: Jombert & Cellot, 1776) Part 1, ch. 4: "Des marchés ou des lieux où se rendent ceux qui ont besoin de faire des échanges." See especially p. 23 of the 1795 edition (reprinted, Paris-Geneva: Slatkine, 1980): "[...] prices can only be regulated in markets, because it is only there that the gathered citizens, by comparing their interests in exchanging, can judge the value of things relative to their needs. They can only do that there because it is only in markets that everything is put on view: it is only in markets that

- one can judge the relationship of abundance and scarcity between things that determines their respective prices."
7. See *Sécurité, Territoire, Population*, lecture of 18 January 1978, p. 33 sq; *Security, Territory, Population*, p. 30 sq.
 8. This expression had already been employed by Foucault in the lecture delivered in May 1978 at the Société française de philosophie, "Qu'est-ce que la critique?" *Bulletin de la Société française de philosophie*, 84th year, no. 2, April-June 1990, p. 51, with regard to the difference between genealogy and the procedures of explanatory history: "Let's say roughly that, in contrast with a genesis orientated towards the unity of an originating cause pregnant with a multiple descent, it would be a matter of a genealogy, that is to say something which tries to reconstruct the conditions of appearance of a singularity on the basis of multiple determining elements, from which it arises not as the product, but as the effect. Establishing intelligibility (*mise en intelligibilité*), therefore, but in which we should see that it does not function according to a principle of closure." Foucault had already dwelt on this problem of intelligibility in history in *Sécurité, Territoire, Population*, lecture 8 March 1978, p. 244; *Security, Territory, Population*, pp. 238-239. On the distinction between genesis and genealogy, see *ibid.*, lecture of 8 February 1978, p. 121; pp. 116-117.
 9. On Foucault's relationship with the Frankfurt School, see: "Qu'est-ce que la critique?" pp. 42-43; "Omnes et singulatum": Toward a Critique of Political Reason" in *Essential Works of Foucault, 1954-1984, Vol. 3: Power*, ed. James D. Faubion (New York: The New Press, 2000) p. 299; French translation by P.E. Dauzat, "Omnes et singulatum: vers une critique de la raison politique" in *Dits et Écrits*, 4, p. 135; "Space, Knowledge, and Power," *Essential Works*, 3, pp. 357-358; French translation by F. Durand-Bogaert, "Espace, savoir et pouvoir," *Dits et Écrits*, 4, p. 279; "Structuralisme et post-structuralisme," interview with G. Raulot, *Dits et Écrits*, 4, pp. 438-441; English translation by Jeremy Harding, amended, "Structuralism and Post-structuralism," *Essential Works of Foucault, 1954-1984, Vol. 2: Aesthetics, Method, and Epistemology*, ed. James D. Faubion (New York: The New Press, 1998) pp. 440-443.
 10. Author of the famous treatise *Dei delitti e delle pene* (*An Essay on Crimes and Punishments*) which was published in Livorno in 1764, Cesare Bonesana, marquis de Beccaria (1738-1794) in 1769 obtained the chair of cameral and economic sciences established shortly before at Milan (he renamed it the chair of political economy), which he left after two years for employment in the Milan administration. His lecture notes were published for the first time in 1804 by P. Custodi, with the title *Elementi di economia pubblica* (*Scrittori italiani di economia politica: Parte Moderna*, vol. XI and XII) (Milan: G.G. Destefanis, 1804). See also the *Discours de M. le Marquis Cesare Beccaria Bonesana. ... professeur royal de la chaire nouvellement établie par ordre de S.M. impériale pour le commerce et l'administration publique, prononcé à son installation dans les écoles Palatines*, trans. J.A. Compere (Lausanne: F. Grasset, 1769) [translated from the original Italian edition, *Prolesione letta dal regio professore Marchese Cesare Beccaria Bonesana nell'apertura della nuova cattedra di scienze camerali ultimamente comandata da S.M.I.R.A.* (Florence: G. Allegrini e comp., 1769)] and, *Principes d'économie politique appliqués à l'agriculture par l'auteur du "Traité des délits et des peines"* (Paris: V^e Bouchard-Huzard, 1852). "The bulk of his economic writings consisted of those government reports" (Joseph A. Schumpeter, *History of Economic Analysis*, p. 179); Schumpeter describes Beccaria as the "Italian A. Smith," *ibid.* See, *Atti di governo* by Beccaria, being published in the projected seventeen volumes of the *Edizione nazionale* (five volumes so far published: vol. VI-X, 1987-2000). These writings address very diverse questions: money, mines, weights and measures, manufacture and commerce, fairs and markets, etcetera. I owe these clarifications to the recent thesis of Ph. Audegean, "Philosophie réformatrice, Cesare Beccaria et la critique des savoirs de son temps: droit, rhétorique, économie" (University of Paris 1-Sorbonne, 2003).
 11. Adam Smith (1723-1790), *An Inquiry into the Nature and Causes of the Wealth of Nations* (London: W. Strahan & T. Cadell, 1776), and more recently, (Oxford: Oxford University Press, 1976) in two volumes.
 12. See, *Jeremy Bentham's Economic Writings* (see above, lecture of 10 January 1979, note 9), and T.W. Hutchison, "Bentham as an economist," *Economic Journal*, LXVI, 1956, pp. 288-306.

13. Foucault comes back to these points in the lecture of 21 February 1979 (see below, p. 167 sq).
14. See, "Il faut défendre la société," lecture of 4 February 1976, p. 84 sq; "Society Must be Defended," pp. 98 sq. The word "radicalism" is not employed by Foucault here. See the works of Christopher Hill, with which Foucault was very familiar (see A. Fontana and M. Bertani, "Situation du cours"; "Course context," *ibid.* p. 262; *ibid.* p. 290).
15. See below, lecture of 28 March 1979, p. 273 sq.
16. See *Surveiller et Punir. Naissance de la prison* (Paris: Gallimard, 1975) pp. 51-58; English translation by Alan Sheridan, *Discipline and Punish. The Birth of the Prison* (London: Allen Lane, and New York: Pantheon, 1977) pp. 48-57. See also the 1972-1973 course, "La Société punitive," course summary in *Dits et Écrits*, 2, pp. 456-470; English translation by Robert Hurley, "The Punitive Society" in *The Essential Works of Michel Foucault 1954-1984, Vol. 1, Ethics: Subjectivity and Truth*, ed. Paul Rabinow (New York: The New Press, 1997) pp. 23-37.
17. French translation by M. Chevallier, *Des délits et des peines* (Geneva: Droz, 1965) § XII, p. 24: "But des châtiments"; English translation, *An Essay on Crimes and Punishments* (Edinburgh: Bell and Bradfute, 1807), ch. XII, "Of the Intent of Punishments," pp. 41-42. See, *Surveiller et Punir*, pp. 106-134, "La douceur des peines"; *Discipline and Punish*, "The gentle way in punishment" pp. 104-131.



24 JANUARY 1979

Specific features of the liberal art of government (II): (3) The problem of European balance and international relations. ~ Economic and political calculation in mercantilism. The principle of the freedom of the market according to the physiocrats and Adam Smith: birth of a new European model. ~ Appearance of a governmental rationality extended to a world scale. Examples: the question of maritime law; the projects of perpetual peace in the eighteenth century. ~ Principles of the new liberal art of government: a "governmental naturalism"; the production of freedom. ~ The problem of liberal arbitration. Its instruments: (1) the management of dangers and the implementation of mechanisms of security; (2) disciplinary controls (Bentham's panopticism); (3) interventionist policies. ~ The management of liberty and its crises.

LAST WEEK I TRIED to clarify what seem to me to be some of the basic characteristics of the liberal art of government. First of all I spoke about the problem of economic truth and of the truth of the market, and then of the problem of the limitation of governmentality by the calculus of utility. I would now like to deal with a third aspect which I think is also fundamental, that of international equilibriums, or Europe and the international space in liberalism.

You remember that when last year we talked about *raison d'État*,¹ I tried to show you that there was a kind of equilibrium, a system of

counterweights between what could be called unlimited objectives within the state, on the one hand, and limited external objectives, on the other. The unlimited objectives within the state were pursued through the mechanism of the police state, that is to say, an always more emphatic, accentuated, fine, and subtle governmentality of regimentation with no predetermined limits. So, internally there were unlimited objectives, and then limited objectives externally inasmuch as at the same time as the formation of *raison d'État* and the organization of the police state was taking place there was also the pursuit and real organization of what is called European balance, the principle of which is the following: to see to it that no state prevails over the others so as to reconstitute imperial unity in Europe; to see to it, consequently, that no state dominates all the others, or prevails over its neighbors to such an extent that it can dominate them, etcetera. It is quite easy to see and understand the connection between these two mechanisms of unlimited objectives with the police state, and limited objectives with European balance, inasmuch as if the *raison d'être*, purpose, and objective of the police state, or of the internal mechanisms which endlessly organize and develop the police state, is the strengthening of the state itself, then the target of each state is to strengthen itself endlessly, that is to say its aim is an unlimited increase of its power in relation to the others. In clear terms, competition to be the best in this competitive game will introduce into Europe a number of inequalities, which will increase, which will be sanctioned by an imbalance in the population, and consequently in military strength, and you will end up with the well-known imperial situation from which European balance, since the Treaty of Westphalia, wished to free Europe. The balance was established to avoid this situation.

More precisely, in mercantilist calculation and in the way in which mercantilism organizes the economic-political calculation of forces, it is clear that a European equilibrium is actually unavoidable if you want to prevent the realization of a new imperial configuration. For mercantilism, competition between states assumes that everything by which one state is enriched can, and in truth must, be deducted from the wealth of other states. What one state acquires must be taken from the other; one can only enrich itself at the cost of the others. In other words, what I think is important is that for the mercantilists the economic game is a

zero sum game. It is a zero sum game quite simply because of the monetarist conception and practice of mercantilism. There is a certain amount of gold in the world. Since gold defines, measures, and constitutes the wealth of each state, it is understood that whenever one state gets richer it will take from the common stock of gold and consequently impoverish the others. The monetarist character of mercantilist policy and calculation consequently entails that competition can only be conceived in the form of a zero sum game and so of the enrichment of some at the expense of others.² To avoid the phenomenon of having one and only one winner in this zero sum game, to avoid this political consequence of competition thus defined, strict economic logic requires the establishment of something like an equilibrium which will allow the game to be interrupted, as it were, at a given moment. That is to say, the game will be halted when there is a danger of the difference between the players becoming too great, and it is precisely in this that European equilibrium consists. This is exactly—well, up to a point—Pascal's problem:³ in a zero sum game, what happens when you interrupt the game and divide out the winnings between the players? Interrupting the game of competition with the diplomacy of European equilibrium is necessarily entailed by the monetarist conception and practice of the mercantilists. This is the starting point.

Now, what happens in the middle of the eighteenth century, in that period I have talked about and tried to locate the formation of a new governmental reason? Things will, of course, be completely different in this new *raison d'État*, or in this new reason of the least state which finds the core of its veridiction in the market and its de facto jurisdiction in utility. In fact, for the physiocrats, but also for Adam Smith, the freedom of the market can and must function in such a way that what they call the natural price or the good price will be established through and thanks to this freedom. Anyway, this natural price or good price is such that it must always be profitable to whom? It will be profitable to the seller, but also to the buyer; to both buyer and seller. That is to say, the beneficial effects of competition will not be divided unequally between them and necessarily to the advantage of one at the expense of the other. The legitimate game of natural competition, that is to say, competition under conditions of freedom, can only lead to a dual profit. The fluctuation of the price

around the value, which last week I showed that according to the physiocrats and Adam Smith was assured by the freedom of the market, brings into play a mechanism of mutual enrichment: maximum profit for the seller, minimum expense for the buyers. So we find this idea, which will be at the center of the economic game as defined by the liberals, that actually the enrichment of one country, like the enrichment of one individual, can only really be established and maintained in the long term by a mutual enrichment. My neighbor's wealth is important for my own enrichment, and not in the sense that the mercantilists said my neighbor must possess gold in order to buy my products, which will enable me to impoverish him by enriching myself. My neighbor must be rich, and he will be rich to the same extent as I enrich myself through my commerce and our mutual commerce. Consequently there is a correlative enrichment, an enrichment en bloc, a regional enrichment: either the whole of Europe will be rich, or the whole of Europe will be poor. There is no longer any cake to be divided up. We enter an age of an economic historicity governed by, if not unlimited enrichment, then at least reciprocal enrichment through the game of competition.

I think something very important begins to take shape here, the consequences of which are, as you know, far from being exhausted. What is taking shape is a new idea of Europe that is not at all the imperial and Carolingian Europe more or less inherited from the Roman Empire and referring to quite specific political structures. Nor is it any longer the classical Europe of balance, of an equilibrium between forces established in such a way that the force of one never prevails too decisively over the other. It is a Europe of collective enrichment; Europe as a collective subject that, whatever the competition between states, or rather through the competition between states, has to advance in the form of unlimited economic progress.

This idea of progress, of a European progress, is a fundamental theme in liberalism and completely overturns the themes of European equilibrium, even though these themes do not disappear completely. With this conception of the physiocrats and Adam Smith we leave behind a conception of the economic game as a zero sum game. But if it is no longer to be a zero sum game, then permanent and continuous inputs are still necessary. In other words, if freedom of the market must ensure the

reciprocal, correlative, and more or less simultaneous enrichment of all the countries of Europe, for this to function, and for freedom of the market to thus unfold according to a game that is not a zero sum game, then it is necessary to summon around Europe, and for Europe, an increasingly extended market and even, if it comes to it, everything in the world that can be put on the market. In other words, we are invited to a globalization of the market when it is laid down as a principle, and an objective, that the enrichment of Europe must be brought about as a collective and unlimited enrichment, and not through the enrichment of some and the impoverishment of others. The unlimited character of the economic development of Europe, and the consequent existence of a non-zero sum game, entails, of course, that the whole world is summoned around Europe to exchange its own and Europe's products in the European market.

Of course, I do not mean that this is the first time that Europe thinks about the world, or thinks the world. I mean simply that this may be the first time that Europe appears as an economic unit, as an economic subject in the world, or considers the world as able to be and having to be its economic domain. It seems to me that it is the first time that Europe appears in its own eyes as having to have the world for its unlimited market. Europe is no longer merely covetous of all the world's riches that sparkle in its dreams or perceptions. Europe is now in a state of permanent and collective enrichment through its own competition, on condition that the entire world becomes its market. In short, in the time of mercantilism, *raison d'État*, and the police state, etcetera, the calculation of a European balance enabled one to block the consequences of an economic game conceived as being over.* Now, the opening up of a world market allows one to continue the economic game and consequently to avoid the conflicts which derive from a finite market. But this opening of the economic game onto the world clearly implies a difference of both kind and status between Europe and the rest of the world. That is to say, there will be Europe on one side, with Europeans as the

* The manuscript adds, p. 5: "by halting the game when the losses and gains of the different players diverge too much from the situation at the start of the game (Pascal's problem of the interruption of the game)."

players, and then the world on the other, which will be the stake. The game is in Europe, but the stake is the world.

It seems to me that we have in this one of the fundamental features of this new art of government that is indexed to the problem of the market and market veridiction. Obviously, this organization, or at any rate this reflection on the reciprocal positions of Europe and the world, is not the start of colonization. Colonization had long been underway. Nor do I think this is the start of imperialism in the modern or contemporary sense of the term, for we probably see the formation of this new imperialism later in the nineteenth century. But let's say that we have the start of a new type of global calculation in European governmental practice. I think there are many signs of this appearance of a new form of global rationality, of a new calculation on the scale of the world. I will refer to just some of these.

Take, for example, the history of maritime law in the eighteenth century, and the way in which, in terms of international law, there was an attempt to think of the world, or at least the sea, as a space of free competition, of free maritime circulation, and consequently as one of the necessary conditions for the organization of a world market. The history of piracy—the way in which it was at once used, encouraged, combated, and suppressed, etcetera—could also figure as one of the aspects of this elaboration of a worldwide space in terms of a number of legal principles. We can say that there was a juridification of the world which should be thought of in terms of the organization of a market.

Yet another example of this appearance of a governmental rationality that has the entire planet for its horizon is the eighteenth century projects for peace and international organization. If you consider those that existed in the seventeenth century, you will see that these projects for peace were essentially based on European equilibrium, that is to say, on the exact balance of reciprocal forces between different states; between the different powerful states, or between different coalitions of states, or between the powerful states and a coalition of the smaller states, and so on. From the eighteenth century, the idea of perpetual peace and the idea of international organization are, I think, articulated completely differently. It is no longer so much the limitation of internal forces that is called upon to guarantee and found a perpetual peace, but rather the unlimited nature of the

external market. The larger the external market, the fewer its borders and limits, the more you will have a guarantee of perpetual peace.

If you take Kant's text on the project of perpetual peace, for example, which dates from 1795,⁴ right at the end of the eighteenth century, there is a chapter entitled "On the Guarantee of a Perpetual Peace."⁵ How does Kant conceive of this perpetual peace? He says: What fundamentally is it in history that guarantees this perpetual peace and promises us that one day it really will take shape and form in history? Is it men's will and their mutual understanding, the political and diplomatic devices that they will have been able to construct, or the organization of rights that they will have been able to install between them? Not at all. It is nature,⁶ just as in the physiocrats it was nature that guaranteed the good regulation of the market. And how does nature guarantee perpetual peace? It is very simple, Kant says. Nature after all has done some absolutely marvelous things, since it has managed, for example, to get not only animals, but even peoples to live in lands completely scorched by the Sun or frozen by eternal sheets of ice.⁷ There are people who manage to live there in spite of everything, which proves that there is nowhere in the world where human beings cannot live.⁸ But for people to be able to live they must be able to feed themselves, to produce their food, have a social organization, and exchange their products between themselves or with people from other regions. Nature intended the entire world, the whole of its surface, to be given over to the economic activity of production and exchange. And on that basis, nature has prescribed a number of obligations that are juridical obligations for man,⁹ but which nature has in a way dictated to him secretly, which she has, as it were, marked out in the very arrangement of things, of geography, the climate, and so on. What are these arrangements?

First, that men can have relations of exchange with each other individually, supported by property, etcetera, and this prescription or precept of nature will be taken up in legal obligations and become civil law.¹⁰

Second, nature determined that men be distributed across the world in distinct regions and that within each of these regions they have privileged relationships with each other that they do not have with the inhabitants of other regions, and men have taken up this precept in legal terms by forming separate states which maintain certain legal relationships

between them. This will become international law.¹¹ But in addition, nature has wished that there are not only juridical relationships between these states, guaranteeing their independence, but also commercial relationships that cross the borders between states and consequently make the juridical independence of each state porous, as it were.¹² Commercial relationships cross the world, just as nature intended and to the same extent as nature intended the whole world to be populated, and this will constitute cosmopolitan law or commercial law. This edifice of civil law, international law, and cosmopolitan law is nothing other than man's taking up of a precept of nature as obligations.¹³ So we can say that law, inasmuch as it resumes the precept of nature, will be able to promise what was in a way already outlined in the first action of nature when it populated the entire world: something like perpetual peace. Perpetual peace is guaranteed by nature and this guarantee is manifested in the population of the entire world and in the commercial relationships stretching across the whole world. The guarantee of perpetual peace is therefore actually commercial globalization.

A number of things should no doubt be added to this, but in any case I should answer an objection straightaway. When I say that a new form of political calculation on an international scale emerges in the thought of the physiocrats, Adam Smith, of Kant too, and of eighteenth century jurists, I do not in any way mean that every other form of reflection, calculation, and analysis, that every other governmental practice disappears. For, if it is true that something like a worldwide, global market is discovered in this period, if at this moment the privileged position of Europe in relation to the world is asserted, and if it is also asserted at this time that competition between European states is a factor in their common enrichment, this does not mean of course—as all history proves—that we enter into a period of European peace and the peaceful globalization of politics. In fact, with the nineteenth century we enter the worst period of customs barriers, forms of economic protectionism, of national economies and political nationalism, and the biggest wars the world has ever known. What I wanted to show you was simply that a

* Foucault adds: it promises already

particular form of reflection, analysis, and calculation appeared at this time which is integrated as it were into political practices that may perfectly well conform to a different type of calculation, a different system of thought, and a different practice of power. We would only have to look at what happened at the Congress of Vienna, for example.¹⁴ It could be said that this is the most striking manifestation of what was sought after in the seventeenth and eighteenth centuries, namely a European balance. What were its concerns in fact? Its task was to put an end to what appeared to be the resurrection of the imperial idea with Napoleon. Because the historical paradox of Napoleon is that if, at the level of internal policy, he was manifestly hostile to the idea of a police state, and his problem was really how to limit governmental practice internally¹⁵—and this is clear from his interventions in the Council of State and the way in which he reflected on his own governmental practice¹⁶—on the other hand, we can say that Napoleon was completely archaic in his external policy, inasmuch as he wanted to reconstitute something like the imperial configuration against which the whole of Europe had been ranked since the seventeenth century. In truth, Napoleon's imperial idea, so far as it can be reconstructed, in spite of the astounding silence of historians on this theme, seems to have corresponded to three objectives.

First (and I think I talked about this last year),¹⁷ if we go by what the historians and jurists of the eighteenth century said about the Carolingian Empire,¹⁸ in terms of internal policy, the Empire guaranteed freedoms. In its opposition to the monarchy, the Empire did not represent more power but rather less power and less governmentality. On the other hand—and probably on the basis of the limitlessness of the revolutionary objectives, that is to say, to revolutionize the whole world—the Empire was a way of taking up the revolutionary project that interrupted in France in 1792-1793, and of taking it up in the then archaic idea of imperial domination inherited from Carolingian forms or from the form of the Holy Roman Empire. This mixture of the idea of an Empire which internally guarantees freedoms, of an Empire which will give a European form to the unlimited revolutionary project, and finally of an Empire which will reconstitute the Carolingian, or German, or Austrian form of Empire, made up the hotchpotch of Napoleon's imperial politics.

The problem of the Congress of Vienna was, of course, to close off, as it were, that imperial limitlessness. It was, of course, to re-establish the equilibrium of Europe, but basically with two different objectives: the Austrian objective and the English objective. The Austrian objective was to reconstitute a European equilibrium in the old form of the seventeenth and eighteenth centuries, ensuring that no country can prevail over the others in Europe. Austria was absolutely tied to this kind of project inasmuch as it only had an administrative government, being made up of a number of different states and only organizing these in the form of the old police state. This plurality of police states at the heart of Europe meant that Europe itself was basically modeled on this old schema of a balanced multiplicity of police states. Europe had to be in the image of Austria for Austria to remain as it was. To that extent, we can say that, for Metternich,¹⁹ the calculation of European equilibrium was still and remained that of the eighteenth century. On the other hand, what kind of equilibrium was sought by England* and imposed together with Austria at the Congress of Vienna? It was a way of regionalizing Europe, of limiting, of course, the power of each of the European states, but so as to allow England a political and economic role as economic mediator between Europe and the world market, so as to globalize the European economy through the mediation, the relay of England's economic power. So we have here a completely different calculation of European equilibrium founded on the principle of Europe as a particular economic region faced with, or within, a world that must become its market. The calculation of European equilibrium for [Austria][†] at the Congress of Vienna is completely different. So you can see that within a single historical reality you may very well find two entirely different types of rationality and political calculation.

I will stop these speculations here and before moving on to the analysis of present day liberalism in Germany and America, I would like to summarize a little what I have said about these fundamental features of liberalism, or at any rate of an art of government which emerges in the eighteenth century.

* The manuscript clarifies, p. 10: "Castelreagh" [Henry Robert Stewart Castelreagh (1762-1822), Tory foreign secretary from 1812 to 1822, who played an important role at Vienna checking the ambitions of Russia and Prussia].

[†] M.F.: England

So, I have tried to indicate three features: veridiction of the market, limitation by the calculation of governmental utility, and now the position of Europe as a region of unlimited economic development in relation to a world market. This is what I have called liberalism.

Why speak of liberalism, and why speak of a liberal art of government, when it is quite clear that the things I have referred to and the features I have tried to indicate basically point to a much more general phenomenon than the pure and simple economic doctrine, or the pure and simple political doctrine, or the pure and simple economic-political choice of liberalism in the strict sense? If we take things up a bit further back, if we take them up at their origin, you can see that what characterizes this new art of government I have spoken about would be much more a naturalism than liberalism, inasmuch as the freedom that the physiocrats and Adam Smith talk about is much more the spontaneity, the internal and intrinsic mechanics of economic processes than a juridical freedom of the individual recognized as such. Even in Kant, who is much more a jurist than an economist, you have seen that perpetual peace is not guaranteed by law, but by nature. In actual fact, it is something like a governmental naturalism which emerges in the middle of the eighteenth century. And yet I think we can speak of liberalism. I could also tell you—but I will come back to this²⁰—that this naturalism, which I think is fundamental or at any rate original in this art of government, appears very clearly in the physiocratic conception of enlightened despotism. I will come back to this at greater length, but, in a few words, what conclusions do the physiocrats draw from their discovery of the existence of spontaneous mechanisms of the economy which must be respected by every government if it does not want to induce effects counter to or even the opposite of its objectives? Is it that people must be given the freedom to act as they wish? Is it that governments must recognize the essential, basic natural rights of individuals? Is it that government must be as little authoritarian as possible? It is none of these things. What the physiocrats deduce from their discovery is that the government must know these mechanisms in their innermost and complex nature. Once it knows these mechanisms, it must, of course, undertake to respect them. But this does not mean that it provide itself with a juridical framework respecting individual freedoms

and the basic rights of individuals. It means, simply, that it arm its politics with a precise, continuous, clear and distinct knowledge of what is taking place in society, in the market, and in the economic circuits, so that the limitation of its power is not given by respect for the freedom of individuals, but simply by the evidence of economic analysis which it knows has to be respected.²¹ It is limited by evidence, not by the freedom of individuals.

So, what we see appearing in the middle of the eighteenth century really is a naturalism much more than a liberalism. Nevertheless, I think we can employ the word liberalism inasmuch as freedom really is at the heart of this practice or of the problems it confronts. Actually, I think we should be clear that when we speak of liberalism with regard to this new art of government, this does not mean* that we are passing from an authoritarian government in the seventeenth century and at the start of the eighteenth century to a government which becomes more tolerant, more lax, and more flexible. I do not want to say that this is not the case, but neither do I want to say that it is. It does not seem to me that a proposition like that has much historical or political meaning. I did not want to say that there was a quantitative increase of freedom between the start of the eighteenth century and, let's say, the nineteenth century. I have not said this for two reasons. One is factual and the other is a reason of method and principle.

The factual reason first of all. What sense is there in saying, or simply wondering, if an administrative monarchy like that of France in the seventeenth and eighteenth centuries, with all its big, heavy, unwieldy, and inflexible machinery, with its statutory privileges which had to be recognized, with the arbitrariness of decisions left to different people, and with all the shortcomings of its instruments, allowed more or less freedom than a regime which is liberal, let's say, but which takes on the task of continuously and effectively taking charge of individuals and their well-being, health, and work, their way of being, behaving, and even dying, etcetera? So, comparing the quantity of freedom between one system and another does not in fact have much sense. And we do not see

what type of demonstration, what type of gauge or measure we could apply.

This leads us to the second reason, which seems to me to be more fundamental. This is that we should not think of freedom as a universal which is gradually realized over time, or which undergoes quantitative variations, greater or lesser drastic reductions, or more or less important periods of eclipse. It is not a universal which is particularized in time and geography. Freedom is not a white surface with more or less numerous black spaces here and there and from time to time. Freedom is never anything other—but this is already a great deal—than an actual relation between governors and governed, a relation in which the measure of the “too little”^{*} existing freedom is given by the “even more”[†] freedom demanded. So when I say “liberal”^{*} I am not pointing to a form of governmentality which would leave more white spaces of freedom. I mean something else.

If I employ the word “liberal,” it is first of all because this governmental practice in the process of establishing itself is not satisfied with respecting this or that freedom, with guaranteeing this or that freedom. More profoundly, it is a consumer of freedom. It is a consumer of freedom inasmuch as it can only function insofar as a number of freedoms actually exist: freedom of the market, freedom to buy and sell, the free exercise of property rights, freedom of discussion, possible freedom of expression, and so on. The new governmental reason needs freedom therefore, the new art of government consumes freedom. It consumes freedom, which means that it must produce it. It must produce it, it must organize it. The new art of government therefore appears as the management of freedom, not in the sense of the imperative: “be free,” with the immediate contradiction that this imperative may contain. The formula of liberalism is not “be free.” Liberalism formulates simply the following: I am going to produce what you need to be free. I am going to see to it that you are free to be free. And so, if this liberalism is not so much the imperative of freedom as the management and organization of

* In inverted commas in the manuscript, p. 13.

† In inverted commas in the manuscript, p. 13.

* In inverted commas in the manuscript, p. 13.

* Foucault adds: we should not understand

the conditions in which one can be free, it is clear that at the heart of this liberal practice is an always different and mobile problematic relationship between the production of freedom and that which in the production of freedom risks limiting and destroying it. Liberalism as I understand it, the liberalism we can describe as the art of government formed in the eighteenth century, entails at its heart a productive/destructive relationship [with]* freedom [...].[†] Liberalism must produce freedom, but this very act entails the establishment of limitations, controls, forms of coercion, and obligations relying on threats, etcetera.

Clearly, we have examples of this. There must be free trade, of course, but how can we practice free trade in fact if we do not control and limit a number of things, and if we do not organize a series of preventive measures to avoid the effects of one country's hegemony over others, which would be precisely the limitation and restriction of free trade? All the European countries and the United States encounter this paradox from the start of the nineteenth century when, convinced by the economists of the end of the eighteenth century, those in power who want to establish the order of commercial freedom come up against British hegemony. American governments, for example, who used this problem of free trade as a reason for revolt against England, established protectionist tariffs from the start of the nineteenth century in order to save a free trade that would be compromised by English hegemony. Similarly, there must be freedom of the internal market, of course, but again, for there to be a market there must be buyers as well as sellers. Consequently, if necessary, the market must be supported and buyers created by mechanisms of assistance. For freedom of the internal market to exist, the effects of monopolies must be prevented, and so anti-monopoly legislation is needed. There must be a free labor market, but again there must be a large enough number of sufficiently competent, qualified, and politically disarmed workers to prevent them exerting pressure on the labor market. We have then the conditions for the creation for a formidable body

* Manuscript. M.F.: in relation to

[†] An inaudible passage on the recording; [...] a relation [...] of consumption/annulment of freedom.

of legislation and an incredible range of governmental interventions to guarantee production of the freedom needed in order to govern.

Broadly speaking, in the liberal regime, in the liberal art of government, freedom of behavior is entailed, called for, needed, and serves as a regulator, but it also has to be produced and organized. So, freedom in the regime of liberalism is not a given, it is not a ready-made region which has to be respected, or if it is, it is so only partially, regionally, in this or that case, etcetera. Freedom is something which is constantly produced. Liberalism is not acceptance of freedom; it proposes to manufacture it constantly, to arouse it and produce it, with, of course, [the system]* of constraints and the problems of cost raised by this production.

What, then, will be the principle of calculation for this cost of manufacturing freedom? The principle of calculation is what is called security. That is to say, liberalism, the liberal art of government, is forced to determine the precise extent to which and up to what point individual interest, that is to say, individual interests insofar as they are different and possibly opposed to each other, constitute a danger for the interest of all. The problem of security is the protection of the collective interest against individual interests. Conversely, individual interests have to be protected against everything that could be seen as an encroachment of the collective interest. Again, the freedom of economic processes must not be a danger, either for enterprises or for workers. The freedom of the workers must not become a danger for the enterprise and production. Individual accidents and events in an individual's life, such as illness or inevitable old age, must not be a danger either for individuals or for society. In short, strategies of security, which are, in a way, both liberalism's other face and its very condition, must correspond to all these imperatives concerning the need to ensure that the mechanism of interests does not give rise to individual or collective dangers. The game of freedom and security is at the very heart of this new governmental reason whose general characteristics I have tried to describe. The problems of what I shall call the economy of power peculiar to liberalism are internally sustained, as it were, by this interplay of freedom and security.

* Conjecture: inaudible words

Broadly speaking, in the old political system of sovereignty there was a set of legal and economic relations between the sovereign and the subject which committed, and even obliged the sovereign to protect the subject. But this protection was, in a way, external. The subject could demand the protection of his sovereign against an external or internal enemy. It is completely different in the case of liberalism. It is no longer just that kind of external protection of the individual himself which must be assured. Liberalism turns into a mechanism continually having to arbitrate between the freedom and security of individuals by reference to this notion of danger. Basically, if on one side—and this is what I said last week—liberalism is an art of government that fundamentally deals with interests, it cannot do this—and this is the other side of the coin—without at the same time managing the dangers and mechanisms of security/freedom, the interplay of security/freedom which must ensure that individuals or the community have the least exposure to danger.

A number of consequences follow from this. First, we can say that the motto of liberalism is: "Live dangerously." "Live dangerously," that is to say, individuals are constantly exposed to danger, or rather, they are conditioned to experience their situation, their life, their present, and their future as containing danger. I think this kind of stimulus of danger will be one of the major implications of liberalism. An entire education and culture of danger appears in the nineteenth century which is very different from those great apocalyptic threats of plague, death, and war which fed the political and cosmological imagination of the Middle Ages, and even of the seventeenth century. The horsemen of the Apocalypse disappear and in their place everyday dangers appear, emerge, and spread everywhere, perpetually being brought to life, reactualized, and circulated by what could be called the political culture of danger in the nineteenth century. This political culture of danger has a number of aspects. For example, there is the campaign for savings banks at the start of the nineteenth century;²² you see the appearance of detective fiction and journalistic interest in crime around the middle of the nineteenth century; there are the campaigns around disease and hygiene; and then think too of what took place with regard to sexuality and the fear of degeneration:²³ degeneration of the individual, the family, the race, and the human species. In short, everywhere you see this stimulation of

the fear of danger which is, as it were, the condition, the internal psychological and cultural correlative of liberalism. There is no liberalism without a culture of danger.

The second consequence of this liberalism and liberal art of government is the considerable extension of procedures of control, constraint, and coercion which are something like the counterpart and counterweights of different freedoms. I have drawn attention to the fact that the development, dramatic rise, and dissemination throughout society of these famous disciplinary techniques for taking charge of the behavior of individuals day by day and in its fine detail is exactly contemporaneous with the age of freedoms.²⁴ Economic freedom, liberalism in the sense I have just been talking about, and disciplinary techniques are completely bound up with each other. At the beginning of his career, or around 1792-1795, Bentham presented the famous Panopticon as a procedure for institutions like schools, factories, and prisons which would enable one to supervise the conduct of individuals while increasing the profitability and productivity of their activity.²⁵ At the end of his life, in his project of the general codification of English legislation,²⁶ Bentham will propose that the Panopticon should be the formula for the whole of government, saying that the Panopticon is the very formula of liberal government.²⁷ What basically must a government do? It must give way to everything due to natural mechanisms in both behavior and production. It must give way to these mechanisms and make no other intervention, to start with at least, than that of supervision. Government, initially limited to the function of supervision, is only to intervene when it sees that something is not happening according to the general mechanics of behavior, exchange, and economic life. Panopticism is not a regional mechanics limited to certain institutions; for Bentham, panopticism really is a general political formula that characterizes a type of government.

The third consequence (the second being the conjunction between the disciplines and liberalism), is the appearance in this new art of government of mechanisms with the function of producing, breathing life into, and increasing freedom, of introducing additional freedom through additional control and intervention. That is to say, control is no longer just the necessary counterweight to freedom, as in the case of panopticism: it becomes its mainspring. And here again we have examples of

this, such as what took place in England and the United States in the twentieth century, in the 1930s say, when not only the economic but also the political consequences of the developing economic crisis were immediately detected and seen to represent a danger to a number of what were thought to be basic freedoms. Roosevelt's welfare policy, for example, starting from 1932,²⁸ was a way of guaranteeing and producing more freedom in a dangerous situation of unemployment: freedom to work, freedom of consumption, political freedom, and so on. What was the price of this? The price was precisely a series of artificial, voluntarist interventions, of direct economic interventions in the market represented by the basic Welfare measures, and which from 1946, and even from the start moreover, were described as being in themselves threats of a new despotism. In this case democratic freedoms are only guaranteed by an economic interventionism which is denounced as a threat to freedom. So we arrive, if you like—and this is also an important point to keep hold of—at the idea that in the end this liberal art of government introduces by itself or is the victim from within [of]* what could be called crises of governmentality. These are crises which may be due, for example, to the increase in the economic cost of the exercise of these freedoms. Consider, for example, how, in the texts of the [Trilateral]²⁹ in recent years, there has been an attempt to project the effects of political freedom on the economic level of cost. So there is a problem, or crisis, if you like, or a consciousness of crisis, based on the definition of the economic cost of the exercise of freedom.

Another form of crisis would be due to the inflation of the compensatory mechanisms of freedom. That is to say, for the exercise of some freedoms, like that of the freedom of the market and anti-monopoly legislation, for example, you could have the formation of a legislative strait-jacket which the market partners experience as excessive interventionism and excessive constraint and coercion. At a much more local level, you have everything which takes on the appearance of revolt and rejection of the world of the disciplines. Finally, and above all, there are processes of clogging such that the mechanisms for producing freedom, precisely

* M.F.: by

those that are called upon to manufacture this freedom, actually produce destructive effects which prevail over the very freedom they are supposed to produce. This is, if you like, the ambiguity of all the devices which could be called "liberogenic,"* that is to say, devices intended to produce freedom which potentially risk producing exactly the opposite.

This is precisely the present crisis of liberalism. All of those mechanisms which since the years from 1925 to 1930 have tried to offer economic and political formulae to secure states against communism, socialism, National Socialism, and fascism, all these mechanisms and guarantees of freedom which have been implemented in order to produce this additional freedom or, at any rate, to react to threats to this freedom, have taken the form of economic interventions, that is to say, shackling economic practice, or anyway, of coercive interventions in the domain of economic practice. Whether German liberals of the Freiburg School from 1927 to 1930,³⁰ or present day, so-called libertarian American liberals,³¹ in both cases the starting point of their analysis and the cornerstone of their problem is this: mechanisms of economic intervention have been deployed to avoid the reduction of freedom that would be entailed by transition to socialism, fascism, or National Socialism. But is it not the case that these mechanisms of economic intervention surreptitiously introduce types of intervention and modes of action which are as harmful to freedom as the visible and manifest political forms one wants to avoid? In other words, Keynesian kinds of intervention will be absolutely central to these different discussions. We can say that around Keynes,³² around the economic interventionist policy perfected between 1930 and 1960, immediately before and after the war, all these interventions have brought about what we can call a crisis of liberalism, and this crisis manifests itself in a number of re-evaluations, re-appraisals, and new projects in the art of government which were formulated immediately before and after the war in Germany, and which are presently being formulated in America.

To summarize, or conclude, I would like to say that if it is true that a feature of the contemporary world, or of the modern world since the

* "*libérogènes*": in inverted commas in the manuscript.

eighteenth century, really has been the constant presence of phenomena of what may be called crises of capitalism, couldn't we also say that there have been crises of liberalism, which are not, of course, independent of these crises of capitalism? The problem of the thirties I have just been referring to is indeed the proof of this. But crises of liberalism are not just the pure and simple or direct projection of these crises of capitalism in the political sphere. You can find crises of liberalism linked to crises of the capitalist economy. But you can also find them with a chronological gap with regard to these crises, and in any case the way in which these crises manifest themselves, are handled, call forth reactions, and prompt re-organizations is not directly deducible from the crises of capitalism. It is the crisis of the general apparatus (*dispositif*) of governmentality, and it seems to me that you could study the history of these crises of the general apparatus of governmentality which was installed in the eighteenth century.

That is what I will try to do this year, but approaching things retrospectively, as it were. That is to say, I will start with the way in which the elements of this crisis of the apparatus of governmentality have been set out and formulated over the last thirty years, and [I will try]* to find in the history of the nineteenth century some of the elements which enable us to clarify the way in which the crisis of the apparatus of governmentality is currently experienced, lived, practiced, and formulated.

* M.F.: trying

1. See *Sécurité, Territoire, Population*, lecture of 22 March 1978, p. 295 sq.; *Security, Territory, Population*, p. 287 sq.
2. See this formula of a journalist, de Law, in the *Mercure de France*, April 1720, with regard to foreign trade: "One can usually only win if the other loses," quoted by C. Larrère, *L'Invention de l'économie au XVIII^e siècle* (Paris: PUF, 1992) p. 102, with regard to the mercantilist conception of foreign trade.
3. Foucault is alluding to the method of rational calculation of chance set out by Pascal in 1654 and, more precisely, to the problem of the "proportion of the last or first rounds": "In a game of n rounds, what rule enables one to determine the fraction of the other's money that should be given to player A if the game is stopped just before its conclusion" or "just after the first round won." C. Chevalley, *Pascal. Contingence et probabilités* (Paris: PUF, 1995) p. 88. See Blaise Pascal, Letters to Fermat from 29 July to 24 August 1654, in *Œuvres complètes*, ed. L. Lafuma (Paris: Le Seuil, 1963) pp. 43-49.
4. I. Kant, *Zum ewigen Frieden* (Königsberg: Friedrich Nicolovius, 1795; Berlin: Akademie Ausgabe, 1912) vol. VIII, pp. 341-386; French translation by J. Gibelin, *Projet de paix perpétuelle* (Paris: Vrin, 1984, 5th ed.), Foucault used the first, 1948 edition of this translation; English translation by H.B. Nisbet, "Perpetual Peace: A Philosophical Sketch" in Hans Reiss, ed., *Kant's Political Writings* (Cambridge: Cambridge University Press, 1970).
5. *Projet de paix perpétuelle*, First supplement, "De la garantie de la paix perpétuelle," pp. 35-48; "Perpetual Peace: A Philosophical Sketch," First supplement "On the Guarantee of a Perpetual Peace," pp. 108-114.
6. Ibid. p. 35; English, *ibid.* p. 108: "Perpetual peace is guaranteed by no less an authority than the great artist [*Künstlerin*] Nature herself (*natura daedala rerum*). The mechanical process of nature visibly exhibits the purposive plan (...)."
 7. Ibid. pp. 38-39; English *ibid.* p. 110: "It is in itself wonderful that moss can still grow in the cold wastes around the Arctic Ocean; the reindeer can scrape it out from beneath the snow, and can thus itself serve as nourishment or as a draft animal for the Ostiaks or Samoyeds. Similarly the sandy salt deserts containing the camel, which seems as if it had been created for travelling over them in order that they might not be left unutilised."
 8. Ibid. p. 38; English pp. 109-110: "Firstly, she has taken care that human beings are able to live in all the areas where they are settled."
 9. Ibid.; English *ibid.* p. 110: "[The third provisional arrangement of nature is] she has compelled them by the same means to enter into more or less legal relationships." Foucault does not mention the means by which, according to Kant, nature has achieved her ends of populating inhospitable regions and establishing juridical bonds, namely: war.
 10. Ibid. pp. 43-46; English *ibid.* pp. 112-113.
 11. Ibid. pp. 46-47; English *ibid.* p. 113: "The idea of international right presupposes the separate existence [*Absonderung*] of many independent adjoining States."
 12. Ibid. pp. 47-48; English *ibid.* p. 114: "Thus nature wisely separates the nations, although the will of each individual State, even basing its argument on international right, would gladly unite them under its own sway by force or by cunning. On the other hand, nature also unites nations which the concept of cosmopolitan right would not have protected from violence and war, and does so by means of their mutual self-interest. For the *spirit of commerce* sooner or later takes hold of every people, and it cannot exist side by side with war."
 13. Ibid. p. 43; English *ibid.* p. 112: "And how does nature guarantee that what man *ought* to do by the laws of his freedom (but does not do) will in fact be done through nature's compulsion, without prejudice to the free agency of man? This question arises, moreover, in all three areas of public right—in *political*, *international* and *cosmopolitan right*."
 14. The conference in Vienna from September 1814 to June 1815 which brought together the major powers allied against France (Russia, Great Britain, Austria, and Prussia). Its aim was to establish a lasting peace after the Napoleonic wars and to redraw the political map of Europe. See, C.K. Weber, *The Congress of Vienna: 1814-1815* (London and New York: H. Milford, Oxford University Press, 1919; reprinted, London: Thames and Hudson, 1963).

15. See the interview of 1982, "Space, Knowledge, and Power," *Essential Works of Foucault*, 3, p. 351, in which Foucault claims that Napoleon can be placed "almost exactly at the break between the old organization of the eighteenth-century police state (...) and the forms of the modern state, which he invented." In *Surveiller et Punir*, p. 219; *Discipline and Punish*, p. 217, however, Foucault places the Napoleonic figure "at the point of junction of the monarchical, ritual exercise of sovereignty and the hierarchical, permanent exercise of indefinite discipline." See the quotation, on the same page, taken from J.B. Treilhard, *Exposé des motifs des lois composant le code de procédure criminelle* (Paris: 1808) p. 14.
16. See A. Marquiset, *Napoléon sténographié au Conseil d'Etat* (Paris: H. Champion, 1913); J. Bourdon, *Napoléon au Conseil d'Etat*, unpublished notes and verbal proceedings of J.-G. Locré, secretary general of the Council of State (Paris: Berger-Levrault, 1963); C. Durand, *Études sur le Conseil d'Etat napoléonien* (Paris: PUF, 1947); C. Durand, "Le fonctionnement du Conseil d'Etat napoléonien," *Bibliothèque de l'université d'Aix-Marseille*, series I, Cap, Impr. Louis Jean, 1954; C. Durand, "Napoléon et le Conseil d'Etat pendant la seconde moitié de l'Empire," *Études et Documents du Conseil d'Etat*, no. XXII, 1969, pp. 269-285.
17. Foucault did not deal with this point in the 1978 lectures, but in those of 1976, "Il faut défendre la société," lecture of 3 March 1976, pp. 179-181; "Society Must Be Defended," pp. 199-202, on the basis of J.-B. Dubos, *Histoire critique de l'établissement de la monarchie française dans les Gaules* (Paris, 1734).
18. See, for example, Mably, *Observations sur l'histoire de France* (Geneva: 1765) Book VIII, ch. 7: "(...) will a new Charlemagne come among us? We must wish for it, but we cannot hope so," in Mably, *Sur la théorie du pouvoir politique*, selected texts (Paris: Éditions sociales, 1975) p. 194.
19. Klemenz Wenzel Nepomuk Lotar, prince de Metternich-Winneburg, called Metternich (1773-1859), Austrian foreign minister from the Congress of Vienna.
20. Foucault does not return to this subject in these lectures.
21. On evidence (*évidence*) as the principle of governmental self-limitation, see *Sécurité, Territoire, Population*, lecture of 5 April 1978, p. 361; *Security, Territory, Population*, p. 350.
22. The first savings bank, conceived as a preventive remedy for the improvidence of the lower classes, was founded in Paris in 1818. See R. Castel, *Le Métamorphoses de la question sociale* (Paris: Fayard, 1995; re-published Gallimard, 1999) pp. 402-403.
23. See, *Les Anormaux. Cours au Collège de France*, 1974-1975, eds. V. Marchetti and A. Salomoni (Paris: Gallimard-Le Seuil, 1999) Lecture of 19 March 1975, pp. 297-300; English translation by Graham Burchell, *Abnormal. Lectures at the Collège de France, 1974-1975*, English series editor, Arnold I. Davidson (New York: Picador, 2003) pp. 315-318.
24. We recall the way in which, the previous year, Foucault corrected his previous analysis of the relations between disciplinary techniques and individual freedoms (see *Sécurité, Territoire, Population*, lecture of 18 January 1978, pp. 49-50; *Security, Territory, Population*, pp. 48-49). The present argument extends this clarification, making freedom "the correlative (...) of apparatuses of security."
25. It is worth recalling that the Panopticon, or Inspection-House, was not just a model of prison organization, but the idea of a new principle of construction which can be applied to all sorts of establishments. See the complete title of the first edition: "*Panopticon*": or, the *Inspection-House*; containing the idea of a new principle of construction applicable to any sort of establishment, in which persons of any description are to be kept under inspection; and in particular to Penitentiary-houses, Prisons, Houses of industry, Workhouses, Poor Houses, Manufactories, Madhouses, Lazarettos, Hospitals, and Schools; with a plan of management adapted to the principle; in a series of letters, written in 1787, from Crechhoff in White Russia, to a friend in England (in one volume, Dublin: Thomas Byrne, 1791; and in two volumes, London: T. Payne, 1791), included in Jeremy Bentham, *Works*, ed. John Bowring (Edinburgh: W. Tait, 1838-1843) vol. IV, pp. 37-66 (see especially letters 16 to 21). The most recent, and readily available, edition of the Panopticon Letters is Jeremy Bentham, *The Panopticon Writings*, ed. M. Božović (New York and London: Verso, 1995); French translation by M. Sissung in J. Bentham, *Le Panoptique* (Paris: Belfond, 1977) pp. 97-168. The French translation of 1791 did not include the 21 letters and its title was less explicit: *Panoptique, Mémoire sur un nouveau principe pour construire des maisons d'inspection, et nommément des maisons de force*

- (Paris: Imprimerie nationale). See *Le Pouvoir psychiatrique. Cours au Collège de France, 1973-1974*, ed. J. Lagrange (Paris: Gallimard-Le Seuil, 2003), lecture of 28 November 1973, pp. 75-76; English translation by Graham Burchell, *Psychiatric Power. Lectures at the Collège de France 1973-1974*, English series ed. Arnold I. Davidson (London: Palgrave Macmillan, 2006) pp. 73-75.
26. Foucault is no doubt referring to the *Constitutional Code* in *The Collected Works of Jeremy Bentham*, eds. F. Rosen and J.H. Burns (Oxford: Clarendon Press, 1983) vol. 1, although this is not, strictly speaking, a codification of English legislation. Bentham develops his theory of liberal government in this book, whose genesis goes back to the 1820s (see *Codification Proposal, Addressed to All Nations Professing Liberal Opinions*, London: J. McCreery, 1822), and the first volume of which appeared in 1830 (*Constitutional Code for Use of all Nations Professing Liberal Opinions*, London: R. Heward).
27. It seems that this phrase is not Bentham's, but translates Foucault's fairly free interpretation of Bentham's political-economic thought after 1811 (date of the failure of the Panopticon). Foucault seems to make a kind of short-cut between the distinction *agenda/non-agenda* referred to several times in the lectures (see the lectures of 10 January 1979, above p. 12, 14 February 1979, below p. 133, and 7 March, below p. 195) and the principle of inspection, or supervision, applied to government. In the *Constitutional Code*, however, government itself is the object of inspection on the part of the "tribunal of public opinion." (See *Le Pouvoir psychiatrique*, lecture of 28 November 1973, p. 78; *Psychiatric Power*, p. 77, with regard to the democratization of the exercise of power in terms of the panoptic apparatus: the accent is put on visibility, not on control through "publicity"). What's more, it is not clear that Bentham, in his economic writings or in the *Constitutional Code*, is a partisan of economic laissez-faire, as Foucault suggests here (see L.J. Hume, "Jeremy Bentham and the nineteenth-century revolution in government," *The Historical Journal*, vol. 10 (3), 1967, pp. 361-375). Compare however with the *sponte acta* defined in the text of 1801-1804 (see above, lecture of 10 January, note 9).
28. This was, of course, the economic and social program of struggle against the crisis, the New Deal, developed by Franklin Roosevelt immediately after his election as President of the U.S. in November 1932.
29. Foucault says, "the Tricontinental." Founded in 1973, the *Trilateral Commission*, which brought together representatives of North America (the U.S. and Canada), Europe, and Japan, with the objective of strengthening cooperation between these three major zones to confront the new challenges of the end of the century. The "Tricontinental," on the other hand, is the name of the conference called by Fidel Castro in Havana, from December 1965 to January 1966, to facilitate a face to face encounter between revolutionary organizations of the Old and New Worlds.
30. See below, lectures of 31 January, and 7, 14, and 21 February 1979.
31. See below, lectures of 14 and 21 March 1979.
32. See below, lecture of 31 January 1979, note 10.

- again in the program of the SPD in 1959 (see the following note; D.L. Bark and D.R. Gress, *ibid.* p. 430). See F. Bilger, *La Pensée économique libérale*, the Preface by D. Villey, p. xiv, and pp. 257-258.
41. Meeting at an extraordinary congress from the 13 to 15 November 1959 at Bad Godesberg, by a majority of 324 to 16 the SPD adopted the "basic program" (*Grundsatzprogramm*) which, breaking with the Marxist inspired Heidelberg program of 1925, marked a decisive turning point in the party's line.
 42. "Private ownership of the means of production deserves protection and encouragement insofar as it is not an obstacle to an equitable social order. Small and medium enterprises deserve to be consolidated so that they can assert themselves against big enterprises on the economic plane" (*Basic program of the German Social Democratic Party*, quoted by D.L. Bark and D.R. Gress, *Histoire de l'Allemagne*, p. 430. See F. Bilger, *La Pensée économique libérale*, p. 273, which refers here to the article by W. Kreiterling, "La social-démocratie révisé sa doctrine," *Documents. Revue des questions allemandes*, 1959, p. 652 sq.
 43. "A totalitarian or dictatorial economy destroys freedom. That is why the German Social Democratic Party approves a free market economy wherever competition exists. However, where the markets are dominated by individuals or groups, measures must be taken to preserve the freedom of the economy. Competition as much as possible—planning as much as necessary" (*Basic program*, quoted by D.L. Bark and D.R. Gress, *Histoire de l'Allemagne*, p. 430). See F. Bilger, *La Pensée économique libérale*, p. 273.
 44. Kurt Schumacher (1895-1952) was deputy in the Reichstag between 1930 and 1933 and president of the SPD from 1932 until the prohibition of the party a year later. He spent ten years in a concentration camp under the Nazis. From 1945 he re-established the headquarters of the revived SPD, declaring: "Either we succeed in making Germany a socialist country in the economic domain and democratic in the political domain, or we will cease being a German people" (quoted by D.L. Bark and D.R. Gress, *Histoire de l'Allemagne*, p. 188).
 45. See F. Bilger, *La Pensée économique libérale*, p. 275: "At the end of 1961, Professor Schiller was called by Willy Brandt to take up the office of 'Wirtschaftssenator' [economic senator, i.e., Minister of Economic Affairs] in West Berlin and it is generally thought that he will become Minister of Economic Affairs in an eventual socialist federal government. In his new functions, Schiller systematically applied a liberal policy and one of his last speeches in an 'economics' session of the SPD at Essen in October 1963 provoked a real sensation throughout Germany with the extremely clear affirmation of his adherence to the market economy and the categorical rejection of even flexible planning."
 46. Karl Herbert Frahm Brandt, known as Willy Brandt (1913-1992), SPD deputy in the Bundestag from 1950 to 1957, and then Mayor of West Berlin from 1957 to 1966, in 1966 he became Minister of Foreign Affairs in the coalition government of Kiesinger and was elected Chancellor in 1969.
 47. Thomas Hobbes (1588-1679), *Leviathan* (London: A. Crooke, 1651).
 48. John Locke (1632-1704), *Two Treatises of Government*, written around 1680-1683, they were published in 1690 (London: A. Churchill).
 49. See L. von Mises, *Die Gemeinwirtschaft, Untersuchungen über den Sozialismus; Socialism: An Economic and Sociological Analysis*.
 50. See *Sécurité, Territoire, Population; Security, Territory, Population*, lectures of 29 March and April 1978.
 51. See above, lecture of 10 January 1979, note 18.
 52. Erich Honecker (1912-1994), named First Secretary in 1971 after the retirement of Walter Ulbricht.
 53. In continuity with these analyses, in 1983 Foucault conceived of a project of a report on socialist politics: "Do the socialists have a problematic of government, or do they only have a problematic of the state" (quoted by Daniel Defert, "Chronologie," *Dits et Ecrits*, 1, p. 62). Apart from some reading by Foucault at this time (Jaurès, Blum, Mitterand), it seems that this project did not get beyond a dossier of press cuttings.



7 FEBRUARY 1979

German neo-liberalism (II). ~ Its problem: how can economic freedom both found and limit the state at the same time? ~ The neo-liberal theorists: W. Eucken, F. Böhm, A. Müller-Armack, F. von Hayek. ~ Max Weber and the problem of the irrational rationality of capitalism. The answers of the Frankfurt School and the Freiburg School. ~ Nazism as necessary field of adversity to the definition of the neo-liberal objective. ~ The obstacles to liberal policy in Germany since the nineteenth century: (a) the protectionist economy according to List; (b) Bismarck's state socialism; (c) the setting up of a planned economy during the First World War; (d) Keynesian interventionism; (e) the economic policy of National Socialism. ~ The neo-liberal critique of National Socialism on the basis of these different elements of German history. ~ Theoretical consequences: extension of this critique to the New Deal and to the Beveridge plans; interventionism and the growth of the power of the state; massification and uniformization, effects of state control. ~ The stake of neo-liberalism: its novelty in comparison with classical liberalism. The theory of pure competition.

TODAY I WOULD LIKE to try to finish what I began to say about post-war German neo-liberalism, that is to say, the contemporary neo-liberalism which actually involves us.

I have tried to show you the problem which the question of the market raised for the eighteenth century. The problem was how, within a given state whose legitimacy could not be questioned, could you allow for a market freedom which was both historically and juridically new insofar as in the eighteenth century kind of police state freedom was almost only ever defined as the freedom of privilege, as a reserved freedom, as freedom linked to status, profession, or a concession of power, and so on? How was freedom of the market, as the freedom of laissez-faire, possible within a police state? This was the problem, and the answer given by the eighteenth century was ultimately simple and consisted in saying that what will give a place to market freedom and allow its insertion within *raison d'État* and the police state is quite simply that left to itself and governed by laissez-faire the market will be a source of the state's enrichment, growth, and therefore power. The answer of the eighteenth century was, in sum, that you will move towards more state by less government.

The problem posed to Germany in 1945, or more precisely in 1948 if we take those texts and decisions I talked about last week as our reference point, was clearly a very different and opposite problem (this is what I tried to explain last week). The problem was: given a state that does not exist, if I can put it like that, and given the task of giving existence to a state, how can you legitimize this state in advance as it were? How can you make it acceptable on the basis of an economic freedom which will both ensure its limitation and enable it to exist at the same time? This was the problem, the question that I tried to outline last week and which constitutes, if you like, the historically and politically first objective of neo-liberalism. I would now like to try to examine the answer more closely. How can economic freedom be the state's foundation and limitation at the same time, its guarantee and security? Clearly, this calls for the re-elaboration of some of the basic elements of liberal doctrine—not so much in the economic theory of liberalism as in liberalism as an art of government or, if you like, as a doctrine of government.

I will break a bit from my habits and give a few biographical details about these people who were grouped around the future Chancellor Erhard and who programmed this new economic policy, this new way of connecting the economy and politics that is a characteristic feature of the

present German Federal Republic. Who were these people? In the scientific commission I have talked about, and which was brought together by Erhard in 1948, there were a number of people, among the main ones being, first of all, Walter Eucken,¹ a professional economist who at the start of the century was a student of Alfred Weber, the brother of Max Weber. Eucken was appointed professor of political economy at Freiburg in 1927 where he met Husserl,² encountered phenomenology, and met a number of the jurists who were eventually so important in the theory of law in twentieth century Germany, who themselves came into contact with phenomenology and who tried to re-elaborate a theory of law that tried to avoid both the constraints of nineteenth century historicism and Kelsen's formalist, axiomatic, statist conception.³ In 1930, 1933, I am not sure of the date, Eucken wrote an article, which caused a big stir at the time, against the possible application of Keynesian methods to resolve the crisis in Germany.⁴ These methods were being advocated at the time by people like Lautenbach⁵ and Doctor Schacht.⁶ Eucken remained silent during the Nazi period.⁷ He was still professor at Freiburg. In 1936 he founded a journal with the name *Ordo*⁸ and in 1940 published a book with the somewhat paradoxical title of *Grundlagen der Nationalökonomie*,⁹ which in reality is not about national economy but precisely something which doctrinally and politically is fundamentally opposed to national economy. It was Eucken who formed the school of economists called the Freiburg School or the "ordoliberals" around the journal *Ordo* which he directed. He, then, was one of the scientific advisors, no doubt the main one, brought together by Erhard¹⁰ in 1948. So, there was Eucken, and there was also Franz Böhm,¹¹ who was one of the jurists at Freiburg, a phenomenologist by training, or at least a disciple of Husserl, up to a point. Franz Böhm later became a deputy in the Bundestag and in the seventies he had a decisive influence on German economic policy. There was also Müller-Armack¹² in the commission, who was an economic historian, I think a professor at Freiburg,¹³ but I am not absolutely sure, and who in 1941 wrote a very interesting book with the curious title of *Genealogy of Economic Style*¹⁴ in which, outside of pure economic theory and outside of pure economic policy, he tries to define something that in a way would be an art of economic government, of governing economically, which he calls economic

style.¹⁵ Müller-Armack became Ludwig Erhard's Secretary of State when the latter was Minister for the Economy and was one of the negotiators of the Rome Treaty. These, along with others, are some of the characters of this scientific commission.

Behind these, we should also refer to some other people who also [played an important role in]* this new definition of liberalism, of the liberal art of government. They were not members of the scientific commission, but some of them at least were people who inspired it, the main one being obviously Wilhelm Röpke,¹⁶ an economist in the Weimar period. He was one of Schleicher's¹⁷ counselors and [should have become] one of his ministers if Schleicher had not been dismissed in favor of Hitler at the start of 1933. Röpke was also an anti-Keynesian and was forced into exile in 1933. He went to Istanbul¹⁸ and then settled in Geneva¹⁹ where he remained until the end of his career. In 1950 he published a little book entitled *The Orientation of German Economic Policy*,²⁰ with a preface by Adenauer, which in a way represents the clearest, simplest, and most clear-cut manifesto for this new economic policy. Others should be added. With regard to Röpke, I should add that during and just after the war he wrote a kind of great trilogy which, together with the *Grundlagen der Nationalökonomie*, is a kind of bible of this neo-liberalism. It is a work in three volumes, the first of which bears the title of *Gesellschaftskrisis (The Crisis of Society)*,²¹ a term whose sad fate in contemporary political vocabulary you are familiar with, and which explicitly refers of course to Husserl's *The Crisis of European Sciences*.²² There was also Rüstow.²³ There was someone who is clearly very important who also was not a member of the scientific commission, but whose career and trajectory was ultimately very important for the definition of contemporary neo-liberalism. This is the Austrian von Hayek.²⁴ He came from Austria and from neo-liberalism; he emigrated at the time of, or just before, the Anschluss. He went to England and also to the United States. He was very clearly one of the inspirations of contemporary American liberalism, or of American anarcho-capitalism if you like, and he returned to Germany in 1962 where he was appointed professor at Freiburg, thus closing the circle.

* M.F.: had a direct importance on

I have mentioned these small biographical details for a number of reasons. The first is that it is clear that those in Germany in 1948 who grappled with and tried to resolve the problem of how to link together the legitimacy of a state and the freedom of economic partners, while accepting that the second must found the first, or serve as its guarantee, had already been dealing with this problem for a long time. The problem had already arisen within and at the time of the Weimar Republic,²⁵ whose state legitimacy was constantly challenged and which had to struggle with well-known economic problems, and in the years between 1925 and 1930 people like Eucken, Böhm, and Röpke had to struggle with this problem.

I have also given some biographical reference points to show you something which may be worth studying more closely (for those who are interested in contemporary Germany). This is the curious closeness and parallels between what we call the Freiburg School or ordoliberals and their neighbors, as it were, the Frankfurt School. There is a parallel in the dates and equally in their fate, since part at least of the Freiburg School, like the Frankfurt School, was dispersed and forced into exile. There is the same type of political experience and also the same starting point, since broadly speaking both schools started from a problematic, I was going to say a political-university problematic, which was dominant in Germany at the start of the twentieth century and which we can call Weberianism. What I mean is that Max Weber²⁶ was a starting point for both schools and we could say, to schematize drastically, that he functioned in early twentieth century Germany as the person who, broadly speaking, displaced Marx's problem.²⁷ If Marx tried to define and analyze what could be summed up as the contradictory logic of capital, Max Weber's problem, and the problem he introduced into German sociological, economic, and political reflection at the same time, is not so much the contradictory logic of capital as the problem of the irrational rationality of capitalist society. I think, again very schematically, that what characterizes Max Weber's problem is this movement from capital to capitalism, from the logic of contradiction to the division between the rational and the irrational. And we can say roughly that the Frankfurt School as well as the Freiburg School, Horkheimer²⁸ as well as Eucken, have simply taken up this problem in two different senses, in

two different directions. Again schematically, the problem for the Frankfurt School was to determine what new social rationality could be defined and formed in such a way as to nullify economic irrationality. The decipherment of this irrational rationality of capitalism was also the problem for the Freiburg School, but people like Eucken, Röpke, and others try to resolve it in a different way, not by rediscovering, inventing, or defining the new form of social rationality, but by defining, or redefining, or rediscovering, the economic rationality that will make it possible to nullify the social irrationality of capitalism. So, there were two opposed ways, if you like, for solving the same problem. Rationality or irrationality of capitalism, I don't know. The result anyway was, as you know, that both returned from exile to Germany in 1945, 1947—I am, of course, talking about those who were forced into exile—and history had it that in 1968 the last disciples of the Frankfurt School clashed with the police of a government inspired by the Freiburg School, thus finding themselves on opposite sides of the barricades, for such was the double, parallel, crossed, and antagonistic fate of Weberianism in Germany.

I have mentioned the career details of these people who inspired the programming of neo-liberal politics in Germany for a third, clearly more important reason, which is that the experience of Nazism was at the very heart of their reflections. But I think we can say that Nazism was, in a way, the epistemological and political “road to Damascus”^{*} for the Freiburg School. That is to say, Nazism enabled them to define what I would call the field of adversity that they had to define and cross in order to reach their objective. Putting forward a merely strategic analysis, that is to say, not an exhaustive analysis of their discourse, I would say that basically they had to do three things.

First, they had to define an objective. This objective, which we analyzed last week,²⁹ was to found the legitimacy of a state on the basis of a space of freedom for the economic partners. This is the objective. It was the objective in 1948. It was basically already the objective around the years 1925-1930, although it was less urgent, less clear, and less clear-cut.

Second, they had to define not just the set of adversaries they could come up against in achieving this objective, but, fundamentally, the general system with which this objective and the pursuit of this objective could clash, that is to say, the whole set of obstacles and enemies which broadly speaking constitutes the field of adversity with which they had to deal.

And the third operation they had to carry out to cross this field of adversity and achieve their objective was, of course, the distribution or redistribution of the conceptual or technical resources available to them. I would like to develop the last two points of this “strategic”^{*} analysis a little today.

How did they constitute their field of adversity? That is to say, how did they find the overall logic of the set of enemy obstacles or adversaries with which they had to deal? I think the experience of Nazism was very important here. Of course, German liberal thought, although relatively subdued, was not born with the Freiburg School. For many years there were people, like Lujo Brentano³⁰ for example, who tried to support and maintain the classical themes of liberalism in a climate that was clearly not very favorable. Very schematically, we can say that from practically the middle of the nineteenth century there were a number of major obstacles to and criticisms of liberalism and liberal politics in Germany, appearing successively on the historical scene. Again, this is very schematic.

First, there was the principle, practically formulated in 1840 by List,³¹ that, in Germany at least, national policy and a liberal economy could not be compatible. The failure of the Zollverein³² to constitute a German state on the basis of an economic liberalism was in a way the proof of this. List and his successors laid down the principle that far from being the general formula universally applicable to any economic policy, liberal economics could only ever be, and was in fact only ever a tactical instrument or strategy for some countries to obtain an economically hegemonic and politically imperialist position over the rest of the world. In clear and simple terms, liberalism is not the general form

^{*} In inverted commas in the manuscript.

^{*} M.F. notes: in inverted commas

which every economic policy must adopt. Quite simply, liberalism is English policy; it is the policy of English domination. As a general rule it is also the policy suited to a maritime nation. To that extent, Germany, with its history, with its geographical position, with the whole set of constraints in which it is held, cannot afford a liberal economic policy; it needs a protectionist economic policy.

The second, both theoretical and political obstacle that German liberalism encountered at the end of the nineteenth century, was Bismarckian state socialism: for a unified German nation to exist, it must not only be protected against the outside by a protectionist policy, in addition, internally, everything that could compromise national unity must be brought under control, suppressed, and generally speaking the proletariat, as a threat to the unity of the nation and state, must be effectively reintegrated within a social and political consensus. This is roughly the theme of Bismarckian state socialism, the second obstacle to a liberal politics.

The third obstacle, starting with the war, was obviously the development of a planned economy, that is to say, the technique which Germany was forced to adopt by its wartime situation and which [consisted in] the organization of a centralized economy under an administrative apparatus which took the most important decisions in the economic order—allocating scarce resources, fixing prices, and guaranteeing full employment. Germany did not abandon the planned economy at the end of the war, since planning was then renewed by both socialist and non-socialist governments. Practically from Rathenau³³ until 1933 Germany had an economy in which planning and economic centralization was a recurrent, if not a constant form.

Finally, the fourth obstacle, which arrived later on the scene in Germany, was Keynesian-style interventionism. From 1925 more or less [... *] in 1930, German Keynesians, like Lautenbach³⁴ for example, make the same kind of criticisms of liberalism as Keynesians in general, and they propose a number of state interventions on the general balances of the economy. So, from before the Nazi seizure of power, we have

four elements: a protected economy, state socialism, economic planning, and Keynesian interventionism. These four elements acted as barriers to a liberal policy and from the end of the nineteenth century they were the object of a series of discussions conducted by the few partisans of liberalism living in Germany. In a way the German neo-liberals will be the heirs of this dispersed heritage, of this series of discussions.

I know I am giving a caricature of the situation and that in actual fact there was no discontinuity between these different elements but rather a sort of continuous transition, a sort of continuous network. The movement from economic protectionism to the economy of state aid was quite natural. Rathenau type planning, for example, was more or less re-utilized in a Keynesian perspective at the end of the 1920s and in the 1930s. All of this was connected, of course, but it did not form a system. Now what Nazism finally contributed was the strict coalescence of these different elements, that is to say, the organization of an economic system in which protectionist economics, the economics of state aid, the planned economy, and Keynesian economics formed a firmly secured whole in which the different parts were bound together by the economic administration that was set up. The Keynesian policy of Doctor Schacht³⁵ was taken over in 1936* by the four-year plan for which Göring was responsible³⁶ and for which, moreover, he was surrounded by some of Rathenau's counselors.³⁷ Planning had a double objective: on the one hand, to ensure the economic autarchy of Germany, that is to say, an absolute protectionism, and, on the other, a policy of state aid, all, of course, entailing inflationary effects that war preparations (this was, if you like, a militarized economy) enabled to be financed. All this formed a whole.

I would say that, faced with the Nazi system, the theoretical, speculative *coup de force* of the German neo-liberals was not to say, as most people did at the time, and especially the Keynesians: The economic system the Nazis are setting up is a monstrosity. They are combining elements that are actually heterogeneous, which constrict the German economy within an armature of mutually contradictory and disparate

* One or two inaudible words.

* M.F.: 1934

elements. The *coup de force* of the ordoliberals was not to say: Nazism is the product of an extreme state of crisis, the final point towards which an economy and a politics unable to overcome their contradictions are carried, and Nazism as the extreme solution cannot serve as an analytical model for general history, or at any rate for the past history of capitalism* in Europe. The ordoliberals refuse to see Nazism as this monstrosity, this economic hotchpotch, this solution of the last resort at the final point of crisis. They say: Nazism is a truth. Or rather, they say: Nazism is the revelation of the necessary system of relations between these different elements. The neo-liberals say: Take any of these elements, a protected economy or Keynesian-type intervention. These are, of course, apparently different things, but you will never be able to develop one without arriving, in one way or another, at the other. That is to say, the neo-liberals say that these four elements which German economic and political history successively brought onto the scene of governmental action are economically linked to each other and if you adopt one of them you will not escape the other three.

Taking up this schema and principle they successively study different types of economy, like Soviet planning for example. Those, like Hayek, who had a good knowledge of the United States took the example of the New Deal, and others took up the English example and, in particular, the examples of Keynesian policy in the big Beveridge programs worked out during the war.³⁸ They took all this and said: You can see anyway that, first, these are the same principles at work and, second, each of these elements will attract the other three. It was in this way that, in 1943 or 1944, I no longer remember, Röpke published, not without boldness and nerve, an analysis of the Beveridge plan which had been worked out during the war, and he said to the English: What you are preparing for yourselves with your Beveridge plan is quite simply Nazism. On one side you battle with the Germans militarily, but economically, and so politically, you are in the process of repeating their lessons. English Labour party socialism will lead you to German-style Nazism. The Beveridge plan will lead you to the Göring plan, to the

four-year plan of 1936.³⁹ Consequently they tried to pinpoint a sort of economic-political invariant that could be found in political regimes as different as Nazism and parliamentary England, the Soviet Union and America of the New Deal. They tried to identify this relational invariant in these different regimes and they laid down the principle that the important difference was no longer between this or that constitutional structure. The real problem was between a liberal politics and any other form whatsoever of economic interventionism, whether it takes the relatively mild form of Keynesianism or the drastic form of an autarchic plan like that of Germany. So we have an invariant that could be called, if you like, the anti-liberal invariant, which possesses its own logic and internal necessity. This was what the ordoliberals deciphered in the experience of Nazism.

The second lesson they drew from Nazism was the following. What, they said, is Nazism? Essentially and above all it is the unlimited growth of state power. To tell the truth, this claim, which now seems to us a commonplace, presented a paradox and also represented a theoretical or analytical *coup de force*, for when we look at how National Socialist Germany functioned, I think the least we can say is that, at first sight at least, Nazism was the first systematic attempt to initiate the withering away of the state. Nazism is the withering away of the state for a number of reasons. First, this appears in the very juridical structure of National Socialist Germany, since as you know in National Socialist Germany the state lost the status of juridical personality inasmuch as the state could only be defined in law as the instrument of something else which was the true foundation of right, namely the people, the *Volk*.⁴⁰ The *Volk* in its community organization, the people as *Gemeinschaft*, is at once the principle of right and the objective behind every organization, behind every juridical institution, the state included. The state may well express the *Volk*, it may well express the *Gemeinschaft*, and it may well be the form in which the *Gemeinschaft* both manifests itself and produces its actions, but the state will be nothing more than this form, or rather, than this instrument.

Second, in Nazism the state is, as it were, disqualified from within, since the principle of the internal operation of all the apparatuses was not an administrative kind of hierarchy with the game of authority and

* Foucault adds: and of its history

responsibility typical of European administrations since the nineteenth century. It was the principle of the *Fühertum*, the principle of conduction,* to which loyalty and obedience had to correspond, which means that in the form of the state's structure nothing must be preserved of the vertical communication, from below to above and from above to below, between the different elements of this *Gemeinschaft*, of the *Volk*.

Finally, third, the existence of the party and the whole legislative system which governed relations between the administrative apparatus and the party vested essential authority in the party at the expense of the state. The subordinate position of the state is clearly marked by its systematic destruction, or at any rate, its reduction to the pure and simple instrument of the community of the people, which was the Führer principle, which was the existence of the party.

Deciphering this situation, the ordoliberals reply: Don't be deceived. The state is apparently disappearing; it has apparently been subordinated and renounced. Nonetheless it remains the case that if the state is subordinated in this way, it is quite simply because the traditional forms of the nineteenth century state cannot stand up to this new demand for state control that the economic policy of the Third Reich calls for. In fact, if you adopt the economic system I have been talking about, then you will need a sort of super-state to make it work, a supplement to the state which the present organizational and institutional forms we are familiar with cannot assure. Hence the necessity, precisely, for this new state to extend beyond itself in comparison with the forms we know and its need to create these sorts of supplements of the state, these intensifiers of state power represented by the theme of the *Gemeinschaft*, by the principle of obedience to the Führer, and by the existence of the party. So, everything presented by the Nazis as the destruction of the bourgeois and capitalist state are in fact supplements of the state, a state in the process of being born, institutions undergoing statification (*étatisation*). A consequence of this, and what enables the ordoliberals to draw a different conclusion, is that there is in fact a necessary link between this

* Foucault first used this term in relation to the practice of conducting conduct in the 1978 lectures, *Security, Territory, Population*. See the lecture of 1 March 1978; G.B.

economic organization and this growth of the state, which means that none of these elements of the economic system can be adopted without the other three arriving gradually in its wake, and to be established and to work, each of these elements calls precisely for the growth of state power. The economic invariant, on the one hand, and, on the other, the growth of the power of the state, even in apparently aberrant forms in comparison with the classical state, are absolutely bound up with each other.

Finally, the third *coup de force* that Nazism allowed the neo-liberals to carry out with regard to the problem they wanted to resolve is the following. The Nazi analysis of capitalist, bourgeois, utilitarian, and individualistic society can be traced back to Sombart,⁴¹ insofar as it was expressed and epitomized by Sombart in his trajectory between 1900 and 1930 from quasi-Marxism to quasi-Nazism. The best summary is in his book *Der deutsche Sozialismus*.⁴² What have the bourgeois and capitalist economy and state produced? They have produced a society in which individuals have been torn from their natural community and brought together in the flat, anonymous form of the mass. Capitalism produces the mass. Capitalism consequently produces what Sombart does not exactly call one-dimensionality,⁴³ but this is precisely what he defines. Capitalism and bourgeois society have deprived individuals of direct and immediate communication with each other and they are forced to communicate through the intermediary of a centralized administrative apparatus. [They have] therefore reduced individuals to the state of atoms subject to an abstract authority in which they do not recognize themselves. Capitalist society has also forced individuals into a type of mass consumption with the functions of standardization and normalization. Finally, this bourgeois and capitalist economy has doomed individuals to communicate with each other only through the play of signs and spectacles.⁴⁴ In Sombart, and in fact already from around 1900,⁴⁵ we find that well-known critique which has now become one of the commonplaces of a thought whose articulation and framework we do not know very well: the critique of mass society, of the

* Manuscript: "of the spectacle."

society of one-dimensional man, of authority, of consumption, of the spectacle,⁴⁶ and so forth. That is what Sombart said. What's more, it is what the Nazis took up in their own way. And it was indeed in opposition to this destruction of society by the [capitalist]* economy and state that the Nazis proposed to do what they wished to do.

But, say the neo-liberals, what do the Nazis actually do with their organization, their party, and their principle of the *Führertum*? In reality all they do is intensify this mass society, this society of standardizing and normalizing consumption, this society of signs and spectacles. Look at Nazi society as it actually functions. We are dealing entirely with the order of the mass, the masses at Nuremberg, the Nuremberg spectacles, standard consumption for everyone, the idea of the Volkswagen, and so on. All of this is only the renewal and intensification of all those features of bourgeois capitalist society that Sombart had denounced and which the Nazis claimed to be rejecting. And why is this? Why do they only renew what they claim to denounce if not because all these elements are not the effect and product of capitalist society as Sombart claimed and as the Nazis claim after him? Rather, they are the product and effect of a society that economically does not accept liberalism, of a society, or rather of a state, that has chosen a policy of protectionism and planning in which the market does not perform its function and in which the state or para-state administration takes responsibility for the everyday life of individuals. These mass phenomena of standardization and the spectacle are linked to statism, to anti-liberalism, and not to a market economy.

To summarize all this, the decisive point of the Nazi experience for the Freiburg liberals—and this was their choice of adversary, if you like, the way in which they set up the field of adversity necessary for the definition of their strategy—was that, first, they thought they could establish that Nazism was the product of an economic invariant which is indifferent and as it were impervious to the capitalism/socialism opposition and to the constitutional organization of states; second, they thought they could establish National Socialism as an invariant which,

as both cause and effect, was absolutely bound up with the unlimited growth of state power; and third, that the first major and visible effect of this invariant linked to the growth of the state was a destruction of the network, the tissue of the social community, a destruction which, through a sort of chain reaction, a loop, calls precisely for protectionism, a centrally planned economy, and an increase in the power of the state.

Broadly speaking, everything which opposes liberalism and proposes state management of the economy thus constitutes an invariant whose history can be seen throughout the development of European societies since the end of the nineteenth century and, more precisely, from the start of the twentieth century, that is to say, when the liberal art of government became, so to speak, intimidated by its own consequences and tried to limit the consequences that it ought to have drawn itself from its own development. How did it try to limit them? Well, by a technique of intervention which consisted in applying to society and the economy a type of rationality considered valid within the natural sciences. In short, what we can broadly call technology. Technicization of state management, of control of the economy, and also in the analysis of economic phenomena, is what the ordoliberals call "eternal Saint-Simonism,"⁴⁷ and they identify Saint-Simon⁴⁸ with the birth of that vertigo which takes hold of the liberal art of government and leads it to seek a principle of limitation, a principle of organization in the application to society of a schema of rationality specific to nature, a principle which ultimately leads to Nazism. So, from Saint-Simon to Nazism there is a cycle of rationality entailing interventions which entail the growth of the state, which entails setting up an administration that itself functions according to technical types of rationality, and this constitutes precisely the genesis of Nazism over two centuries, or at any rate a century and a half, of the history of capitalism.

Making this type of analysis—of course, I am oversimplifying everything they said between 1935 and 1940 or 1950—in putting forward this analysis at the borders of political reflection, economic analysis, and sociology, the ordoliberals launched a fine scathing attack, since a familiar type of discourse and analysis takes off through this kind of analysis: the traditional critiques of bourgeois society and the analysis of bureaucracy; the idea of Nazism we all have in our heads, the theme of Nazism as the

* M.F.: socialist

revelation and final point of an in some way historically natural development of capitalism; the negative theology of the state as the absolute evil; the possibility of sweeping up events in the Soviet Union and the USA, concentration camps and social security records, into the same critique, and so on. You are familiar with all of this, and I think it originates in this series of theoretical and analytical *coups de force* of ordoliberalism.

But with regard to what I would like to say, this is not for me the most important thing. The essential thing is the conclusion the ordoliberals drew from this series of analyses, namely: since Nazism shows that the defects and destructive effects traditionally attributed to the market economy should instead be attributed to the state and its intrinsic defects and specific rationality, then the analyses must be completely overturned. Our question should not be: Given a relatively free market economy, how should the state limit it so as to minimize its harmful effects? We should reason completely differently and say: Nothing proves that the market economy is intrinsically defective since everything attributed to it as a defect and as the effect of its defectiveness should really be attributed to the state. So, let's do the opposite and demand even more from the market economy than was demanded from it in the eighteenth century. In the eighteenth century the market was called upon to say to the state: Beyond such and such a limit, regarding such and such a question, and starting at the borders of such and such a domain, you will no longer intervene. This is not enough, the ordoliberals say. Since it turns out that the state is the bearer of intrinsic defects, and there is no proof that the market economy has these defects, let's ask the market economy itself to be the principle, not of the state's limitation, but of its internal regulation from start to finish of its existence and action. In other words, instead of accepting a free market defined by the state and kept as it were under state supervision—which was, in a way, the initial formula of liberalism: let us establish a space of economic freedom and let us circumscribe it by a state that will supervise it—the ordoliberals say we should completely turn the formula around and adopt the free market as organizing and regulating principle of the state, from the start of its existence up to the last form of its interventions. In other words: a state under the supervision of the market rather than a market supervised by the state.

I think this kind of reversal, which the ordoliberals were only able to carry out on the basis of their analysis of Nazism, enabled them in 1948 to try to resolve the problem they faced of finding a way of giving legitimacy to a state that did not yet exist and that had to be made acceptable to those who most mistrusted it. Well, let's adopt the free market and we will have a mechanism that will found the state and at the same time, by controlling it, will provide the guarantees demanded by those who have grounds for mistrusting it. This, I think, was the reversal they carried out.

And what is important and decisive in current neo-liberalism can, I think, be situated here. For we should not be under any illusion that today's neo-liberalism is, as is too often said, the resurgence* or recurrence of old forms of liberal economics which were formulated in the eighteenth and nineteenth centuries and are now being reactivated by capitalism for a variety of reasons to do with its impotence and crises as well as with some more or less local and determinate political objectives. In actual fact, something much more important is at stake in modern neo-liberalism, whether this takes the German form I am presently referring to, or the anarcho-liberal American form. What is at issue is whether a market economy can in fact serve as the principle, form, and model for a state which, because of its defects, is mistrusted by everyone on both the right and the left, for one reason or another. Everyone is in agreement in criticizing the state and identifying its destructive and harmful effects. But within this general critique—which is also a confused critique since it can be found with little difference from Sombart to Marcuse—through and in the shadow of this critique, will liberalism in fact be able to bring about its real objective, that is to say, a general formalization of the powers of the state and the organization of society on the basis of the market economy? Can the market really have the power of formalization for both the state and society? This is the important, crucial problem of present-day liberalism and to that extent it represents an absolutely important mutation with regard to traditional liberal projects, those that were born in the eighteenth century. It is not

* M.F.: la resurgence [?]

just a question of freeing the economy. It is a question of knowing how far the market economy's powers of political and social information extend. This is the stake. Well, in order to give a positive answer and affirm that the market economy really can both inform the state and reform society, or reform the state and inform society, the ordoliberals carried out a number of shifts, transformations, and inversions in traditional liberal doctrine, and it is these transformations that I would now like to explain a little.*

So, the first shift is that of exchange, a shift from exchange to competition in the principle of the market. Putting it again very roughly, how was the market defined in eighteenth century liberalism, or rather on what basis was it described? It was defined and described on the basis of free exchange between two partners who through this exchange establish the equivalence of two values. The model and principle of the market was exchange, and the freedom of the market, the non-intervention of a third party, of any authority whatsoever, and a fortiori of state authority, was of course applied so that the market was valid and equivalence really was equivalence. The most that was asked of the state was that it supervise the smooth running of the market, that is to say, that it ensure respect for the freedom of those involved in exchange. The state did not have to intervene within the market therefore. On the other hand, the state was called upon to intervene in production in the sense that liberal economists in the middle of the eighteenth century said that when you produce something, that is to say, when you are investing work in something, it is necessary that everyone respects the individual ownership of what is produced. It was for this, the necessity of private property for production, that state authority was demanded. But the market must be a cleared space free from intervention.

Now for the neo-liberals, the most important thing about the market is not exchange, that kind of original and fictional situation imagined by eighteenth century liberal economists. The essential thing of the market is elsewhere; it is competition. In this, moreover, the neo-liberals only follow

* Foucault pauses at this point to say: I see that it is late, I don't really know if I will start now ... What do you want? [Some calls of "yes" are heard.] Five minutes, no more.

a development of liberal thought, of liberal doctrine and theory, in the nineteenth century. Practically since the end of the nineteenth century, more or less all liberal theory has accepted that the most important thing about the market is competition, that is to say, not equivalence but on the contrary inequality.⁴⁹ It is the problem of competition and monopoly, much more than that of value and equivalence, that forms the essential armature of a theory of the market. On this point therefore the ordoliberals do not depart in any way from the historical development of liberal thought. They take up this classical conception and the principle that competition, and only competition, can ensure economic rationality. How does it ensure economic rationality? Well, it ensures it through the formation of prices which, precisely to the extent that there is full and complete competition, can measure economic magnitudes and thus regulate choices.

With regard to this liberalism focused on the problem of competition, this theory of the market focused on competition, the ordoliberals introduce something that I think is specific to them. In fact, the nineteenth and twentieth century marginalist and neo-marginalist conception of the market economy said that since the market can only function through free and full competition, the state must therefore refrain from altering the existing state of competition and carefully avoid introducing elements that will alter this state of competition through phenomena of monopoly, control, and so forth. At the most, it must intervene to prevent competition being distorted by phenomena like monopoly, for example. So the same conclusion is still drawn from this principle of the market economy as was drawn by those of the eighteenth century who defined the market economy by exchange, namely, laissez-faire. In other words, from the principle of the market economy, both eighteenth century and nineteenth* century liberals draw the same conclusion of the necessity of laissez-faire. The former deduce it from exchange, the latter deduce it from competition, but in any case the logical, political consequence of the market economy is laissez-faire.

This is where the ordoliberals break with the tradition of eighteenth and nineteenth century liberalism. They say: Laissez-faire cannot and

* M.F.: twentieth

must* not be the conclusion drawn from the principle of competition as the organizing form of the market. Why not? Because, they say, when you deduce the principle of laissez-faire from the market economy, basically you are still in the grip of what could be called a "naive naturalism,"[†] that is to say, whether you define the market by exchange or by competition you are thinking of it as a sort of given of nature, something produced spontaneously which the state must respect precisely inasmuch as it is a natural datum. But, the ordoliberalists say—and here it is easy to spot the influence of Husserl⁵⁰—this is naive naturalism. For what in fact is competition? It is absolutely not a given of nature. The game, mechanisms, and effects of competition which we identify and enhance are not at all natural phenomena; competition is not the result of a natural interplay of appetites, instincts, behavior, and so on. In reality, the effects of competition are due only to the essence that characterizes and constitutes it. The beneficial effects of competition are not due to a pre-existing nature, to a natural given that it brings with it. They are due to a formal privilege. Competition is an essence. Competition is an *eidos*.⁵¹ Competition is a principle of formalization.⁵² Competition has an internal logic; it has its own structure. Its effects are only produced if this logic is respected. It is, as it were, a formal game between inequalities; it is not a natural game between individuals and behaviors.

Just as for Husserl a formal structure is only given to intuition under certain conditions, in the same way competition as an essential economic logic will only appear and produce its effects under certain conditions which have to be carefully and artificially constructed. This means that pure competition is not a primitive given. It can only be the result of lengthy efforts and, in truth, pure competition is never attained. Pure competition must and can only be an objective, an objective thus presupposing an indefinitely active policy. Competition is therefore an historical objective of governmental art and not a natural given that must be respected. In this kind of analysis we find, of course, both the influence of Husserl and, in a somewhat Weberian way, the

possibility of connecting up history with the economy.⁵³ The ordoliberalists go on to say that the task of economic theory is the analysis of competition as a formal mechanism and the identification of its optimum effects. But what actually takes place in the societies we know cannot be analyzed on the basis of this theory of competition. We can only analyze it by taking the real historical systems within which these formal economic processes function and are formed and conditioned. Consequently, we need an historical analysis of the systems that intersect, as it were, as a horizontal intersects a vertical, the formal analysis of economic processes. Economics analyzes the formal processes and history will analyze the systems in which the operation of these formal processes is either possible or impossible.⁵⁴

The third consequence they draw from this is that the relation between an economy of competition and a state can no longer be one of the reciprocal delimitation of different domains. There will not be the market game, which must be left free, and then the domain in which the state begins to intervene, since the market, or rather pure competition, which is the essence of the market, can only appear if it is produced, and if it is produced by an active governmentality. There will thus be a sort of complete superimposition of market mechanisms, indexed to competition, and governmental policy. Government must accompany the market economy from start to finish. The market economy does not take something away from government. Rather, it indicates, it constitutes the general index in which one must place the rule for defining all governmental action. One must govern for the market, rather than because of the market. To that extent you can see that the relationship defined by eighteenth century liberalism is completely reversed. The problem thus becomes, what type of delimitation of government follows from this principle, or rather, what will be the effect on the art of government of this general principle that the market is what ultimately must be produced in government? And like a good serial, this is what I will try to explain next week.

* Foucault repeats: can

† In inverted commas in the manuscript.

1. Walter Eucken (1891-1950): head of the German neo-liberal school (Freiburg School) whose positions were expounded in the journal *Ordo* (see below, note 8). He studied economics at Bonn and Berlin, where he was a student of Heinrich Dietzel, an opponent of the historical school, and of one of the last figures of this school, Hermann Schumacher, the successor of Gustav Schmoller at the University of Berlin. After becoming Schumacher's assistant, Eucken broke with him in 1923, noting the inability of historicism to respond to the problem of inflation. He was nominated professor at Tübingen in 1925, and then at Freiburg in 1927, where he remained until his death. See F. Bilger, *La Pensée économique libérale de l'Allemagne contemporaine*, pp. 39-70.
2. On the relations between Eucken and Husserl, see F. Bilger, *ibid.*, p. 47: "On his arrival in the town, Eucken established a deep friendship with Husserl, spiritually linked to Rudolf Eucken. The two men had frequent contacts, sadly quickly interrupted by the philosopher's death. In his works Eucken acknowledged the influence of the founder of phenomenology on the formation of his economic method. In particular, he often refers to Husserl's great book, *Die logische Untersuchungen* (Halle: S. Niemeyer, 1928); English translation by J.N. Findlay, *Logical Investigations* (London: Routledge, 2001) 2 volumes), the critical and positive aspect of which he transposes into political economy." For a more precise analysis, see R. Klump, "On the phenomenological roots of German *Ordnungstheorie*: what Walter Eucken owes to Edmund Husserl!" in P. Commun, ed., *L'Ordoliberalisme allemand: aux sources de l'économie sociale de marche* (University of Cergy-Pontoise, CIRAC/CICC, 2003) pp. 149-162.
3. Among whom Hans Grossmann-Doerth and Franz Böhm (on the latter, see below note 11). See F. Bilger, *La Pensée économique libérale*, pp. 47-48 and 71-74. On Kelsen, see *Sécurité, Territoire, Population; Security, Territory, Population*, lecture of 25 January 1978, note 1.
4. W. Eucken, "Staatliche Strukturwandlungen und die Krisis des Kapitalismus" [Structural modifications of the state and crisis of capitalism], *Weltwirtschaftliches Archiv*, Jena, vol. 36 (2), 1932, pp. 297-321.
5. Wilhelm Lautenbach (1891-1948); see especially his article: "Auswirkungen der unmittelbaren Arbeitsbeschaffung," *Wirtschaft und Statistik*, vol. 13, no. 21, 1933, republished in G. Bombach and others, eds., *Der Keynesianismus* (Berlin: Springer, 1981) pp. 301-308, and his posthumous work, *Zins, Kredit und Produktion* (Tübingen: J.C.B. Mohr, 1952).
6. Hjalmar Greely Horace Schacht (1877-1970), first of all President of the Reichsbank, from November 1923 to March 1930, and then Minister for the Economy from July 1934 to November 1937. He was opposed to Göring and to arms expenditure (see below, note 36), but retained the title of Minister without portfolio until 1943. See J. François-Poncet, *La Politique économique de l'Allemagne occidentale*, pp. 21-22.
7. Quite the opposite. From the end of 1933 Eucken took part in a seminar organized by the economist Karl Diehl, which brought together opponents of Nazism from various faculties (among whom were the historian Gerhard Ritter and the theologian Clemens Bauer). He was resolutely committed against the policy directed by Heidegger in the administration of the University of Freiburg. He was a co-founder, with several Catholic and Protestant theologians, of the *Freiburger Konzil*, which was without doubt the only university group of opposition to Nazism after the 1938 pogroms, and during the war he took part in the discussions of the *Arbeitsgemeinschaft Volkswirtschaftslehre*, organized by Erwin von Beckerath, at the heart of *Gruppe IV* (responsible for economic questions) of the *Akademie für Deutsches Recht* founded by the Nazis in 1933-34 with the aim of Germanizing the law. *Gruppe IV* was created in January 1940. Its organizer, Jens Jessen, who became a fervent opponent of National Socialism, was executed in November 1944 for his participation in the July Plot against Hitler. *Gruppe IV* itself, which constituted an underground opposition forum, was suppressed in March 1943, but discussions between economists—especially around the transition economy of the post-war period—continued within a private framework of the "Beckerath circle." Eucken published several articles during this period. See H. Rieter and M. Schmolz, "The ideas of German Ordoliberalism 1938-1945: pointing the way to a new economic order," *The European Journal of the History of Economic Thought*, 1 (1), Autumn 1993, pp. 87-114; R. Klump, "On the phenomenological roots of German *Ordnungstheorie*" pp. 158-160.
8. Foucault confuses here the date of publication of the preface, co-signed by F. Böhm, W. Eucken, and H. Grossmann-Doerth with the title "Our task," in the first volume of the series *Die Ordnung der Wirtschaft* directed by these three authors (see the English translation with the title "The Ordo Manifesto of 1936" in A. Peacock and H. Willgerodt, eds., *Germany's Social Market Economy: Origins and evolution* [London: Macmillan, 1989] pp. 14-26) and that of the first issue of the journal *Ordo* in 1948. The latter appeared in the form of an annual volume from 1948 to 1974 (Düsseldorf: Helmut Küpper) and from 1975 (Stuttgart: Gustav Fischer).
9. W. Eucken, *Die Grundlagen der Nationalökonomie* (Jena: G. Fischer, 1940, 2nd ed. 1942); English translation by T.W. Hutchison, *The Foundations of Economics: History and theory in the analysis of economic reality* (London: William Hodge, 1950).
10. See above, lecture of 31 January 1979, note 19.
11. Franz Böhm (1895-1977). Legal counselor to the Minister for the Economy from 1925 to 1932. He taught law at the universities of Freiburg and Jena from 1933 to 1938, but had to resign due to his opposition to the anti-Semitic policy. After the war he became Minister of Cultural Affairs in Hesse (1945-1946) and then professor of civil law and economics at the University of Frankfurt. He was a member (CDU) of the Bundestag from 1953 to 1965 and from 1948 to 1977 he played an active role in the Scientific Council of the *Verwaltung für Wirtschaft des Vereinigten Wirtschaftsgebietes* in Frankfurt. In 1965 he became the first German ambassador to Israel. His main works are: *Wettbewerb und Monopolkampf* (Berlin: C. Heymann, 1933); *Die Ordnung der Wirtschaft als geschichtliche Aufgabe und rechtsschöpferische Leistung* (Stuttgart-Berlin: Kohlhammer, 1937); *Wirtschaftsordnung und Staatsverfassung* (Tübingen: J.C.B. Mohr, 1950). See too his *Reden und Schriften* (Karlsruhe: C.F. Müller, 1960). With W. Eucken and H. Grossmann-Doerth, he was one of the co-signatories of the 1936 "Ordoliberal manifesto" (see above, note 8).
12. Alfred Müller-Armack (1901-1978). Assistant in economics at the University of Cologne from 1926, he obtained a professorial chair at Münster in 1940, and then again at Cologne in 1950. He joined the National Socialist Party in 1933 while condemning its racial doctrine (see his book, *Staatsidee und Wirtschaftsordnung im neuen Reich* [Berlin: Junker and Dünhaupt, 1933]), and he then progressively distanced himself from the party in the name of his religious convictions. From 1952 to 1963 he was appointed ministerial director to the Minister for the Economy and Secretary of State for European problems. In this capacity he took part in the drafting of the Rome Treaty. He resigned in 1963 in order to take up posts in the administrative councils of several big enterprises. In addition, he was a member of the Mont Pèlerin group, created in Switzerland in 1947 on the initiative of F. Hayek, with a view to the defense of free enterprise, and other members of which were L. von Mises, W. Röpke, and M. Friedman. See F. Bilger, *La Pensée économique libérale*, pp. 111-112. His main works (apart from his *Genealogie der Wirtschaftsstile*, see below note 14) are: *Wirtschaftslenkung und Marktwirtschaft* (Düsseldorf: Verlag Wirtschaft und Finanzen, 1946, 2nd ed. 1948); *Diagnose unserer Gegenwart. Zur Bestimmung unseres geistesgeschichtlichen Standortes* (Gütersloh: Bertelsmann, 1949); *Religion und Wirtschaft. Geistesgeschichtliche Hintergründe unserer europäischen Lebensform* (Stuttgart: Kohlhammer, 1959).
13. Actually it was Cologne, see the previous note.
14. A. Müller-Armack, *Genealogie der Wirtschaftsstile: die geistesgeschichtlichen Ursprünge der Staats- und Wirtschaftsformen bis zum Ausgang des 18. Jahrhunderts* (Stuttgart: Alfred Kohlhammer, 1941, 3rd ed. 1944). The author "tried to show that the economic organization of a time is the economic translation of the dominant 'Weltanschauung'" and "deduced [from this] the need to construct a post-war economy in line with a new 'style of life' that the Germans intended to adopt" (F. Bilger, *La Pensée économique libérale*, pp. 109-110).
15. The concept of "economic style" (*Wirtschaftsstil*), designating the overall socio-economic form of a society in a given epoch, was forged by A. Spiethoff ("Die allgemeine Volkswirtschaftslehre als geschichtliche Theorie. Die Wirtschaftsstile," *Schmollers Jahrbuch für Gesetzgebung, Verwaltung und Wirtschaft im Deutschen Reich*, 56, II, 1932) in order to deepen and clarify the concept of "economic system" (*Wirtschaftssystem*), introduced by W. Sombart in the 1920s: *Die Ordnung des Wirtschaftslebens* (Berlin: Julius Springer, 1927); *Die drei Nationalökonomien—Gesichte und System der Lehre von der Wirtschaft* (Berlin: Duncker and Humblot, 1930). It is therefore in partial continuity with the problematic of the German

- historical school, while exhibiting a concern for a more rigorous typological analysis. The concept was critically examined by W. Eucken, *Die Grundlagen der Nationalökonomie*, pp. 71-74; *The Foundations of Economics*, pp. 90-93. See H. Möller, "Wirtschaftsordnung, Wirtschaftssystem und Wirtschaftsstil: ein Vergleich der Auffassungen von W. Eucken, W. Sombart und A. Spiethoff," in *Schmollers Jahrbuch für Gesetzgebung, Verwaltung und Volkswirtschaft* (Berlin: Duncker and Humblot, 64, 1940) pp. 75-98. In his articles from the 1950s and 1960s, Müller-Armack frequently uses the concept of style to define the program of action of the social market economy. See, for example, "Stil und Ordnung der sozialen Marktwirtschaft" (1952) in A. Müller-Armack, *Wirtschaftsordnung und Wirtschaftspolitik* (Fribourg-en-Brisgau: Rombach, 1966) pp. 231-242. See S. Broyer, "Ordnungstheorie et ordolibéralisme: les leçons de la tradition" in P. Commun, ed., *L'Ordolibéralisme allemand*, pp. 90-95.
16. Wilhelm Röpke (1899-1966): professor of economics at the University of Marbourg, until his dismissal for political reasons. A convinced follower of neo-marginalism, he was designated to be a member of an official commission to study unemployment in 1930-31. See F. Bilger, *La Pensée économique libérale*, pp. 93-103; J. François-Poncet, *La Politique économique*, pp. 56-57.
17. Kurt von Schleicher (1882-1934): Minister of the Reichswehr (June 1932), he became Chancellor after the resignation of von Papen (December 1932) but had to give way to Hitler in January 1933. He was assassinated by the Nazis the following year. It seems that Foucault here mixes up Röpke and Rüstow (see below, note 23). It was actually to the latter that Schleicher wanted to give the Ministry of Economic Affairs in January 1933.
18. ... where he meets the sociologist Alexander Rustow, who was also an émigré.
19. In 1937. He taught there at the Institut des hautes études internationales. He also presided over the Mont-Pèlerin Society (see above, note 12) from 1960 to 1962.
20. W. Röpke, *Ist die deutsche Wirtschaftspolitik richtig? Analyse und Kritik* (Stuttgart: Kohlhammer, 1950) (see F. Bilger, *La Pensée économique libérale*, p. 97); republished in W. Stützel and others, eds., *Grundtexte zur sozialen Marktwirtschaft*, pp. 49-62 (see above, lecture of 31 January 1979, note 21).
21. W. Röpke, *Die Gesellschaftskrisis der Gegenwart* (Erlangen-Zürich: E. Rentsch, 1942, 4th ed. 1945); French translation by H. Faesi and Ch. Reichard, *La Crise de notre temps* (Neuchâtel: Éd. de La Baconnière, 1945, edition with reduced annotations and no index; republished, Paris: "Petite Bibliothèque Payot," 1962); English translation by Annette and Peter Schiffer Jacobsohn, (Röpke) *The Social Crisis of Our Time* (London: William Hodge, 1950). The work was banned in Germany shortly after publication (see the *Völkische Beobachter* of 11 July 1942). The other volumes completing this book are, *Civitas Humana: Grundfragen der Gesellschafts- und Wirtschaftsreform* (Erlangen-Zürich: E. Rentsch, 1944); French translation by P. Bastier, *Civitas Humana, ou les Questions fondamentales de la Réforme économique et sociale: capitalisme, collectivisme, humanisme économique, État, société, économie* (Paris: Librairie de Médicis, 1946); English translation by Cyril Spencer Fox, *Civitas Humana. A Humane Order of Society* (London: William Hodge, 1948), and *Internationale Ordnung* (Erlangen-Zürich: E. Rentsch, 1945); French translation [anon.], *La Communauté internationale* (Geneva: C. Bourquin, 1947); English translation, *International Order and Economic integration* (Dordrecht: Reidel, 1959). In 1947 Röpke also published a book on the "German question," *Die deutsche Frage* (Erlangen-Zürich: E. Rentsch); English translation by E.W. Dickes, *The German Question* (London: George Allen & Unwin, 1946), in which he recommends a constitutional monarchy as a way of re-establishing the *Rechtsstaat*.
22. E. Husserl, *Die Krisis der europäischen Wissenschaften und die transzendente Phänomenologie* (W. Biemel: 1954); English translation by D. Carr, *The Crisis of European Sciences and Transcendental Phenomenology* (Evanston Ill.: Northwestern University Press, 1970). If the definitive version belongs to Husserl's posthumous works, the first part, which was the material of two lectures in Vienna and Prague in 1935, was published in Belgrade in 1936, in Arthur Liebert's journal, *Philosophia*. It is therefore possible that Röpke knew of the text. However he makes no explicit reference to it. His source, or his implicit reference, is religious rather than philosophical. See *Civitas Humana*, p. xvii: "(...) a careful reader of the celebrated but much misunderstood papal Encyclical 'Quadragesimo Anno' will find a social and economic philosophy expressed therein which at heart comes to much the same conclusion [as *Die Gesellschaftskrisis der Gegenwart*; *The Social Crisis of Our Time*]." On this encyclical, see above, lecture of 31 January 1979, note 31.
23. Alexander Rüstow (1885-1963), son of Prussian general officer. As a radical socialist he belonged to the first generation of the *Jugendbewegung*. After the First World War he was employed in the Ministry for the economy and in 1924 he became scientific counselor of the *Verein deutscher Maschinenbauanstalten* (VDMA, The Confederation of German Machine Constructors). His adoption of a position favorable to social liberalism made him the target of Communists and National Socialists. After his exile in 1933, with Röpke's help, he obtained a post as professor of economic and social history at Istanbul, where he remained until 1947. In 1950 he succeeded Alfred Weber in the chair of economic sociology. His main works are: *Das Versagen des Wirtschaftsliberalismus als religionsgeschichtliches Problem* [The failure of economic liberalism, a problem of religious history] (Istanbul, 1945) and his monumental trilogy: *Ortsbestimmung der Gegenwart* [Determination of the place of the present] (Erlangen-Zürich: E. Rentsch) volume 1: *Ursprung der Herrschaft* [The origin of domination], 1950; volume 2: *Weg der Freiheit* [The road of freedom], 1952; and volume 3: *Herrschaft oder Freiheit*, 1955, [abridged English translation by Salvator Attanasio, *Freedom or Domination: a Historical Critique of Civilization*, ed. A. Dankwart (Princeton: Princeton University Press, 1980)], see the review by C.J. Friedrich, "The political thought of Neoliberalism," *The American Political Science Review*, 49 (2) June 1955, pp. 514-525.
24. Friedrich von Hayek: born in Vienna 8 May 1889; studies law and political sciences at Vienna where he follows F. von Wieser's (1851-1926) courses on political economy and takes part in the informal seminars organized in his office by Ludwig von Mises, then a functionary in the Chamber of Commerce. Hayek, who still leans towards the socializing thought of the Fabians, soon adheres to the ultra-liberal theses defended by Mises in his book *Socialism* (see lecture of 31 January 1979, note 11). Director of the Viennese Institute for economic research (the vice president of which is Mises), he leaves Austria for London in 1931. Appointed professor of social and moral sciences at the University of Chicago in 1952, he returns to Germany in 1962 to finish his career at the University of Freiburg. Apart from the works cited in notes (see above, lecture of 10 January 1979, note 3, and below, this lecture, note 33), Hayek is the author of: *Prices and Production* (London: George Routledge and Sons, 1931); *Individualism and Economic Order* (Chicago and London: University of Chicago Press—Routledge and Kegan Paul, 1949); *The Counter-Revolution of Science: Studies of the abuse of reason* (Glencoe, Ill.: Free Press, 1952); *Law, Legislation and Liberty*, vol. 1: *Rules and Order*, vol. 2: *The Mirage of Social Justice*, vol. 3: *The Political Order of a Free People* (Chicago and London: University of Chicago Press—Routledge and Kegan Paul, 1973-1979).
25. Proclaimed on 9 November 1918, following the announcement of the abdication of William II, endowed with a constitution in 1919, the Weimar Republic (1919-1933) had to confront considerable economic difficulties due, in particular, to inflation accentuated by the costs of reparations and to the shock of the 1929 crisis that encouraged the development of extremist movements.
26. Max Weber (1864-1920). It is not clear that Foucault is referring here to Weber's great work, *Wirtschaft und Gesellschaft* (Tübingen: J.C.B. Mohr, 1922; 4th ed. by J. Winckelmann, 1956); partial French translation J. Chavy and E. de Dampierre (Paris: Plon, 1971); English translation by Ephraim Fischhoff and others, *Economy and Society. An Outline of Interpretive Sociology* (Berkeley and London: University of California Press, 1979) or rather to *The Protestant Ethic and The Spirit of Capitalism* already referred to (see above, lecture of 31 January 1979, note 25).
27. On the abundant literature on the relation of Weber to Marx, and the contradictory points of view it contains, see C. Colliot-Thélène, "Max Weber et l'héritage de la conception matérialiste de l'histoire," in *Études weberiennes* (Paris: PUF, 2001) pp. 103-132.
28. Max Horkheimer (1895-1973), co-founder of the *Institut für Sozialforschung* (Institute for Social Research), created at Frankfurt in 1923, which he reorganizes from 1931. Dismissed in 1933, he directed the Geneva annex of the Institute and then settled in New York in 1934. He returned to Germany in April 1948.
29. See above, lecture of 31 January 1979, pp. 82-84.
30. Ludwig Joseph (Lujó) Brentano (1844-1931): member of the Young Historical School guided by Gustav von Schmoller (1838-1917). See Joseph A. Schumpeter, *History of*

- market."
31. Friedrich List (1789-1846), *Das nationale System der politischen Ökonomie* (Stuttgart-Tübingen: Cotta, 1841); French translation by H. Richelot, *Système nationale d'économie politique* (Paris: Capelle, 1857; republished "Tel," 1998). On List's role in the genesis of the "protection of infant industries," see W. Röpke (Roepke), *The Social Crisis of our Time*, pp. 55-62.
32. *Deutscher Zollverein*: Customs union of the German States carried out in the nineteenth century under Prussian direction. Initiated in 1818, extended in 1854 to almost all of Germany, it made a strong contribution to the transformation of Germany into a major economic power. On this subject see Foucault's comments in the last pages of the manuscript for the preceding lecture (above p. 95).
33. Walther Rathenau (1867-1922): Jewish industrialist who, from 1915, was in charge of the organization of the German war economy. Minister of Foreign Affairs in 1922, he was assassinated by two nationalists of the extreme right. See, W. Röpke, *Civitas Humana*, p. 79, note 1 to p. 63: "Eternal Saint-Simonism which inherits from its founder the ideas of a planning hungering for power meets us again in the tragic figure of *Walter Rathenau*, the great German industrialist and engineer, himself a victim of a most tragic period, who, together with other engineer friends invented if not the thing itself at least the phrase 'Planned Economy' (Planwirtschaft). He also became what a little later was called a 'Technocrat.'" See too F. Hayek, *The Road to Serfdom* (Chicago: University of Chicago Press; London: Routledge, 1944) p. 129, which underlines the influence of his ideas on the economic options of the Nazi regime.
34. See above, this lecture note 5.
35. See above, this lecture note 6.
36. The four-year plan asserted the absolute priority of rearmament. On the role and organization of the office of the four-year plan directed by Göring, see F. Neuman, *Behemoth: The structure and practice of National Socialism* (Oxford: Oxford University Press, 1944) pp. 247-254, with table on p. 253. For a synthesis of the most recent work on this moment of German economic policy, see I. Kershaw, *Nazi Dictatorship: Problems and perspectives of interpretation* (London and New York: E. Arnold, 1996) pp. 59-61. See also H. James, *The German Slump: Politics and economics, 1924-1936* (Oxford: Clarendon Press; New York: Oxford University Press, 1986).
37. See F. Hayek, *The Road to Serfdom*, p. 129: "Through his writings he [Rathenau] has probably, more than any other man, determined the economic views of the generation which grew up in Germany during and immediately after the last war; and some of his closest collaborators were later to form the backbone of the staff of Göring's Five Year Plan administration."
38. Appointed by Churchill, in 1940, president of an inter-ministerial committee responsible for proposing improvements to the English system of social protection. William Beveridge (1879-1963) published a first report in 1942, *Social Insurance and Allied Services* (New York: Agathon Press, 1969), in which he recommended a generalized, unified, and centralized system of social protection, as well as the creation of a health service free and accessible to all, and then a second report in 1944, *Full Employment in a Free Society* (London: George Allen & Unwin, 1944), that broadly helped to popularize Keynesian theses. The first report was never fully translated into French (on the syntheses, commentaries, and analyses published in French in the 1940s, see N. Kerschen, "L'influence du rapport Beveridge sur le plan français de sécurité sociale in 1945," *Revue française de science politique*, vol. 45 (4), August 1995, p. 571). See R. Servoise, *Le Premier Plan Beveridge, le Second Plan Beveridge* (Paris: Domat-Montchrestien, 1946). Foucault refers to the Beveridge plan in various lectures and interviews. See especially, "Crise de la médecine our crise de l'antimédecine!"

- (1976) *Dits et Ecrits*, 3, pp. 40-42; "Un système fini face à une demande infinie" (1983), *Dits et Ecrits*, 4, p. 373; English translation by Alan Sheridan as "Social Security" in *Michel Foucault. Politics, Philosophy, Culture. Interviews and other writings 1977-1984*, ed. Lawrence D. Kritzman, translated by Alan Sheridan and others (New York and London: Routledge, 1988) p. 166.
39. W. Röpke, "Das Beveridgeplan," *Schweizerische Monatshefte für Politik und Kultur*, June-July 1943. This criticism of the Beveridge plan is summarized by Röpke in *Civitas Humana*, pp. 142-149 (see above, lecture of 7 March 1979, note 5). Referring to Foucault's comments in this passage, K. Tribe, in his *Strategies of Economic Order, German Economic Discourse 1750-1950* (Cambridge: Cambridge University Press, 1995) p. 240, notes: "There is some artistic licence at work here: for Röpke does not seem to have committed himself in so many words."
40. On the juridical structure of the National Socialist State, Foucault had read, notably, the works of M. Cot, *La Conception hitlérienne du droit*, doctoral thesis (Toulouse: Impr. du Commerce, 1938), and R. Bonnard, *Le Droit et l'Etat dans la doctrine national-socialiste* (Paris: Librairie Générale de Droit et de Jurisprudence, 1936, 2nd ed. 1939).
41. Werner Sombart (1863-1941): with A. Spiethoff and M. Weber, he was one of the main representatives of the last generation of the German historical school. Professor of economics at Berlin from 1917. His first major work, *Der moderne Kapitalismus* (Leipzig: Duncker & Humblot, 1902) is a continuation of Marx's theses and wins him a socialist reputation. In 1924 he adheres to the program of the conservative revolution and in 1933 becomes a member of the *Akademie für deutsches Recht*. Despite his adherence to the *Führer* principle, he does not subscribe to the National Socialist racial theories. His last books, including, *Deutscher Sozialismus* were badly received by the regime.
42. *Deutscher Sozialismus* (Berlin-Charlottenburg: Buchholz und Weisswange, 1934); English translation by K.F. Geiser as, *A New Social Philosophy* (Princeton and London: Princeton University Press, 1934); French translation by G. Welter as *Le Socialisme allemand: une théorie nouvelle de la société* (Paris: Payot, 1938), republished with a Preface by A. de Benoist (Paris: Pardes "Révolution conservatrice," 1990).
43. See H. Marcuse, *One-dimensional Man: Studies in the ideology of advanced industrial societies* (Boston: Beacon Press, 1964).
44. W. Sombart, *A New Social Philosophy*, Part One: "The economic era" ch. 2, "The Reconstruction of Society and the State" and ch. 3, "The Intellectual life" pp. 16-41.
45. W. Sombart, *Der Moderne Kapitalismus*; French translation by S. Jankélévitch as *L'Apogée du capitalisme* (Paris: Payot, 1932) Part III, ch. 53, and *Das Proletariat* (Frankfurt am Main: Rütter und Loening, 1906) in which he denounced the solitude and uprooting of workers produced by the "economic era."
46. See G. Debord, *La Société du spectacle* (Paris: Buchet-Chastel, 1967). The books by Marcuse and Debord to which Foucault alludes here were the two major references of the Situationist critique from the end of the 1960s (see already the final lecture of the previous year's lectures, *Sécurité, Territoire, Population; Security, Territory, Population*, lecture of 5 April 1978, p. 338, and note 15).
47. See W. Röpke, *Civitas Humana*: "His success rests on the fact that from 'scientism' he drew the final consequences for politics and the life of society and thus inevitably arrived by these means at the only possible destination, namely Collectivism. This represents the scientific elimination of the Human element in political and economic practice. His dubious glory it is that he created the model for a world and social outlook which may be described as *eternal Saint-Simonism*; that attitude of mind which is the outcome of a mixture of the hubris of the natural scientist and engineer mentality of those who, with the cult of the 'Gigolossal' combine their egotistical urge to assert themselves; those who would construct and organise economics, the State and society according to supposedly scientific laws and blueprints, whilst mentally reserving for themselves the principal *porte-feuilles*."
48. Claude Henri de Rouvroy, comte de Saint-Simon (1760-1825), French philosopher, economist, and social reformer, who, in *Du système industriel* (1821) (Paris: Anthropos, 1966), to remedy the crisis opened up by the Revolution, presented a plan of "general overhaul of the social system" (p. 11) replacing the old "feudal and military system" (p. 12) with the "industrial system" founded on the domination of industrialists and scientists and

organizing the whole of society in terms of the "industrial aim" (p. 19). See also *Catéchisme des industriels* (Paris: Impr. de Sétier, 1824-1825) in four volumes, the third volume of which was redrafted by Auguste Comte. After his death, his disciples—Rodrigues, Enfantin, and Bazard—were organized in a Society around the journal *Le Producteur*. Their movement played an important role in the colonial policy of the July monarchy, the construction of the first railways, and building the Suez canal.

49. See below, lecture of 21 February 1979, p. 166, the more explicit reference to Walras, Marshall, and Wicksell.
50. Reference to the Husserlian eidetic reduction is found in Eucken from 1934 in the essay, "Was leistet die nationalökonomische Theorie?" published as an introduction to his *Kapitaltheoretische Untersuchungen* (Jena: Fischer, 1934), in which he theorizes his method for the first time—a procedure of abstraction effectuated by the "Reduktion des tatsächlich Gegebenen auf reine Fälle" (the reduction of the factual given to pure cases) p. 21.
51. On the intuition of the essence, or *eidōs*, in opposition to empirical intuition, see E. Husserl, *Ideas. General Introduction to Pure Phenomenology*, translated by W.R. Boyce Gibson (London/New York: George Allen and Unwin/Humanities Press, 1969).
52. See F. Bilger, *La Pensée économique libérale*, p. 155: "The liberals do not see the theory of perfect competition as a positive theory, but as a normative theory, an ideal type that one must strive to achieve."
53. See above, this lecture, p. 105.
54. See F. Bilger, *La Pensée économique libérale*, p. 52: "According to Walter Eucken, economic morphology [i.e., the typological analysis of economic systems] offers 'a strong link between the empirical view of historical events and the general theoretical analysis necessary for the comprehension of relations.'" On the connection between the morphological analysis of the framework and the theoretical analysis of economic processes within this, see, *ibid.* pp. 54-55.



14 FEBRUARY 1979

German neo-liberalism (III). ~ Usefulness of historical analyses for the present. ~ How is neo-liberalism distinguished from classical liberalism? ~ Its specific stake: how to model the global exercise of political power on the principles of a market economy, and the transformations that derive from this. ~ The decoupling of the market economy and policies of laissez-faire. ~ The Walter Lippmann colloquium (26 to 30 August 1938). ~ The problem of the style of governmental action. Three examples: (a) the question of monopolies; (b) the question of "conformable actions (actions conformes)." The bases of economic policy according to W. Eucken. Regulatory actions and organizing actions (actions ordonnatrices); (c) social policy. The ordoliberal critique of the welfare economy. ~ Society as the point of application of governmental interventions. The "policy of society" (Gesellschaftspolitik). ~ First aspect of this policy: the formalization of society on the model of the enterprise. ~ Enterprise society and judicial society; two faces of a single phenomenon.

TODAY I WOULD LIKE to continue with what I began to say about German neo-liberalism. When you talk about contemporary neo-liberalism, whether German or any other kind, you generally get three types of response.

The first is that from the economic point of view neo-liberalism is no more than the reactivation of old, secondhand economic theories.

The second is that from the sociological point of view it is just a way of establishing strictly market relations in society.

And finally, the third response is that from a political point of view neo-liberalism is no more than a cover for a generalized administrative intervention by the state which is all the more profound for being insidious and hidden beneath the appearances of a neo-liberalism.

You can see that these three types of response ultimately make neo-liberalism out to be nothing at all, or anyway, nothing but always the same thing, and always the same thing but worse. That is to say: it is just Adam Smith revived; second, it is the market society that was decoded and denounced in Book I of *Capital*; and third, it is the generalization of state power, that is to say, it is Solzhenitsyn on a world scale.¹

Adam Smith, Marx, Solzhenitsyn, laissez-faire; society of the market and spectacle, the world of the concentration camp and the Gulag; broadly speaking these are the three analytical and critical frameworks with which this problem of neo-liberalism is usually approached, and which therefore enable it to be turned into practically nothing at all, repeating the same type of critique for two hundred, one hundred, or ten years. Now what I would like to show you is precisely that neo-liberalism is really something else. Whether it is of great significance or not, I don't know, but assuredly it is something, and I would like to try to grasp it in its singularity. If it is true that important and even invaluable political effects can be produced by historical analyses which present themselves precisely as historical and which seek to detect types of practice, institutional forms, etcetera, which exist and function for a time in certain places, if it is important to show what a [mechanism like]* the prison was at a given moment and to see what effect this purely historical type of analysis produces in a present situation, this absolutely never consists in saying, either implicitly or with more reason explicitly, that what existed then is the same as what exists now. The problem is to let knowledge of the past work on the experience of the present. It is

* Conjecture: inaudible word

not at all a matter of coating the present in a form that is recognized in the past but still reckoned to be valid in the present. It is this transfer of the political effects of an historical analysis in the form of a simple repetition that is undoubtedly what is to be avoided at any cost, and that is why I stress this problem of neo-liberalism in order to try to detach it from these critiques made on the basis of the pure and simple transposition of historical moulds. Neo-liberalism is not Adam Smith; neo-liberalism is not market society; neo-liberalism is not the Gulag on the insidious scale of capitalism.

So, what is this neo-liberalism? Last week I tried to indicate at least its theoretical and political principle. I tried to show you how the problem of neo-liberalism was not how to cut out or contrive a free space of the market within an already given political society, as in the liberalism of Adam Smith and the eighteenth century. The problem of neo-liberalism is rather how the overall exercise of political power can be modeled on the principles of a market economy. So it is not a question of freeing an empty space, but of taking the formal principles of a market economy and referring and relating them to, of projecting them on to a general art of government. This, I think, is what is at stake, and I tried to show you that in order to carry out this operation, that is to say, to discover how far and to what extent the formal principles of a market economy can index a general art of government, the neo-liberals had to subject classical liberalism to a number of transformations.

The first of these, which I tried to show you last week, was basically that of dissociating the market economy from the political principle of laissez-faire. I think this uncoupling of the market economy and laissez-faire policies was achieved, or was defined, at any rate, its principle was laid down, when the neo-liberals put forward a theory of pure competition in which competition was not presented as in any way a primitive and natural given, the very source and foundation of society that only had to be allowed to rise to the surface and be rediscovered as it were. Far from it being this, competition was a structure with formal properties, [and] it was these formal properties of the competitive structure that assured, and could assure, economic regulation through the price mechanism. Consequently, if competition really was this formal structure, both rigorous in its internal structure but fragile in its real, historical

existence, then the problem of liberal policy was precisely to develop in fact the concrete and real space in which the formal structure of competition could function. So, it is a matter of a market economy without laissez-faire, that is to say, an active policy without state control. Neo-liberalism should not therefore be identified with laissez-faire, but rather with permanent vigilance, activity, and intervention.

This is very clear in most of the neo-liberal texts,* and there is one to which I refer you (if you can find it, for it is not easy to find; it was strangely lost by the Bibliothèque nationale, but you will certainly find it at the Musée social²). This text is the summary of the contributions made in 1939, on the eve of the war, in a colloquium called the "Walter Lippmann Colloquium."³ It was held in France⁴ following the publication of Lippmann's book which was translated into French with the title *La Cité [libre]*.⁵ It is a curious book because, on the one hand, it takes up the themes of classical liberalism in the form of a pure and simple reactivation, but, on the other hand, in a number of respects it also presents elements that form part of neo-liberalism. His book had just appeared in the United States, was translated into French, and a colloquium was held in Paris in which Walter Lippmann himself took part along with old liberals of the classical tradition, some French people like Baudin,⁶ for example,⁷ and then some of the German or Austrian neo-liberals, those precisely who formed part of the Freiburg School, some of whom who were exiled from Germany and others silenced in Germany, and for whom the colloquium was an opportunity for them to express their point of view. Röpke,⁸ Rüstow, Hayek, and von Mises took part in the colloquium.⁹ And then there were the intermediaries: Jacques Rueff,¹⁰ Marjolin,¹¹ who is nonetheless important in the post-war French economy, and the general secretary of the congress, Raymond Aron,¹² who did not speak, or, at least, does not appear in the proceedings. Following the colloquium—I just signal this, because there are people who are particularly interested in the structures of the signifier—it is decided, in July 1939,¹³ to form a permanent committee that will be

called "Comité international d'étude pour le renouveau du libéralisme," (CIEL).¹⁴ In the course of this colloquium the specific propositions peculiar to neo-liberalism are defined. (You will find this in the summary, sprinkled with other theses and themes of classical liberalism.) And one of the participants, I no longer know which one,¹⁵ proposes the extremely significant expression "positive liberalism" as the name for the neo-liberalism being formulated. Positive liberalism, then, is an intervening liberalism. It is a liberalism about which Röpke, in the *Gesellschaftskrisis*, which he published shortly after the Lippmann colloquium, says: "The free market requires an active and extremely vigilant policy."¹⁶ In all the texts of the neo-liberals you find the theme that government is active, vigilant, and intervening in a liberal regime, and formulae that neither the classical liberalism of the nineteenth century nor the contemporary American anarcho-capitalism could accept. Eucken, for example, says: "The state is responsible for the result of economic activity."¹⁷ Franz Böhm says: "The state must master economic development."¹⁸ Miksch says: "In this liberal policy"—and here the phrase is important—"there may be as many economic interventions as in a policy of planning, but their nature is different."¹⁹ Well, I think this problem of the nature of the interventions gives us a starting point for approaching what is specific in neo-liberal policy. As you know, broadly speaking the problem of the liberalism of the eighteenth century and the start of the nineteenth century was to distinguish between actions that must be taken and actions that must not be taken, between domains in which one can intervene and domains in which one cannot intervene. This was the distinction between the *agenda* and the *non-agenda*.²⁰ This is a naive position in the eyes of the neo-liberals, for whom the problem is not whether there are things that you cannot touch and others that you are entitled to touch. The problem is how you touch them. The problem is the way of doing things, the problem, if you like, of governmental style.

I will take three examples to locate how the neo-liberals define the style of governmental action. I will be schematic, brief, and stark, but you will see that these are things with which you are certainly familiar, since we are in fact immersed in them. I would just like to point out schematically three things: first, the question of monopoly; second, the

* M.F.: neo-positivist

† M.F.: future

problem of what the neo-liberals call a conformable economic action (*action économique conforme*); and third, the problem of social policy. Then, on the basis of this, I will try to indicate some of what seem to me to be specific features of this neo-liberalism which absolutely oppose them to everything one generally thinks one is criticizing when one criticizes the liberal policy of neo-liberalism.

First, then, I will take the question of monopolies. Once again, forgive me, this is very banal, but I think we need to go back over this, at least to bring some problems up to date. Let's say that in the classical conception, or one of the classical conceptions of the economy, monopoly is seen as a semi-natural, semi-necessary consequence of competition in a capitalist regime, that is to say, competition cannot be left to develop without monopolistic phenomena appearing at the same time, which precisely have the effect of limiting, attenuating, and even nullifying competition. Thus, a feature of the historico-economic logic of competition would be for it to suppress itself, this implying, of course, that any liberal who wants to assure the operation of free competition must in fact intervene within the economy on those economic mechanisms that facilitate, bring with them, and determine monopolistic phenomena. That is to say, if you want to save competition from its own effects, then there are times when you must act on economic mechanisms. This is the paradox of monopoly for a liberal economics which raises the problem of competition and at the same time accepts the idea that monopoly is actually part of the logic of competition. Of course, as you can imagine, the position of the neo-liberals will be completely different, and their problem will be to demonstrate that monopoly, the monopolistic tendency is not in fact part of the economic and historical logic of competition. Röpke, in the *Gesellschaftskrisis*, says that monopoly is "a foreign body in the economic process" and does not develop within it spontaneously.²¹ To support this thesis, the neo-liberals deploy a number of arguments that I will pick out for you just for information.

First, there are arguments of an historical type, namely that monopoly, far from being a sort of ultimate, final phenomenon in the history of the liberal economy, is an archaic phenomenon the source of which is the intervention of public authorities in the economy. After all, if there is monopoly it is because the public authorities, or those who at the

time assured the functions and exercise of public power, granted privileges to corporations and workshops, it is because states and sovereigns granted monopolies to individuals or families in exchange for financial services in the form of a sort of derivative or concealed tax system. This was the case, for example, with the monopoly granted to the Fugger family by Maximilian I in exchange for financial services.²² In short, the development in the Middle Ages of a tax system that was itself a condition of the growth of centralized power brought about the creation of monopolies. Monopoly is an archaic phenomenon and a phenomenon of intervention.

There is also a juridical analysis of the conditions whereby the law functioned to allow or facilitate monopoly. How were inheritance practices, the existence of a law of joint-stock companies, the problem of patent rights, and so on, able to give rise to phenomena of monopoly, not for economic reasons, but due to the functioning of law? Here the neo-liberals raised a whole series of problems that are more historical and institutional than specifically economic, but which opened the way to very interesting research on the political-institutional framework of the development of capitalism, and from which the American neo-liberals benefited. The ideas of North²³ on the development of capitalism, for example, are directly in line with this opening up made by the neo-liberals, the problematic of which appears clearly in several contributions to the Lippmann colloquium.

Another argument to show that the monopolistic phenomenon does not belong in principle or logically to the economics of competition is found in political analyses of the link between the existence of a national economy, protectionist customs barriers, and monopoly. Von Mises, for example, analyzed this a number of times.²⁴ He shows how monopolistic phenomena are facilitated by division into national markets which, by reducing economic units to relatively small dimensions, effectively allow the existence, within this framework, of monopoly phenomena which would not remain in a world economy.²⁵ More positively and directly he shows how protectionism, in fact decided on by a state, can only be effective inasmuch as you create or call for the existence of cartels or monopolies which are capable of controlling production, foreign sales, price levels, and so on.²⁶ This was, broadly speaking, Bismarck's policy.

Third, economically, the neo-liberals say that classical analysis is true when it says that in capitalism the necessary increase in fixed capital is an undeniable support for the tendency towards concentration and monopoly. However, they say, in the first place this tendency does not necessarily and inevitably result in monopoly. There is, of course, an optimum level of concentration around which the capitalist regime tends to balance, but between this optimum of concentration and the maximum represented by the fact of monopoly there is a threshold that cannot be crossed spontaneously as the direct effect of competition, as the direct effect of economic processes. There must be what Rüstow calls "predatory neo-feudalism"²⁷ which must also receive "the support of the state, laws, courts, and public opinion" in order to pass from optimum concentration to the maximum of monopoly. And then, Röpke says, in any case, even if the phenomenon of monopoly exists, it is not in itself stable.²⁸ That is to say, in the medium term, if not in the short term, in the economic process there are always either modifications of productive forces, or technical modifications, or massive increases in productivity, or again the appearance of new markets. And all this means that the evolution towards monopoly can only be one variable which functions for a certain time among other variables which will be dominant at other times. In its overall dynamic, the economy of competition includes a series of variables in which the tendency to concentration is always counter-balanced by other tendencies.

Finally—and it is still von Mises reasoning in this way²⁹—what is it, fundamentally, that is important, or rather disturbing about the phenomenon of monopoly with regard to the functioning of the economy? Is it the fact that there is only one producer? Absolutely not. Is it the fact that there is only one enterprise with the right to sell? Absolutely not. Monopoly has a disturbing effect inasmuch as it acts on prices, that is to say, on the regulatory mechanism of the economy. Now we can very well imagine, and it regularly happens in fact, that the monopoly price, that is to say, a price which can rise without either a fall in sales or profits, is not and cannot be applied by monopolies themselves, because as a result of applying the monopoly price they are always exposed to the appearance of competition which will take advantage of the existence of these abusive prices in order to hit back at the monopoly. Consequently,

if a monopoly wishes to retain its monopolistic power it will have to apply, not the monopoly price, but a price identical, or at any rate close to the price of competition. That is to say it will act as if there were competition. And then it will not disrupt the market, it will not disrupt the price mechanism and the monopoly will not be important. The structure that is so important and the determinant phenomenon in competition is made to function by practicing this competitive "policy of the as if,"³⁰ and to that extent it is basically not relevant whether or not there is a monopoly.

All this merely situates how the neo-liberals want to pose the problem. In a way, they are freed from this problem of the handicap of monopoly. They can say: You can see that there is no need to intervene directly in the economic process, since the economic process, as the bearer in itself of a regulatory structure in the form of competition, will never go wrong if it is allowed to function fully. What constitutes the specific property of competition is the formal rigor of its process. But what guarantees that this formal process will not go wrong is that in reality, if one lets it function, nothing will come from competition, from the economic process itself, that is of such a nature that it will change the course of this process. Consequently, non-intervention is necessary at this level. Non-intervention is necessary on condition, of course, that an institutional framework is established to prevent either individuals or public authorities intervening to create a monopoly. And thus you find an enormous anti-monopolistic institutional framework in German legislation, the function of which is not at all to intervene in the economic field to prevent the economy itself from producing the monopoly, but whose function is to prevent external processes from intervening and creating monopolistic phenomena.*

The second important point in this neo-liberal program is the question of conformable actions (*actions conformes*).³¹ This theory of conformable actions, this programming of conformable actions, is essentially found in a text which was actually one of the great charters of

* Foucault here leaves out pages 8-10 of the manuscript devoted to the German anti-cartel legislation of 1957.

contemporary German policy. It is a posthumous text by Eucken which appeared in 1951 or 1952, called *Grundsätze der Wirtschaftspolitik* (the foundations of economic policy)³² and which is, as it were, the other, practical side of the text called *Grundlagen der Nationalökonomie* published a dozen years earlier, which was the theoretical side.³³ In this *Foundations*, these *Fundamental principles of economic policy*, Eucken tells us that liberal government, which must be perpetually vigilant and active, must intervene in two ways: first, through regulatory actions (*actions régulatrices*) and second, through organizing actions (*actions ordonnatrices*).³⁴

Regulatory actions first of all. We should not forget that Eucken is the son of Eucken, the neo-Kantian Nobel prize-winner of the beginning of the twentieth century.^{35*} As a good Kantian, Eucken says: How should government intervene? It should intervene in the form of regulatory actions, that is to say, it must intervene in fact on economic processes when intervention is imperative for conjunctural reasons. "The economic process always leads to temporary frictions, to modifications which risk giving rise to exceptional situations with difficulties of adaptation and more or less serious repercussions on some groups."³⁶ It is necessary then, he says, not to intervene on the mechanisms of the market economy, but on the conditions of the market.³⁷ Rigorously following the Kantian idea of regulation, intervening on the conditions of the market would mean identifying, accepting, and giving free play to the three typical and fundamental tendencies in the market, but in order to encourage these tendencies and somehow push them to their limit and full reality. These three tendencies are: the tendency to the reduction of costs, the tendency to the reduction of the profit of the enterprise, and finally, the provisional, localized tendency to increased profit, either through a decisive and massive reduction of prices, or by an improvement in production.³⁸ These are the three tendencies that regulation of the market, that regulatory action must take into account, inasmuch as they are themselves tendencies of the regulation of the market.

In clear terms this means first of all that the main objective of regulatory action will necessarily be price stability, understood not as fixed

prices but as control of inflation. Consequently all other objectives apart from price stability can only be secondary and, so to speak, adjuncts. At any rate, they can never be the primary objective. In particular, the primary objectives must not be the maintenance purchasing power, the maintenance of full employment, or even balancing the balance of payments.

Second, what does this mean for the instruments to be used? It means first of all using the policy of credit, that is to say, establishing the discount rate. It means using foreign trade by reducing the credit balance when you want to contain the rise in foreign prices. Shifts in taxation will also be employed, but always moderate ones, when seeking to act on saving or investment. But none of the kind of instruments used by planning will be resorted to, namely: price control, support for a particular sector of the market, systematic job creation, or public investment. All these forms of intervention must be rigorously banished and replaced by the pure market instruments I have just mentioned. The neo-liberal policy with regard to unemployment in particular is perfectly clear. Whatever the rate of unemployment, in a situation of unemployment you absolutely must not intervene directly or in the first place on the unemployment, as if full employment should be a political idea and an economic principle to be saved at any cost. What is to be saved, first of all and above all, is the stability of prices. Price stability will in fact allow, subsequently no doubt, both the maintenance of purchasing power and the existence of a higher level of employment than in an unemployment crisis, but full employment is not an objective and it may be that a reserve of unemployment is absolutely necessary for the economy. As, I think it was Röpke said, what is an unemployed person? He is not someone suffering from an economic disability; he is not a social victim. He is a worker in transit. He is a worker in transit between an unprofitable activity and a more profitable activity.³⁹ These then, are the regulatory actions.

Organizing actions are more interesting, however, because they bring us closer to the specific object. What are organizing actions? Well, [they are] actions with the function of intervening on conditions of the market, but on more fundamental, structural, and general conditions of the market than those I have just been talking about. In fact, we should

* A short partially audible sentence follows: Neo-Kantianism (...) literature.

never forget the principle that the market is a general social and economic regulator, but this does not mean it is a natural given to be found at the very basis of society. Rather, it constitutes—forgive me for saying it once again—a sort of fine and very reliable mechanism on condition that it functions well and nothing disturbs it. Consequently, the main and constant concern of governmental intervention, apart from these conjunctural moments I have just spoken about, must be the conditions of existence of the market, that is to say, what the ordoliberalists call the “framework.”⁴⁰

What is a framework policy? I think it will appear clearly if we consider a text from Eucken’s *Grundsätze*, that is to say, from 1952, where he takes up the problem of German agriculture, although he says the same arguments apply to most of European agriculture.⁴¹ Basically, he says, agriculture has never been normally, fully, and exhaustively integrated within the market economy. It has not been integrated within the market economy because of protective customs that, throughout Europe, have marked off, and cut out the spaces of European agriculture. These protective customs were made indispensable both by technical differences and generally by the technical inadequacy of each country’s agriculture. These differences and inadequacies were entirely linked to an over-population that made intervention, the insertion of technical improvements, pointless and, in truth, undesirable. So, what must be done if we want European agriculture to function within a market economy? The text is from 1952. We will have to act on facts that are not directly economic facts, but which are conditioning facts for a possible market economy. So on what will it be necessary to act? Not on prices, and certainly not on a particular sector, ensuring support for a scarcely profitable sector, since these are bad interventions. What will good interventions act on? Well, on the framework. That is to say, first, on the population. The agricultural population is too large, so it will have to be reduced by interventions enabling population transfers, migration, and so on. We will also have to intervene at the level of techniques, by making implements available, by the technical improvement of elements like fertilizers, etcetera, and also by the training and education given to farmers, which will enable them to modify [agricultural] techniques. Third, we will also modify the legal framework of farms, and in

particular the laws governing inheritance, governing tenant farms and the location of estates, trying to find the means to get the legislation, structures, and institutions of society to play a part through action in agriculture, and so on. Fourth, as far as possible we will modify the allocation of the soil and the extent, nature, and exploitation of the soil available. Finally, if necessary, we will have to be able to intervene on the climate.⁴²

You can see that none of these elements—population, technology, training and education, the legal system, the availability of land, the climate—are directly economic and they do not affect market mechanisms directly, but for Eucken they are conditions for agriculture to be able to function as a market, for agriculture to be able to function within a market. The idea was not, given the state of things, how can we find the economic system that will be able to take account of the basic facts peculiar to European agriculture? It was, given that economic-political regulation can only take place through the market, how can we modify these material, cultural, technical, and legal bases that are given in Europe? How can we modify these facts, this framework so that the market economy can come into play? You can see here something that I will return to shortly, which is that to the same extent that governmental intervention must be light at the level of economic processes themselves, so must it be heavy when it is a matter of this set of technical, scientific, legal, geographic, let’s say, broadly, social factors which now increasingly become the object of governmental intervention. What is more, you can see in passing that this 1952 text programs, even if in a completely rough and ready way, what will become the Common Agricultural Market of the next decade. The text is from 1952. The Mansholt plan⁴³ is already in Eucken, or it is in part in Eucken, in 1952. So there you are for conformable actions, for conjunctural actions and organizing actions at the level of the framework. This is what they call the organization of a market order, of an order of competition.⁴⁴ And this is actually what European agricultural policy is: How to reconstruct a competitive order that will regulate the economy?

The third aspect is social policy. Here again I will have to be allusive, because for reasons of both time and competence I cannot go into details. However, we should agree to a number of things that are, if you like,

banal and boring, but which enable us to locate some important elements. What is a social policy in a welfare economy, that is to say, in the kind of economy programmed by Pigou⁴⁵ and then taken up in one way or another by Keynesian economists, the New Deal, the Beveridge plan, and by European post-war plans? A social policy is broadly speaking a policy with the objective of everybody having relatively equal access to consumer goods.

How is this social policy conceptualized in a welfare economy? First of all, it is conceptualized as a counterweight to unrestrained economic processes which it is reckoned will induce inequality and generally destructive effects on society if left to themselves. So, the nature of social policy should be a kind of counterpoint to economic processes. Second, what should the major instrument of social policy be in a welfare economy? It should be socialization of some elements of consumption; the appearance of a form of what is called socialized or collective consumption: medical consumption, cultural consumption, etcetera. A second instrument is the transfer of elements of income in the form of family allowances [...*]. Finally, third, a social policy in a welfare economy is acceptance of the principle that stronger growth should entail a more active, intense, [and] generous social policy as a kind of reward and compensation.

Ordoliberalism very quickly raised doubts about these three principles. In the first place, they say that if you really want to integrate social policy into economic policy, and if you do not want social policy to be destructive in relation to economic policy, then it cannot serve as a counterweight and must not be defined as compensation for the effects of economic processes. In particular, relative equalization, the evening out of access to consumer goods cannot in any case be an objective. It cannot be an objective in a system where economic regulation, that is to say, the price mechanism, is not obtained through phenomena of equalization but through a game of differentiations which is characteristic of every mechanism of competition and which is established through fluctuations that only perform their function and only produce their regulatory

effects on condition that they are left to work, and left to work through differences. In broad terms, for regulations to take effect there must be those who work and those who don't, there must be big salaries and small salaries, and also prices must rise and fall. Consequently, a social policy with the objective of even a relative equalization, even a relative evening out, can only be anti-economic. Social policy cannot have equality as its objective. On the contrary, it must let inequality function and, I no longer recall who it was, I think it was Röpke, who said that people complain of inequality, but what does it mean? "Inequality," he said, "is the same for all."⁴⁶ This formula may seem enigmatic, but it can be understood when we consider that for the ordoliberals the economic game, along with the unequal effects it entails, is a kind of general regulator of society that clearly everyone has to accept and abide by. So, there is no equalization and, as a consequence and more precisely, no transfer of income from some to others. [More particularly, a transfer of income is dangerous when it is withdrawn from the part of income that generates saving and investment.]* This deduction would thus mean withdrawing a part of income from investment and transferring it to consumption. The only thing one can do is deduct from the highest incomes a part that would in any case be devoted to consumption, or, let's say, to over-consumption, and transfer this part of over-consumption to those who find themselves in a state of under-consumption due to permanent disability or unforeseen events. But nothing more. So you can see that social transfers are of a very limited character. Broadly speaking it is not a matter of maintaining purchasing power but merely of ensuring a vital minimum for those who, either permanently or temporarily, would not be able to ensure their own existence.[†] It involves only the marginal transfer from a maximum to a minimum; it is absolutely not the establishment of or regulation around an average.

Second, the instrument of this social policy, if it can be called a social policy, will not be the socialization of consumption and income. On the

* Manuscript, p. 16. There is an inaudible passage on the recording: [...] from the part of income a section that would normally be directed towards saving or investment.

† The manuscript adds: "But as one cannot define it [the vital minimum], it will no doubt be the subdivision of the transfers of possible consumption."

* Some inaudible words follow, ending with: certain categories, etcetera.

contrary, it can only be privatization. That is to say, society as a whole will not be asked to guarantee individuals against risks, whether these are individual risks, like illness or accidents, or collective risks, like damage, for example; society will not be asked to guarantee individuals against these risks. Society, or rather the economy, will merely be asked to see to it that every individual has sufficient income to be able, either directly and as an individual, or through the collective means of mutual benefit organizations, to insure himself against existing risks, or the risks of life, the inevitability of old age and death, on the basis of his own private reserves. That is to say, social policy will have to be a policy which, instead of transferring one part of income to another part, will use as its instrument the most generalized capitalization possible for all the social classes, the instrument of individual and mutual insurance, and, in short, the instrument of private property. This is what the Germans call an "individual social policy," as opposed to a socialist social policy.⁴⁷ It involves an individualization of social policy and individualization through social policy, instead of collectivization and socialization by and in social policy. In short, it does not involve providing individuals with a social cover for risks, but according everyone a sort of economic space within which they can take on and confront risks.

This leads us to the conclusion that there is only one true and fundamental social policy: economic growth. The fundamental form of social policy must not be something that works against economic policy and compensates for it; social policy must not follow strong economic growth by becoming more generous. Economic growth and only economic growth should enable all individuals to achieve a level of income that will allow them the individual insurance, access to private property, and individual or familial capitalization with which to absorb risks. This is what Müller-Armack, Chancellor Erhard's counselor, around 1952-1953, called "the social market economy,"⁴⁸ which is also the name for German social policy. I add immediately that in fact this drastic program of social policy defined by the neo-liberals was not and could not be strictly applied in Germany for a whole range of reasons. German social policy was ballasted by a wide range of elements, some of which derived from Bismarckian state socialism, others from Keynesian economics, and others from the Beveridge plans or European social

security plans, so that on this point the neo-liberals, the German ordoliberals, could not fully recognize themselves in German policy. However, I want to emphasize two points. First of all, it was starting from this and from the rejection of this social policy that American anarcho-capitalism developed, and second, it is also important to see that, in spite of everything, social policy increasingly tends to follow this program, at least in those countries increasingly aligned with neo-liberalism. The idea of a privatization of insurance mechanisms, and the idea at any rate that it is up to the individual [to protect himself against risks] through all the reserves he has at his disposal, either simply as an individual, or through mutual benefit organizations and suchlike, is the objective you can see at work in the neo-liberal policies currently being pursued in France.⁴⁹ This is the tendency: privatized social policy.

Forgive me for being so prolix and banal on all this history, but I think it was important in order to bring out now a number of things that seem to me [to form] the, how to put it, original armature of neo-liberalism. The first point to underline is that, as you can see, and as the neo-liberals have always said, neo-liberal governmental intervention is no less dense, frequent, active, and continuous than in any other system. But what is important is to see what the point of application of these governmental interventions is now. Since this is a liberal regime, it is understood that government must not intervene on effects of the market. Nor must neo-liberalism, or neo-liberal government, correct the destructive effects of the market on society, and it is this that differentiates it from, let's say, welfare or suchlike policies that we have seen [from the twenties to the sixties].* Government must not form a counterpoint or a screen, as it were, between society and economic processes. It has to intervene on society as such, in its fabric and depth. Basically, it has to intervene on society so that competitive mechanisms can play a regulatory role at every moment and every point in society and by intervening in this way its objective will become possible, that is to say, a general regulation of society by the market. So this will not be the kind of economic government imagined by the physiocrats,⁵⁰ that is to say, a

* M.F.: in the years 1920-1960

government which only has to recognize and observe economic laws; it is not an economic government, it is a government of society. What's more, one of the participants in the Lippmann colloquium, who, in 1939, was looking for this new definition of liberalism, said: Could we not call it a "sociological liberalism"?⁵¹ In any case, it is a government of society; what the neo-liberals want to construct is a policy of society. Moreover, Müller-Armack gave Erhard's policy the significant term of *Gesellschaftspolitik*:⁵² a policy of society. The words mean however what they [say],* and the trajectory of the words actually indicates the processes that they can. In 1969-1970, Chaban presented his economic and social policy as a project of society, that is to say, he quite clearly identifies society as the target and objective of governmental practice.⁵³ At this point we pass from a, broadly speaking, Keynesian type of system, which had more or less lingered on in Gaullist policy, to a new art of government, which will be taken up by Giscard.⁵⁴ This is the point of fracture: the object of governmental action is what the Germans call "*die soziale Umwelt*":⁵⁵ the social environment.

So, what does this sociological government want to do in relation to this society that has now become the object of governmental intervention and practice? It wants, of course, to make the market possible. To play the role of general regulator, of principle of political rationality, the market must be possible. But what does it mean to introduce market regulation as regulatory principle of society? Does it mean establishing a market society, that is to say, a society of commodities, of consumption, in which exchange value will be at the same time the general measure and criterion of the elements, the principle of communication between individuals, and the principle of the circulation of things? In other words, does this neo-liberal art of government involve normalizing and disciplining society on the basis of the market value and form? Does this not return us to the model of mass society, of the society of consumption, of commodities, the spectacle, simulacra, and speed that Sombart defined for the first time in 1903?⁵⁶ I don't think so in fact. It is not market society that is at stake in this new art of government; it is not a

question of reconstructing that kind of society. The society regulated by reference to the market that the neo-liberals are thinking about is a society in which the regulatory principle should not be so much the exchange of commodities as the mechanisms of competition. It is these mechanisms that should have the greatest possible surface and depth and should also occupy the greatest possible volume in society. This means that what is sought is not a society subject to the commodity-effect, but a society subject to the dynamic of competition. Not a super-market society, but an enterprise society. The *homo oeconomicus* sought after is not the man of exchange or man the consumer; he is the man of enterprise and production. We find ourselves here at an important point to which I will try to come back to next week. It is a point of intersection of a whole series of things.

First, of course, is the analysis of the enterprise that developed from the nineteenth century: to a considerable extent the historical, economic, and moral analysis of the nature of the enterprise, and the series of works on the enterprise by Weber,⁵⁷ Sombart,⁵⁸ and Schumpeter⁵⁹ actually support the neo-liberal analysis or project. So, if there is something like a return in neo-liberal politics, it is certainly not a return to the governmental practice of laissez-faire, and it is not a return to the kind of market society that Marx denounced at the beginning of Book I of *Capital*. There is an attempt to return to a sort of social ethic of the enterprise, of which Weber, Sombart, and Schumpeter tried to write the political, cultural, and economic history. More concretely, if you like, in 1950 Röpke wrote a text entitled *The Orientation of German Economic Policy*, which was published with a preface by Adenauer.⁶⁰ What does Röpke identify in this text, this charter, as the object, the final aim, the ultimate objective of governmental action? I will list the objectives he fixes: first, to enable as far as possible everyone to have access to private property; second, the reduction of huge urban sprawls and the replacement of large suburbs with a policy of medium-sized towns, the replacement of the policy and economics of large housing blocks with a policy and economics of private houses, the encouragement of small farms in the countryside, and the development of what he calls non-proletarian industries, that is to say, craft industries and small businesses; third, decentralization of places of residence, production, and management,

* M.F.: mean (*veulent dire*).

correction of the effects of specialization and the division of labor, and the organic reconstruction of society on the basis of natural communities, families, and neighborhoods; finally, generally organizing, developing, and controlling possible effects of the environment arising either from people living together or through the development of enterprises and centers of production. Broadly speaking, Röpke says in 1950, it is a question of "shifting the center of gravity of governmental action downwards."⁶¹

You will recognize this text; it has been repeated 25,000 times for the last 25 years. In fact, it currently constitutes the theme of governmental action and it would certainly be false to see it as no more than a cover, a justification and a screen behind which something else is going on. At any rate, we should try to take it as it is given, that is to say, well and truly as a program of rationalization, and of economic rationalization. What does this involve? Well, when we look a bit more closely, we may of course hear it as a kind of more or less Rousseauesque return to nature, something that Rüstow called, moreover, with a very ambiguous word, a "*Vitalpolitik*," a politics of life.⁶² But what is this *Vitalpolitik* that Rüstow talks about, and of which this is an expression? Actually, as you can see, it is not a matter of constructing a social fabric in which the individual would be in direct contact with nature, but of constructing a social fabric in which precisely the basic units would have the form of the enterprise, for what is private property if not an enterprise? What is a house if not an enterprise? What is the management of these small neighborhood communities [... *] if not other forms of enterprise? In other words, what is involved is the generalization of forms of "enterprise" by diffusing and multiplying them as much as possible, enterprises which must not be focused on the form of big national or international enterprises or the type of big enterprises of a state. I think this multiplication of the "enterprise" form within the social body is what is at stake in neo-liberal policy. It is a matter of making the market, competition, and so the enterprise, into what could be called the formative power of society.

* Two or three inaudible words.

To that extent, you can see that we are at the crossroads where a number of old themes are revived concerning family life, co-ownership, and a whole range of recurrent themes criticizing market society and standardization through consumption. And it is in this sense that we see a convergence—without this being anything like a recuperation, a word which has no meaning strictly speaking—between the Sombartian style of criticism of around 1900 against standardizing market society, etcetera, and the objectives of current governmental policy. They actually want the same thing. Quite simply, those who denounce a "Sombartian" society, in inverted commas, I mean that standardizing, mass society of consumption and spectacle, etcetera, are mistaken when they think they are criticizing the current objective of governmental policy. They are criticizing something else. They are criticizing something that was certainly on the explicit or implicit horizon, willed or not, of the arts of government [from the twenties to the sixties].* But we have gone beyond that stage. We are no longer there. The art of government programmed by the ordoliberals around the 1930s, and which has now become the program of most governments in capitalist countries, absolutely does not seek the constitution of that type of society. It involves, on the contrary, obtaining a society that is not orientated towards the commodity and the uniformity of the commodity, but towards the multiplicity and differentiation of enterprises.

That is the first thing I wanted to say. The second—but I really don't think I have time now—the second consequence of this liberal art of government is profound changes in the system of law and the juridical institution. For in fact there is a privileged connection between a society orientated towards the form of the enterprise [... †] and a society in which the most important public service is the judicial institution. The more you multiply enterprises, the more you multiply the centers of formation of something like an enterprise, and the more you force governmental action to let these enterprises operate, then of course the more you multiply the surfaces of friction between each of these enterprises, the more you multiply opportunities for disputes, and the more you multiply the

* M.F.: 1920-1960

† Some words that are difficult to hear: at once (made denser?) and (multiplied?)

need for legal arbitration. An enterprise society and a judicial society, a society orientated towards the enterprise and a society framed by a multiplicity of judicial institutions, are two faces of a single phenomenon.

This is something of what I would like to stress next week in developing other consequences, other formations in the neo-liberal art of government.*

* Foucault adds:

Ah yes, wait, I have something else to tell you, I'm sorry. The seminar will begin Monday the 26th. Those of you who come know that this seminar always creates problems. A seminar is usually something where you could work with 10, 20 or 30 people. Its nature, and consequently its object and form change when there are 80 or 100 people. So I would have a little indication to make, that is for those who do not really feel directly involved, that if they would be so kind ... good. Second, the main question in the seminar will be the analysis of the transformations of juridical mechanisms and judicial institutions, and of legal thought, at the end of the nineteenth century. However, I would like to devote the first seminar to some problems of method and possibly some discussion on the things I am talking about in the lectures. So what I would suggest, for those, but only for those who have some time and who it interests, etcetera, that if they want to ask me some questions that they write them for me here during the week. I will get the letters then next Wednesday and on Monday 26th I will try to answer those who have asked me questions. And then the following Monday, at the seminar, we will talk about themes in the history of law.

1. Alexander Isayevich Solzhenitsyn (born 1918), the Russian writer, author of a considerable body of work including, among the most well-known: *One Day in the Life of Ivan Denisovich* (1962), *The First Circle* (1968), *Cancer Ward* (1968), and *The Gulag Archipelago* (1974). The publication of the latter (translation by Thomas P. Whitney, New York/London: Harper and Row/Collins, 1974), an "experiment in literary investigation," devoted to a detailed description of the Soviet world of concentration camps, earned its author arrest, deprivation of Soviet citizenship, and forced exile. It aroused a wide debate in the West on the repressive nature of the Soviet system. See in particular, A. Glucksmann, *La Cuisinière et le Mangeur d'hommes. Essai sur les rapports entre l'État, le marxisme et les camps de concentration* (Paris: Le Seuil, 1975) to which Foucault refers in his review of Glucksmann's *Matrices penseurs* (English translation as *The Master Thinkers*) in 1977: "The frightened scholars went back from Stalin to Marx, as to their tree. Glucksmann had the effrontery to come back down to Solzhenitsyn"; "Le grande colère des faits," *Dits et Ecrits*, 3, p. 278. In the first edition of *Surveiller et Punir*, in 1975, Foucault used the expression "carceral archipelago" (p. 304; *Discipline and Punish*, p. 298) in homage to Solzhenitsyn. See "Questions à M. Foucault sur la géographie" (1976), *Dits et Ecrits*, 3, p. 32; English translation by Colin Gordon, "Questions on Geography" in Michel Foucault, *Power/Knowledge. Selected Interviews and Other Writings 1972-1977*, ed. Colin Gordon, translations by Colin Gordon and others (Brighton: The Harvester Press, 1980), p. 68. Solzhenitsyn's name is evoked here as a metonym for the concentration camp world and the Gulag.
2. Founded in 1894, in order to bring together books, pamphlets, and periodicals useful for knowledge of the "social question," the Musée social brings together collections covering the social domain in the widest sense of the term. It is found at 5 rue Las Cases, Paris, in the 7th arrondissement. This address was chosen as the registered office of the Centre d'études created as a result of the colloquium (see below, this lecture, note 14).
3. *Compte rendu des séances du colloque Walter Lippmann (26-30 août 1938)*, Travaux du Centre international d'études pour la rénovation du libéralisme, vol. 1, Preface by L. Rougier (Paris: Librairie de Médicis, 1939). See P.-A. Kunz, *L'Expérience néo-libérale allemande*, pp. 32-33.
4. On the initiative of Louis Rougier (see below, lecture of 21 February 1979, p. 161).
5. Walter Lippmann (1889-1974), *An Enquiry into the Principles of the Good Society* (Boston: Little, Brown, 1937); French translation by G. Blumberg as, *La Cité libre*, preface by A. Maurois (Paris: Librairie de Médicis, 1938). In an article published more than twenty years after the colloquium, L. Rougier presented the book of the "great American columnist" (for thirty years he wrote the column "Today and Tomorrow" in the *Herald Tribune*) in the following way: "This work rejected the identification of liberalism with the physiocrat and Manchester doctrine of *laissez-faire, laissez-passer*. He established that the market economy was not the spontaneous result of a natural order, as the classical economists thought, but that it was the result of a legal order postulating a legal interventionism of the state"; L. Rougier, "Le libéralisme économique et politique," *Les Essais*, 11, 1961, p. 47. See the quotation from W. Lippmann used as an epigraph to the second volume of Karl Popper's, *The Open Society and its Enemies, The High Tide of Prophecy* (London: Routledge & Kegan Paul, 1966): "To the débâcle of liberal science can be traced the moral schism of the modern world which so tragically divides enlightened men."
6. Louis Baudin (1887-1964): French economist, director of the series of "Great Economists," and author of *La Monnaie. Ce que tout le monde devrait en savoir* (Paris: Librairie de Médicis, 1938); *La Monnaie et la Formation des prix* (Paris: Sirey, 1947); *Précis d'histoire des doctrines économiques* (Paris: F. Loviton, 1941) and *L'Aube d'un nouveau libéralisme* (Paris: M.-T. Génin, 1953).
7. The other French members of the colloquium, apart from those cited, were R. Auboin, M. Bourgeois, A. Detœuf, B. Laverne (author of *Essor et Décadence du capitalisme* [Paris: Payot, 1938] and *La Crise et ses remèdes* [Paris: Librairie de Médicis, 1938]), E. Mantoux, L. Marlio (author of *Le Sort du capitalisme* [Paris: Flammarion, 1938]), Mercier, and A. Piatier. W. Eucken was invited but did not obtain permission to leave Germany.

8. See above, lecture of 7 February 1979, notes 16 and 21.
9. See above, lecture of 31 January 1979, note 11. The translation of the book by von Mises, *Le Socialisme* had just appeared in the Librairie de Médecis (publishers of W. Lippmann's book).
10. Jacques Rueff (1896-1978): student of the École polytechnique, Treasury auditor, director of the Mouvement général des fonds (predecessor of the direction of the Treasury) at the time of the Popular Front. A liberal economist, who established experimentally the link between unemployment and the high cost of labor (the "Rueff law"), Rueff thought that a system of stable and effective prices was the central element of a developed economy and that in order to defend this economic policy had to combat its two main obstacles, the absence of competition and inflation. Before the colloquium he published *La Crise du capitalisme* (Paris: Éditions de la "Revue Bleue," 1935). His *Épître aux dirigistes* (Paris: Gallimard, 1949) takes up and develops some of the conclusions of the colloquium. His main work is *L'Ordre social* (Paris: Librairie de Resueil Sirey, 1945). See his autobiography, *De l'aube au crépuscule* (Paris: Plon, 1977). Foucault met him several times.
11. Robert Marjolin (1911-1986): French economist, general commissioner of the Monnet Plan for Modernization and Equipment in 1947, then general secretary of the Organization for European Economic Cooperation (OEEC) from 1948 until 1955. See his memoirs *Le Travail d'une vie*, with collaboration of Ph. Bauchard, (Paris: R. Laffont, 1986).
12. Raymond Aron (1905-1983): philosopher and sociologist who after 1945, in the name of his rejection of communism, had to assert himself as one of the most committed defenders of liberal thought. At this time he had only published *La Sociologie allemande contemporaine* (Paris: Félix Alcan, 1935), and his two theses, *Introduction à la philosophie de l'histoire* (Paris: Gallimard, 1938) and *La Philosophie critique de l'histoire* (Paris: Vrin, 1938).
13. More exactly, 30 August 1938 (see the *Colloque W. Lippmann*, p. 107).
14. More exactly: Centre international d'études pour la rénovation du libéralisme (the initials CIRL were adopted at the end of the colloquium (see p. 110), but the record of the colloquium is published under the initials CRL). See the extract of the statutes published in the record of the colloquium: "The object of research of the Centre International d'Études pour la Rénovation du Libéralisme is to determine and make known how the fundamental principles of liberalism, and principally the price mechanism, by maintaining a contractual regime of production and exchanges that do not exclude interventions arising from the duties of the state, in contrast with the directives of planned economies, enable men to be assured of the maximum satisfaction of their needs and society to be assured of the necessary conditions of its stability and duration." The International Center was inaugurated at the Musée social on 8 March 1939, with an address on neo-liberalism from its president, Louis Marlio, member of the Institut, and a lecture by Louis Rougier on "Le planisme économique, ses promesses, ses résultats." These texts are reproduced, with the stenographic records of several contributions from later sessions, in the 12th number of the journal, *Les Essais*, 1961: *Tendances modernes du libéralisme économique*.
15. It was L. Rougier, in *Colloque W. Lippmann*, p. 18: "It is only after having resolved these two prior questions [(1) without state intervention, is the decline of liberalism inevitable as the result of its laws of development? and (2) can economic liberalism satisfy the social requirements of the masses?] that we will be able to tackle the specific tasks of what we may call *positive liberalism*." See also, L. Marlio, *ibid.* p. 102: "I am in agreement with M. Rueff, but I would not like to use the expression 'left liberalism' [see J. Rueff, *ibid.* p. 101: '(M. Lippmann's text) establishes the bases of a policy that I, for my part, would describe as left liberal politics, because it tends to give the greatest possible well-being to the most deprived classes'] for this does not seem to me to be right and I think that there is at present more or less the same views on the left and right. [...] I would prefer us to call this doctrine 'positive liberalism,' 'social liberalism,' or 'neo-liberalism,' but not the word 'left' which suggests a political position."
16. W. Röpke, *The Social Crisis of Our Time*, Part II, ch. 3, p. 228: "The freedom of the market in particular necessitates a very watchful and active economic policy which at the same time must also be fully aware of its goal and the resulting limits to its activity, so that it does not transgress the boundaries which characterize a compatible form of intervention."

17. Quoted, without reference, by F. Bilger, *La Pensée économique libérale de l'Allemagne contemporaine*, p. 182.
18. F. Böhm, *Die Ordnung der Wirtschaft als geschichtliche Aufgabe und rechtsschöpferische Leistung* (Stuttgart-Berlin: Kohlhammer, 1937) p. 10: "The principal requirement of any economic system worthy of the name is that political direction becomes mistress of the economy in its totality as in its parts; the economic policy of the state must master the whole of economic development both intellectually and materially" (translated and quoted by F. Bilger, *La Pensée économique libérale*, p. 173).
19. Foucault apparently reproduces fairly freely here a phrase of Leonhard Miksch taken from an article of 1949, "Die Geldschöpfung in der Gleichgewichtstheorie," *Ordo*, II, 1949, p. 327, quoted by F. Bilger, *ibid.* p. 188: "Even if the number of apparently necessary corrective interventions should turn out to be so many such that from this point of view there would no longer any quantitative difference with regard to the planners, the principle expressed here would not lose its value."
20. See above, lecture of 10 January 1979, p. 12.
21. W. Röpke, *The Social Crisis of Our Time*, Part II, ch. 3, p. 228: "Not only are monopolies socially intolerable but they also interfere with the economic process and act as a brake on productivity as a whole."
22. See W. Röpke, *ibid.* p. 302: "... we must remember that in the great majority of cases it was the State itself which through its legislative, administrative and judicial activities first created conditions favorable to the formation of monopolies ... That the State acted as midwife is quite clear in those cases where a monopoly was expressly granted by a special charter, a procedure which is particularly characteristic of the early history of European monopolies. Even then, however, the grant of monopolies appears to have been a sign of the State's weakness since the State in this way usually tried to free itself from debt, as for example when in Germany Maximilian I granted monopolies to the Fuggers."
23. Douglass Cecil North (born in 1920), *The Rise of the Western World*, in collaboration with R.-P. Thomas (Cambridge: Cambridge University Press, 1973); French translation by J.-M. Denis, *L'Essor du monde occidental: une nouvelle histoire économique* (Paris: Flammarion, 1980). See H. Lepage, *Demain le capitalisme* (Paris: Librairie Générale Française, 1978; republished "Pluriel") p. 34 and chapters 3 and 4 (this book was one of the sources used by Foucault in the last of these 1979 lectures).
24. See, *Colloque W. Lippmann*, pp. 36-37.
25. L. von Mises, *ibid.* p. 36: "Protectionism has divided up the economic system into a multitude of distinct markets, and by reducing the extent of the economic units, has provoked the creation of cartels."
26. L. von Mises, *ibid.*: "Protectionism can only have effective results on a national market, where production already exceeds demand, by the constitution of a cartel able to control production, foreign sales, and prices."
27. A. Rüstow, *ibid.* p. 41: "The tendency to exceed the economic optimum of concentration clearly cannot be a tendency of an economic order, in the sense of the competitive system. It is rather a predatory, neo-feudal, monopolizing tendency which cannot succeed without the support of the state, laws, courts, magistrates, and public opinion."
28. W. Röpke, *The Social Crisis of Our Time*, Part I, ch. 3, p. 136 sq; the author deploys a number of technical arguments against the thesis that "technical development ... manifestly leads to ever larger industrial and commercial aggregates."
29. *Colloque W. Lippmann*, p. 41.
30. On this policy of the "as if" (*Als-ob Politik*), theorized by one of Eucken's disciples, Leonhard Miksch, in his *Wettbewerb als Aufgabe* [Competition as duty] (Stuttgart-Berlin: W. Kohlhammer, 1937, 2nd ed. 1947), which enables the ordoliberal program not to be confused with the demand for a realization of perfect competition, see F. Bilger, *La Pensée économique libérale* p. 82, p. 155, and the whole of chapter 3 of Part 2: "La politique économique," pp. 170-206; J. François-Poncet, *La Politique économique de l'Allemagne occidentale*, p. 63.
31. On the distinction between "conformable" and "non-conformable" actions ("*actions conformes*" and "*non-conformes*") see W. Röpke, *Die Gesellschaftskrisis der Gegenwart* (5th ed. 1948) pp. 258-264; *The Social Crisis of Our Time*, pp. 159-163; *Civitas Humana*, p. 29. See

- F. Bilger, *La Pensée économique libérale*, pp. 190-192 ("static" conformity and "dynamic" conformity in relation to the model according to Röpke). [The notions "actions conformes" and "non-conformes" are translated as "compatible" and "incompatible" interventions in *The Social Crisis of Our Time*, but as "conformable" and "non-conformable" in *Civitas Humana*. I have opted for the latter translation throughout; G.B.]
32. W. Eucken, *Die Grundsätze der Wirtschaftspolitik* (Bern-Tübingen: Francke & J.C.B. Mohr, 1952).
 33. See above, lecture of 7 February 1979, note 9. See F. Bilger, *La Pensée économique libérale*, p. 62: "Thus this book is like the exact opposite of the first; after political economy, economic policy."
 34. This distinction is not formulated explicitly in the *Grundsätze* (on the *Ordnungspolitik*, see p. 242 sq.). Foucault relies on F. Bilger, *La Pensée économique libérale*, pp. 174-188.
 35. Rudolf Eucken (1846-1926): professor at the University of Basle in 1871, then at Jena, in 1874, where he taught until his retirement. He won the Nobel Prize for literature in 1908. Among his main works are: *Geistige Strömungen der Gegenwart* (Berlin: Verleger, 1904); French translation by H. Buriot and G.-H. Luquet, with a foreword by E. Boutroux, *Les Grands Courants de la pensée contemporaine* (Paris: Alcan, 1912); English translation by R. Eucken, *Main Currents of Modern Thought* (London: Unwin, 1912); *Hauptprobleme der Religionsphilosophie der Gegenwart* (Berlin: Reuther und Reichard, 1907); French translation by Ch. Rognard, *Problèmes capitaux de la philosophie de la religion au temps présent* (Lausanne: Payot, 1910); *Der Sinn und Wert des Lebens* (Leipzig: Quelle & Meyer, 1908) French translation by M.-A. Hullet and A. Leicht, with a foreword by H. Bergson, *Le Sens et la Valeur de la vie* (Paris: F. Alcan, 1912); English translation by Lucy Judge Gibson, *The Meaning and Value of Life* (London: Adam & Charles Black, 1909). The description "neo-Kantian," taken no doubt from F. Bilger's presentation in *La Pensée économique libérale*, pp. 41-42, imperfectly defines his "philosophy of activity," which is linked rather to the movement of vitalist spiritualism, tinged with religiosity, that was then opposed to intellectualism and scientism in Germany. See G. Campagnolo, "Les trois sources philosophiques de la réflexion ordolibérale" in P. Commun, ed., *L'Ordolibéralisme allemand*, pp. 138-143. The link Foucault suggests with neo-Kantianism no doubt refers to the Kantian distinction between "constitutive principles" and "regulatory principles" in the *Critique of Pure Reason*, trans. Norman Kemp Smith (London: Macmillan, 1978) 1st Division, Book 2, ch. 2, section 3 ("Analogies of Experience") pp. 210-211.
 36. The quotation is in fact from Röpke (as the manuscript indicates), *The Social Crisis of Our Time*, Part II, ch. 2, p. 186: "In addition there is a no less important task [than working out the program of the 'third way']. Within the legal and institutional permanent framework the economic process will always produce certain frictions which are temporary by nature, changes which will bring hardship to certain groups, states of emergency and difficulties of adjustment."
 37. See W. Eucken, *Grundsätze*, Book V, ch. 19, p. 336: "Die wirtschaftspolitische Tätigkeit des Staates sollte auf die Gestaltung der Ordnungsformen der Wirtschaft gerichtet sein, nicht auf die Lenkung des Wirtschaftsprozesses."
 38. It is a matter here of the "restrictive definition of conformable intervention" according to F. Böhm, "that which does not run counter to three fundamental 'tendencies' of the market: the tendency to the reduction of costs, the tendency to the progressive reduction of profits of the enterprise, and the provisional tendency to an increase of profits in the case of a decisive reduction of costs and improvement in productivity" (F. Bilger, *La Pensée économique libérale*, pp. 190-191).
 39. The attribution of this phrase to Röpke seems mistaken. We can find no trace of it either in the Lippmann colloquium or in Bilger's work.
 40. On this notion, see F. Bilger, *La Pensée économique libérale*, pp. 180-181: "To the same extent that the 'ordoliberals' seek to restrict interventions in the process [object of regulatory actions], so they are favorable to the extension of the state's activity on the framework. For the process functions more or less well according as the framework is more or less well adapted. (...) The framework is the specific domain of the state, the public domain, in which it can fully exercise its 'organizing (ordonnatrice)' function. It contains all that does not arise spontaneously in economic life: thus it contains realities which, in virtue of the
- general interdependence of social facts, determine economic life or conversely suffer its effects: human beings and their needs, natural resources, the active and inactive population, technical and scientific knowledge, the political and legal organization of society, intellectual life, geographical data, social classes and groups, mental structures, and so forth."
41. In the manuscript, Foucault refers here, following Bilger (*La Pensée économique libérale*, p. 181), to W. Eucken, *Grundsätze*, pp. 377-378. However, the reference is inexact, and Eucken does not deal specially with agricultural questions in this section of his work.
 42. See Bilger, *La Pensée économique libérale*, p. 185: "Agriculture must be prepared for the free market by seeing to it that all the measures taken lead it to this end and do not have immediate harmful consequences on the other markets. To arrive at the final result, the state will be able to intervene on the facts previously listed and determining agricultural activity: the population occupied in agriculture, the technology employed, the legal framework of farms, the soil available, even the climate, and so forth." See also the quotation on p. 181, taken from Eucken's *Grundsätze*, p. 378: "There is no doubt a limit to the action of economic policy on global facts. But each of them can be influenced. Even the climate of a country can be modified by human intervention (*Selbst das Klima eines Landes kann durch menschliches Eingreifen verändert werden*). A fortiori other factors, like the size of the population, its knowledge, and its capabilities, etcetera. The broadest field of action is offered by the sixth fact, the legal and social order."
 43. Dutch politician, Sicco Leendert Mansholt (1908-1995), vice president (1967-1972), and then President of the European Commission (1972-1973), worked from 1946 on the construction of the Benelux countries and then on the Common Market. He developed two agricultural plans, the first in 1953, aiming to replace national policies with a common agricultural policy, and the second in 1968, in which he proposed a program for the restructuring of community agriculture (the "Mansholt plan"). See the *Rapport de la Commission des Communautés européennes (Plan Mansholt ...)* (Brussels: Secretary General of the EEC, 1968).
 44. On this notion of "order of competition" (*Wettbewerbsordnung*), see W. Eucken, "Die Wettbewerbsordnung und ihre Verwickelung," *Ordo*, vol. 2, 1949, and the 4th book, with the same title, of the *Grundsätze*, pp. 151-190.
 45. Arthur Cecil Pigou (1877-1959), British economist who opposed a welfare economy, defined by the maximum increase in individual satisfactions, to a wealth economy. He was the author of *Welfare and Wealth* (London: Macmillan and Co., 1912), which was profoundly revised in a 1920 re-publication under the title *The Economics of Welfare* (London: Macmillan). See K. Pribram, *A History of Economic Reasoning* (Baltimore, Md.: Johns Hopkins University Press, 1983): "Conceived of as a 'realistic' positive theory, economic welfare was to be studied in terms of quantities of values and their distribution. In a more or less axiomatic manner, Pigou assumed that—with the exception of some special circumstances—welfare was increased when the volume of aggregate real income was enlarged, the steadiness of its flow better assured, the dissatisfaction caused by its production reduced, and the distribution of the national dividend changed in favor of the poor."
 46. The attribution of this formula remains uncertain and is not found in any of the writings by Röpke consulted by Foucault.
 47. See F. Bilger, *La Pensée économique libérale*, p. 198: "The 'ordoliberals' do not consider it less 'social' to put forward an individualist rather than a socialist social policy."
 48. See A. Müller-Armack, "Soziale Marktwirtschaft," in E. von Beckerath and others, *Handwörterbuch der Sozialwissenschaften*, vol. 9, (Stuttgart-Tübingen-Göttingen: G. Fischer, J.C.B. Mohr, Vandenhoeck & Ruprecht, 1956); republished in A. Müller-Armack, *Wirtschaftsordnung und Wirtschaftspolitik*; English translation, "The meaning of the social market economy" in A. Peacock and H. Willgerodt, *Germany's Social Market Economy*, pp. 82-86. Müller-Armack uses the term for the first time in 1947 in a report to the Chambers of Industry and Commerce of Nordrhein-Westfalen (reprinted in his book, *Genealogie der sozialen Marktwirtschaft* [Berne: Paul Haupt, 1974] pp. 59-65). It really enters into circulation after being included in the program of the Christian Democratic Union for the first election campaigns for the Bundestag (*Düsseldorfer Leitsätze über Wirtschaftspolitik, Sozialpolitik und Wohnungsbau* of 15 July 1949).
 49. On neo-liberal policies undertaken in France in the seventies, see below, lecture of 7 March 1979.

50. On the physiocratic concept of "economic government," see *Sécurité, Territoire, Population; Security, Territory, Population*, lecture of 25 January 1978, note 40, and lecture of 1 February 1978, note 23.
51. This expression is not found in the proceedings of the *Colloque W. Lippmann* (Foucault possibly confuses it with the expression used by L. Marlio on p. 102 ("social liberalism," see above, this lecture, note 15). On the other hand, it is used by W. Röpke in *Civitas Humana*, p. 36: "This primary Liberalism might be described as sociological. The arms forged for the attack on the old purely economic form are blunted in the face of the new."
52. See F. Bilger, *La Pensée économique libérale*, p. 111 (which does not identify the source). The term *Gesellschaftspolitik* seems only to appear in Müller-Armack's work from 1960. See, "Die zweite Phase der sozialen Marktwirtschaft. Ihre Ergänzung durch das Leitbild einer neuen Gesellschaftspolitik," 1960 (republished in A. Müller-Armack, *Wirtschaftsordnung und Wirtschaftspolitik*, pp. 267-291, and in W. Stützel and others, eds., *Grundtexte der sozialen Marktwirtschaft* pp. 63-78), and, "Das gesellschaftspolitische Leitbild der sozialen Marktwirtschaft," 1962 (republished in *Wirtschaftsordnung* pp. 293-317). He defines then the program, on the level of internal policy, of the second phase of the construction of the social market economy.
53. Jacques Chaban-Delmas (1915-2000): Prime Minister under the presidency of Georges Pompidou from 1969 to 1972. His project of a "new society," presented in his inaugural speech of 16 September 1969 and inspired by his two collaborators, Simon Nora and Jacques Delors, provoked much resistance from the conservative side. Denouncing "the weakness of our industry," he notably declared: "But here the economy joins up with the political and the social. In fact, the defective working of the state and the archaism of our social structures are obstacles to the economic development we need. (...) The new leaven of youth, creativity, and invention which is shaking our old society can ferment new and richer forms of democracy and participation in all the social bodies, as in a flexible, decentralized state. We can therefore undertake the construction of a new society" [from: www.assemblée-nat.fr].
54. Valéry Giscard d'Estaing (born 1926): elected President of the Republic in May 1974. See below, lecture of 7 March 1979, p. 194 and note 20.
55. An expression of Müller-Armack, quoted by F. Bilger, *La Pensée économique libérale*, p. 111. See, "Die zweite Phase der sozialen Marktwirtschaft," in W. Stützel and others, eds., *Grundtexte der sozialen Marktwirtschaft*, p. 72.
56. The date given by Foucault is no doubt based on the references Sombart gives to his earlier works in *Le Socialisme allemand*, French translation (see above, lecture of 7 February 1979, note 42), 1990 edition, p. 48, note 1, concerning the destructive effects of the "economic age" on "the men of our times" in the domain of "spiritual life": "See my works: *Deutsche Volkswirtschaft* (1903) [*Die deutsche Volkswirtschaft im 19. Jahrhundert und im Anfang des 20. Jahrhundert* (Berlin: G. Bondi)], *Das Proletariat* (1906), *Der Bourgeois* (1913) [*Der Bourgeois. Zur Geistesgeschichte des modernen Wirtschaftsmenschen* (Munich-Leipzig: Duncker & Humblot)], *Händler und Helden* (1915) [*Händler und Helden. Patriotische Besinnungen* (Munich-Leipzig: Duncker & Humblot)]." See also, *Der moderne Kapitalismus*, Part 3, ch. 53; *L'Apogée du capitalisme*, vol. 2, pp. 404-435: "The dehumanization of the enterprise." On the different characteristics of capitalist society described by Foucault, see in particular, *Le Socialisme allemand*, pp. 49-52 and p. 56.
57. See above, lecture of 7 February 1979, note 26.
58. See W. Sombart, *Der moderne Kapitalismus*, Part 1, ch. 1-2; *L'Apogée du capitalisme*, vol. 1, pp. 24-41: "The role of the head of the capitalist enterprise" and "The new leaders"; *Gewerbewesen*, 1: *Organisation und Geschichte des Gewerbes*, 2: *Das Gewerbe im Zeitalter des Hochkapitalismus* (Leipzig: 1904; 2nd revised edition, Berlin: W. De Gruyter, 1929); and, "Der kapitalistische Unternehmer," *Archiv für Sozialwissenschaft und Sozialpolitik*, 29, 1909, pp. 689-758.
59. Joseph A. Schumpeter (1883-1950): it is in his *Theorie der wirtschaftlichen Entwicklung*, published in 1912 (republished Munich: Duncker & Humblot, 1934; English translation by Redvers Opie, *The Theory of Economic Development* [New Brunswick N.J. and London: Transaction Books, 1983]; French translation by J.-J. Anstett, *La Théorie de l'évolution économique* [Paris: Librairie Dalloz, 1935] with a long introduction by F. Perroux, "The

- economic thought of Joseph Schumpeter"), that the author of the monumental *History of Economic Analysis* sets out for the first time his conception of the creator of enterprise who, through his pioneer spirit and innovative capability, was the real agent of economic development. See also his article, "Unternehmer" in, *Handwörterbuch der Staatswissenschaften* (Jena: 1928) vol. VIII. This theory of entrepreneurial boldness is the basis of the pessimistic finding in 1942 in *Capitalism, Socialism and Democracy* (London: Unwin, 1987) (see in particular, pp. 131-134, "The Obsolescence of the Entrepreneurial Function") in which he predicts the coming of the planned economy. See below, lecture of 21 February 1979, pp. 176-178.
60. W. Röpke, *Ist die deutsche Wirtschaftspolitik richtig?* (see above, lecture of 7 February 1979, note 20).
 61. Ibid., and in W. Stützel and others, eds., *Grundtexte zur sozialen Marktwirtschaft*, p. 59. The list of measures proposed by Röpke, however, do not correspond exactly to that given by Foucault: "Die Maßnahmen, die hier ins Auge zu fassen sind [für eine grundsätzliche Änderung soziologischer Grundlagen (Entmassung und Enttölerisierung)], betreffen vor allem die Förderung der wirtschaftlichen und sozialen Dezentralisation im Sinne einer die Gebote der Wirtschaftlichkeit beachtenden Streuung des kleinen und mittleren Betriebes, der Bevölkerungsverteilung zwischen Stadt und Land und zwischen Industrie und Landwirtschaft, einer Auflockerung der Großbetriebe und einer Förderung des Kleingewerbes der Massen und sonstiger Umstände, die die Verwurzelung des heutigen Großstadt- und Industrie-nomaden begünstigen. Es ist anzustreben, das Proletariat im Sinne einer freien Klasse von Beziehern kurzfristigen Lohnneinkommens zu beseitigen und eine neue Klasse von Arbeitern zu schaffen, die durch Eigentum, Reserven, Einbettung in Natur und Gemeinschaft, Mitverantwortung um ihren Sinn in sich selbst tragende Arbeit zu vollwertigen Bürgen einer Gesellschaft freier Menschen werden." See *Civitas Humana*, p. 154: "decentralisation in the widest and most comprehensive sense of the word; to the restoration of property; to a shifting of the social centre of gravity from above downwards; to the organic building-up of society from natural and neighbourly communities in a closed gradation starting with the family through parish and county to the nation; to a corrective for exaggerations in organisation, in specialisation, and in division of labour ...; to the bringing back of all dimensions and proportions from the colossal to the humanly reasonable; to the development of fresh non-proletarian types of industry, that is to say to forms of industry adapted to peasants and craftsmen; to the natural furtherance of smaller units of factories and undertakings ...; to the breaking-up of monopolies of every kind and to the struggle against concentrations of businesses and undertakings, where and whenever possible; ... to a properly directed country-planning having as its aim a decentralisation of residence and production."
 62. Rüstow defined this *Vitalpolitik* thus: "... a policy of life, which is not essentially orientated to increased earnings and reduced hours of work, like traditional social policy, but which takes cognizance of the worker's whole vital situation, his real, concrete situation, from morning to night and from night to morning," material and moral hygiene, the sense of property, the sense of social integration, etcetera, being in his view as important as earnings and hours of work (quoted by F. Bilger, *La Pensée économique libérale*, p. 106, which refers only to "an article in *Wirtschaft ohne Wunder*," which is no doubt "Soziale Marktwirtschaft als Gegenprogramm gegen Kommunismus und Bolschewismus," in A. Hunold, ed., *Wirtschaft ohne Wunder* [Erlenbach-Zürich: E. Rentsch, 1953] pp. 97-108). See also, by the same author, "Sozialpolitik oder Vitalpolitik," *Mitteilungen der Industrie- und Handelskammer zu Dortmund*, 11, November 1951, Dortmund, pp. 453-459; "Vitalpolitik gegen Vermassung," in A. Hunold, ed., *Masse und Demokratie, Volkswirtschaftliche Studien für das Schweizer Institut für Auslandsforschung* (Erlenbach-Zürich: E. Rentsch, 1957) pp. 513-514. On the contrast between *Vitalpolitik* and *Sozialpolitik*, see C.J. Friedrich, "The political thought of Neo-liberalism," pp. 513-514. It is A. Müller-Armack who connects the measures concerning the whole of the environment ("die Gesamtheit der Umwelt") with the *Vitalpolitik*: "Die hier erhobene Forderung dürfte in etwa dem Wunsche nach einer Vitalpolitik im Sinne von Alexander Rüstow entsprechen, einer Politik, die jenseits des Ökonomischen auf die Vitale Einheit des Menschen gerichtet ist" ("Die zweite Phase der sozialen Marktwirtschaft" p. 71).

21 FEBRUARY 1979

Second aspect of the "policy of society" according to the neo-liberals: the problem of law in a society regulated according to the model of the competitive market economy. ~ Return to the Walter Lippmann colloquium. ~ Reflections based on a text by Louis Rougier. ~ (1) The idea of a juridical-economic order. Reciprocity of relations between economic processes and institutional framework. ~ Political stake: the problem of the survival of capitalism. ~ Two complementary problems: the theory of competition and the historical and sociological analysis of capitalism. ~ (2) The question of legal interventionism. ~ Historical reminder: the Rule of law (l'État de droit) in the eighteenth century, in opposition to despotism and the police state. Re-elaboration of the notion in the nineteenth century: the question of arbitration between citizens and public authorities. The problem of administrative courts. ~ The neo-liberal project: to introduce the principles of the Rule of law into the economic order. ~ Rule of law and planning according to Hayek. ~ (3) Growth of judicial demand. ~ General conclusion: the specificity of the neo-liberal art of government in Germany. Ordoliberalism faced with the pessimism of Schumpeter.

LAST WEEK I TRIED to show you how ordoliberalism necessarily entailed a *Gesellschaftspolitik*, as it was called, that is to say, a policy of society and a social interventionism that is at the same time active,

multiple, vigilant, and omnipresent. So, on the one hand there is a market economy, and on the other an active, intense, and interventionist social policy. But we should again carefully underline that this social policy in ordoliberalism is not to function like a compensatory mechanism for absorbing or nullifying the possible destructive effects of economic freedom on society or the social fabric. In actual fact, if there is a permanent and multiform social interventionism, it is not directed against the market economy or against the tendency of the market economy. On the contrary, this interventionism is pursued as the historical and social condition of possibility for a market economy, as the condition enabling the formal mechanism of competition to function so that the regulation the competitive market must ensure can take place correctly without the negative effects that the absence of competition would produce. The *Gesellschaftspolitik* must not nullify the anti-social effects of competition; it must nullify the possible anti-competitive mechanisms of society, or at any rate anti-competitive mechanisms that could arise within society.

This is what I tried to underline last week, and to give content to this *Gesellschaftspolitik* I think the ordoliberals laid stress on two major axes. On the one hand is the formalization of society on the model of the enterprise, and I have pointed out the importance of this notion of enterprise, and will return to it later.¹ A whole history could be written of these economic, historical, and social notions of the entrepreneur and the enterprise, with the derivation of one from the other from the end of the nineteenth to the middle of the twentieth century. So, there is formalization of society on the model of the enterprise. On the other hand, the second aspect, which I would like to talk about today, is the redefinition of the juridical institution and of the necessary rules of right in a society regulated on the basis of and in terms of the competitive market economy: the problem then, broadly speaking, of law.

To situate this a little, I would like to return to the Walter Lippmann colloquium I spoke about one or two weeks ago, I no longer recall,² which was a fairly important event in the history of contemporary neo-liberalism, since in 1939, right on the eve of the Second World War, we see at this colloquium the intersection of old traditional liberalism, the protagonists of German ordoliberalism, like Röpke, Rüstow, and so on,

and then people like Hayek and von Mises who will be intermediaries between German ordoliberalism and American neo-liberalism which gives rise to the anarcho-liberalism of the Chicago School,³ Milton Friedman,⁴ etcetera. So, all these people—not Milton Friedman, but Hayek and von Mises, who will be agents of transmission in a way—came together in 1939. The colloquium was introduced and organized by someone you know, Louis Rougier,⁵ one of the rare and very good post-war French epistemologists who is especially known in history for having been the intermediary between Pétain and Churchill in the summer of 1940.⁶ So Louis Rougier is the organizer of the Walter Lippmann colloquium in the summer of 1939, in May or June I think.⁷ He introduces the whole of the colloquium and the different contributions, and I think his introduction is quite remarkable with regard to the general principles of this neo-liberalism. This is what he says concerning, precisely, the legal problem: "The liberal regime is not just the result of a spontaneous natural order as the many authors of the *Natural codes* declared in the eighteenth century; it is also the result of a legal order that presupposes juridical intervention by the state. Economic life takes place [in fact]* within a juridical framework which fixes the regime of property, contracts, patents, bankruptcy, the status of professional associations and commercial societies, the currency, and banking, none of which are given by nature, like the laws of economic equilibrium, but are contingent creations of legislation. There is then no reason to suppose that the current, historically existing legal institutions are definitively and permanently the best suited for safeguarding the freedom of transactions. The question of the legal framework best suited to the simplest, most efficient, and fair operation of the market has been neglected by classical economists and deserves to be the object of an *International Center of Studies for the Renewal of Liberalism*. To be liberal, therefore, is not at all to be conservative, in the sense of the maintenance of de facto privileges resulting from past legislation. On the contrary, it is to be essentially progressive in the sense of a constant adaptation of the legal order to scientific discoveries, to the progress of economic organization

* Words added by Foucault.

and technique, to changes in the structure of society, and to the requirements of contemporary consciousness. Being liberal is not like the 'Manchester' attitude, allowing vehicles to circulate in any direction, according to whim, with the consequence of endless congestion and accidents; and it is not that of the 'planners,' fixing the hours of use and routes to be followed for every vehicle: it means imposing a *Highway Code*, while accepting that at a time of faster means of transport this code will not necessarily be the same as in the time of stagecoaches. Today we understand better than the great classics what a truly liberal economy consists in. It is an economy subject to a double arbitration: the spontaneous arbitration of consumers, who decide between the goods and services they are offered on the market according to their preferences through the plebiscite of prices, and [, on the other hand,]* the common arbitration of the state ensuring the freedom, honesty, and efficiency of the market†.⁸

This text contains a number of elements. Straightaway we can put aside some propositions that would clearly be unacceptable to the ordoliberals; everything concerning the natural character of the mechanisms of competition. When Rougier says that the liberal regime is not only the result of a natural order but also the result of a legal order, the ordoliberals would obviously say: "Not true, the natural order, what is understood by the natural order, what the classical economists or, at any rate, those of the eighteenth century understood by a natural order, is nothing other than the effect of a particular legal order." So we can leave these elements at the turning point of classical liberalism and neo-liberalism, or of this form of neo-liberalism, and move on to the more important elements in this text, those specific to neo-liberalism.

First of all, I think we should note that for Rougier, as for the ordoliberals moreover, the juridical is clearly not part of the superstructure. That is to say, they do not conceive of the juridical as being in a relation of pure and simple expression or instrumentality to the economy. The economy does not purely and simply determine a juridical

order that would both serve it and be constrained by it. The juridical gives form to the economic, and the economic would not be what it is without the juridical. What does this mean? I think we can identify three levels of meaning. First, a theoretical meaning. You can see that the theoretical meaning, I am embarrassed to point it out, is that instead of distinguishing between an economic belonging to the infrastructure and a juridical-political belonging to the superstructure, we should in reality speak of an economic-juridical order. In this, Rougier, and then the ordoliberals, place themselves strictly in line with Max Weber's important perspective. That is to say, like Max Weber, they situate themselves from the outset at the level of the relations of production rather than at the level of the forces of production. At that level they grasp in one hand, as it were, both history and economics, both law and the economy strictly speaking, and, placing themselves in this way at the level of the relations of production they do not consider the economic to be a set of processes to which a legal system is added which is more or less adapted or more or less obsolete in relation to these processes. In actual fact, the economic must be considered as a set of regulated activities from the very beginning: it is a set of regulated activities with rules of completely different levels, forms, origins, dates, and chronologies; rules which may comprise a social habitus, a religious prescription, an ethics, a corporative regulation, and also a law. In any case, the economic is not a mechanical or natural process that one can separate out, except by abstraction a posteriori, by means of a formalizing abstraction.⁹ The economic can only ever be considered as a set of activities, which necessarily means regulated activities. It is this economic-juridical ensemble, this regulated set of activities that Eucken calls—in a perspective which is more phenomenological than Weberian—the "system."¹⁰ What is the system? It is a complex whole including economic processes the specifically economic analysis of which is a matter for pure theory and a formalization which may take the form of the formalization of mechanisms of competition, for example, but these economic processes only really exist, in history, insofar as an institutional framework and positive rules have provided them with their conditions of possibility.¹¹ This is what this common analysis, this combined analysis of the relations of production means historically.

* Words added by Foucault.

† Rougier says: "of the markets."

What does this mean, historically? It means that we should guard against thinking that at a given moment there was the literal and simple economic reality of capitalism, or of capital and the accumulation of capital, which with its own necessity would have come up against old rules of right, like the right of primogeniture, for example, or ancient feudal right, etcetera, and then created, in accordance with its own logic and requirements and somehow by pressure from below, new and more favorable rules of right, whether property rights, legislation on joint-stock companies, patent law, and so on. This is not how we should view things in fact. We should keep in mind that historically we are dealing with a singular figure in which economic processes and institutional framework call on each other, support each other, modify and shape each other in ceaseless reciprocity. Capitalism was not a process from below which comes up against the law of primogeniture, for example. In fact, we can only understand the historical figure of capitalism if we consider the role that was actually played by the rule of primogeniture, for example, in its formation and genesis. The history of capitalism can only be an economic-institutional history. And from this stemmed a whole series of studies of economic history, of juridical-economic history, which were very important in a theoretical debate, but also, and this is what I want to come to, from a political point of view, because it is quite clear that the problem and stake of this theoretical and historical analysis of capitalism, and of the role played by the juridical institution, was of course political.

What is this political stake? Well, it's very simple. It is quite simply the problem of the survival of capitalism, of the possibility and the field of possibilities still open for capitalism. Because if we accept that in a Marxist type of analysis, in the broadest sense of the term, it is the economic logic of capital and its accumulation that is determinant in the history of capitalism, then you can see that in fact there can only be one capitalism since there is only one logic of capital. There can only be one capitalism which is defined precisely by the single necessary logic of its economy and regarding which all we can say is that this institution has favored it and this other institution has impeded it. We have either a flourishing capitalism or a shackled capitalism, but in any case we have Capitalism (*le capitalisme*). The capitalism we know in the West is

capitalism tout court, merely modulated by favorable or unfavorable elements. And, as a further consequence, the current impasses of capitalism are clearly historically definitive impasses insofar as they are ultimately, in the last instance, determined by the logic of capital and its accumulation. In other words, when you link all the historical figures of capitalism to the logic of capital and its accumulation, the end of capitalism is revealed in the historical impasses it is currently manifesting.

If, on the other hand, what economists call "capital"* is actually only a process which falls within the domain of pure economic theory and which only has, and can only have historical reality within an economic-institutional capitalism, then you can see that the historical capitalism we know is not deducible as the only possible and necessary figure of the logic of capital. In actual fact, historically, we have a capitalism with its singularity, but which, in virtue of this very singularity, may give rise to institutional and consequently economic transformations, to economic-institutional transformations, which open up a field of possibilities for it. In the first type of analysis, which refers entirely to the logic of capital and its accumulation, there is a single capitalism and so, before long, no more capitalism at all. In the other possibility you have an historical singularity of an economic-institutional figure before which a field of possibilities opens up (if, at least, you take a bit of historical distance and use a bit of economic, political, and institutional imagination). That is to say, in this battle around the history of capitalism, around the history of the role of the institution of law, of the rule in capitalism, we are actually dealing with a whole political stake.

We can consider this question in a different way if we look at how things appear to the ordoliberals. On a fairly rough analysis, we can say that their problem was to demonstrate that capitalism was still possible and could survive if a new form was invented for it. If this was their final objective, then we can say that basically they had to demonstrate two things. First, they had to demonstrate that the specifically economic logic of capitalism, the logic of the competitive market, was possible and non-contradictory. I talked about their attempt to do this last week.

* In inverted commas in the manuscript ("*le capital*").

Then they had to show that this non-contradictory and so reliable economic logic had a set of juridical-economic relations in the concrete, real, historical forms of capitalism and that these were such that by inventing a new institutional functioning it was possible to overcome the effects—contradictions, impasses, irrationalities—which were typical of capitalist society but which, rather than being due to the logic of capitalism, were simply the effects of a precise and particular figure of this economic-juridical complex.

You can see, therefore, that in Germany these two great problems which dominated economic theory, on the one hand, and economic history, or economic sociology, on the other, were completely bound up with each other. One problem was the theory of competition. If the economists of this time—Walras,¹² Marshall¹³ in England, Wicksell¹⁴ in Sweden, and all those who followed them—attached so much importance to the theory of competition, it was because it was a question of determining whether or not the formal mechanism of the market was contradictory, and also the extent to which the competitive market did or did not lead to phenomena which were liable to nullify it, namely to monopoly. So there is this set of problems, which are problems of economic theory if you like. And then there's the, let's say, Weberian set of problems of economic history and sociology, which are actually only the other aspect, the counterpart of the first question, and which concern whether it really is possible to identify an economic-institutional ensemble in the history of capitalism which can account both for the singularity of capitalism and the impasses, contradictions, difficulties, and mixtures of rationality and irrationality presently being observed. Analyzing the history of the role of the protestant ethic and of the religious prescriptions linked to it,¹⁵ for example, and developing the pure theory of competition, were two different aspects, or two complementary ways of posing and trying to resolve in a particular way the problem of whether or not capitalism could survive. This is one aspect of the questions, I think, and of Rougier's text, of the propositions by which he tries to show that economic process cannot be dissociated from an institutional ensemble, from a juridical ensemble, which is not just its more or less deferred or matching effect or expression, but which is really united with it in an economic system, that is to say, roughly, in a set of regulated economic practices.

The other aspect of the text that I have just read concerns what we could call "legal interventionism," which is the consequence of the first aspect. If we accept that we are not dealing with an essential Capitalism deriving from *the* logic of Capital, but rather with a singular capitalism formed by an economic-institutional ensemble, then we must be able to act on this ensemble and intervene in such a way as to invent a different capitalism. We do not have to carry on with capitalism so much as invent a new one. But where and by what route will this irruption of innovation be able to take place within capitalism? Clearly innovation will not come from the laws of the market, it will not take place in the market itself since economic theory shows that, by definition, the market must function in such a way that its pure mechanisms are in themselves regulative of the whole. So we do not touch the laws of the market but act so that institutions are such that these laws, and only these laws, really are the principle of general economic regulation and, as a consequence, of social regulation. The consequence of this is no economic interventionism, or a minimum of economic interventionism, and maximum legal interventionism. In what is, I think, a significant formula, Eucken says that we must "move on to a conscious economic law."¹⁶ I think this formula should be set term by term against the banal Marxist formulation in which the economic is always that which escapes historians' consciousness when they are pursuing their analyses. For Eucken, the historians' unconscious is not the economic but the institutional; or rather, the institutional is not so much the historians' unconscious as the economists' unconscious. What eludes economic theory and economists' analyses is the institution, and we must move on to a level of conscious economic law both by using historical analysis, which will show in what respects and how the institution and rules of law exist in reciprocally conditioning relationships with the economy, and then, thanks to this, by becoming aware of the possible modifications to be introduced into this economic-juridical complex. So the problem is this: By what route will we be able to introduce the institutional corrections and innovations which will permit an economically regulated social order to be established on the market economy? How are we to arrive at what the ordoliberals call the *Wirtschaftsordnung*,¹⁷ or "the economic constitution"? The answer given by the ordoliberals—and I want now to focus

on this—is to say, quite simply, that the institutional innovation we must now adopt is the application to the economy of what is called the *Rechtsstaat* in the German tradition and the Rule of law in English, or *l'État de droit* in French. At this point the ordoliberal analysis no longer follows the line of the economic theory of competition defined by Walras, Wickseil, and Marshall, and the sociological history of the economy defined by Weber; it follows a line of legal theory, the theory of state law (*droit de l'État*), which was very important in the history of both German legal thought and German institutions.

I would like to say a couple of words about this. What do we understand by *Rechtsstaat*, by this Rule of law (*l'État de droit*) which you have no doubt heard so much talk about just by reading the newspapers over the last year?¹⁸ With regard to the Rule of law I think we need to begin very schematically, so you will forgive the completely bald and sketchy character of what I am going to say. This notion of the Rule of law, of *l'État de droit*, appeared in German political and legal theory at the end of the eighteenth and the beginning of the nineteenth century.¹⁹ What is the *Rechtsstaat*? Well, in this period it is defined in opposition to two things.

First, it is defined in opposition to despotism understood as a system that makes the particular or general will of the sovereign the principle of the obligation of each and all with regard to the public authorities. Despotism is that which identifies the obligatory character and form of the injunctions of the public authority with the sovereign's will.

Second, the Rule of law is also opposed to something different from despotism, and this is the *Polizeistaat*, the police state. The police state is different from despotism, although concretely they overlap, or aspects of them overlap. What is understood by police state, by *Polizeistaat*? It is a system in which there is no difference of kind, origin, validity, and consequently of effect, between, on the one hand, the general and permanent prescriptions of the public authorities—roughly, if you like, what we will call the law—and, on the other hand, the conjunctural, temporary, local, and individual decisions of these same public authorities—if you like, the level of rules and regulations. The police state establishes an administrative continuum that, from the general law to the particular measure, makes the public authorities and the injunctions they give one

and the same type of principle, according it one and the same type of coercive value. Despotism, then, refers any injunction made by the public authorities back to the sovereign's will and to it alone, or, rather, it makes it originate in this will. The police state, on the other hand, establishes a continuum between every possible form of injunction made by the public authorities, whatever the origin of their coercive character.

The Rule of law represents an alternative position to both despotism and the police state. This means, first, that the Rule of law is defined as a state in which the actions of the public authorities will have no value if they are not framed in laws that limit them in advance. The public authorities act within the framework of the law and can only act within the framework of the law. Therefore the principle and origin of the coercive character of the public authorities is not the sovereign or his will; it will be the form of the law. Where there is the form of the law, and in the space defined by the form of the law, the public authorities may legitimately become coercive. This is the first definition of the Rule of law, of *l'État de droit*. Second, in the Rule of law there is a difference of kind, effect, and origin between, on the one hand, laws, which are universally valid general measures and in themselves acts of sovereignty, and, on the other hand, particular decisions of the public authorities. In other words, the Rule of law is a state in which legal dispositions, the expression of sovereignty, on the one hand, and administrative measures, on the other, are distinguished in their principle, effects, and validity. Broadly speaking, at the end of the eighteenth and the beginning of the nineteenth century this theory of the public authorities and of the law of public authorities organized what is called the theory of the Rule of law, against the forms of power and public law that operated in the eighteenth century.

This double theory or these two aspects of the Rule of law, one in opposition to despotism and the other opposed to the police state, can be found in a whole series of texts at the beginning of the nineteenth century. The main text, and the first, I think, to produce the theory of the Rule of law (*l'État de [droit]**) is by Welcker, *The Ultimate Principles*

* M.F.: police

of *Law, the State, and Punishment*, which appeared in 1813.²⁰ Jumping ahead a bit, in the second half of the nineteenth century you find another definition, or rather a more extensive working out of this notion of the Rule of law. The Rule of law then appears as a state in which every citizen has the concrete, institutionalized, and effective possibility of recourse against the public authorities. That is to say, the Rule of law is not just a state that acts in accordance with the law and within the framework of the law. It is a state in which there is a system of law, that is to say, of laws, but it also means a system of judicial arbitration between individuals and the public authorities. This is quite simply the problem of administrative courts. So, in the second half of the nineteenth century you see in German theory and policy the development of a whole series of discussions about whether the Rule of law means a state in which citizens can and must have recourse against the public authority through specialized administrative courts responsible precisely for this function of arbitration, or, alternatively, a state in which citizens can have recourse against the public authority through the ordinary courts. Some theorists, like Gneist²¹ for example, reckon that the administrative court, as the legal instance of arbitration between the state and citizens, between the public authorities and citizens, is indispensable for the constitution of the Rule of law. Others, like Bähr²² for example, object that since an administrative court emanates from the public authorities and is basically only one of its forms, it cannot be a valid arbiter between the state and citizens, and that only justice, the apparatus of ordinary justice inasmuch as it is really or supposedly independent of the public authorities, can arbitrate between citizens and the state. At any rate, this is the English thesis, and in all the English analyses at the end of the nineteenth century²³ the Rule of law is clearly defined as a state in which the state itself does not organize administrative courts which arbitrate between citizens and the public authorities; the Rule of law is a state in which citizens can appeal to ordinary justice against the public authorities. The English say: If there are administrative courts, then we are not living under the Rule of law. The proof for

the English that the Rule of law does not exist in France is the existence of administrative courts and the Council of State.²⁴ According to English theory, the Council of State excludes the possibility of the existence of the Rule of law.²⁵ This, in short, is the second definition of the Rule of law: the possibility of judicial arbitration, by one or another institution, between citizens and the public authorities.

This is the starting point for the liberals' attempt at defining a way to renew capitalism. The way will be to introduce the general principles of the Rule of law into economic legislation. This idea of asserting the principles of a Rule of law in the economy was, of course, a concrete way of challenging the Hitlerite state, even though the Hitlerite state was undoubtedly not the target in the first instance in this search for an economic Rule of law. In truth, what was challenged, and was in fact challenged in Hitlerite practice was the whole of the people's economic Rule of law (*tout l'État de droit économique du peuple*),* precisely because the state had ceased to be a legal subject in this state, the people, not the state, being the origin of the law, and the state could only be the instrument of the people's will, which totally excluded the state from being a legal subject in the sense of the source of law, or as a legal personality which could be called before any kind of court. In actual fact, the search for a Rule of law in the economic order was directed at something completely different. It was directed at all the forms of legal intervention in the economic order that states, and democratic states even more than others, were practicing at this time, namely the legal economic intervention of the state in the American New Deal and, in the following years, in the English type of planning. What does applying the principle of the Rule of law in the economic order mean? Roughly, I think it means that the state can make legal interventions in the economic order only if these legal interventions take the form solely of the introduction of formal principles. There can only be formal economic legislation. This is the principle of the Rule of law in the economic order.

What does it mean to say that legal interventions have to be formal? I think Hayek, in *The Constitution of Liberty*,²⁶ best defines what should

* M.F.: von Bähr (manuscript: "v. Bähr").

* *Sic*. The meaning of this expression is somewhat unclear.

be understood by the application of the principles of *l'État de droit*, or of the *Rule of law*,* in the economic order. Basically, Hayek says, it is very simple. The Rule of law, or formal economic legislation, is quite simply the opposite of a plan.²⁷ It is the opposite of planning. What is a plan? An economic plan is something which has an aim:²⁸ the explicit pursuit of growth, for example, or the attempt to develop a certain type of consumption or a certain type of investment, or reducing the gap between the earnings of different social classes. In short, a plan means the adoption of precise and definite economic ends. Second, a plan always allows for the possibility of introducing corrections, rectifications, the suspension of measures, or the adoption of alternative measures at the opportune moment depending on whether or not the sought-after effect is obtained. Third, in a plan, the public authorities have a decision-making role. They replace individuals as the source of decisions and consequently force individuals into one thing or another, such as not exceeding a given level of remuneration, for example. Or else they perform the decision-making function by becoming an economic agent themselves, by investing in public works, for example. So, in a plan, public authorities play the role of decision-maker.²⁹ Finally, a plan presupposes that the public authorities can be a subject capable of mastering all the economic processes. That is to say, the great state decision-maker is someone who has a clear awareness or who should have the clearest possible awareness of all the economic processes. He is the universal subject of knowledge in the order of the economy.³⁰ This is a plan.

Now, says Hayek, if we want the Rule of law to operate in the economic order, it must be the complete opposite of this. That is to say, the Rule of law will have the possibility of formulating certain measures of a general kind, but these must remain completely formal and must never pursue a particular end. It is not for the state to say that the gap between earnings should be reduced. It is not for the state to say that it wants an increase in a certain type of consumption. A law in the economic order must remain strictly formal. It must tell people what they must and must not do; it must not be inscribed within an overall economic choice.

* In English in the original; G.B.

Second, if a law is to respect the principles of the Rule of law in the economic order, then it must be conceived a priori in the form of fixed rules and must never be rectifiable by reference to the effects produced. Third, it must define a framework within which economic agents can freely make their decisions, inasmuch as, precisely, every agent knows that the legal framework is fixed in its action and will not change. Fourth, a formal law is a law which binds the state as much as it binds others, and consequently it must be such that everyone knows how the public authorities will behave.³¹ Finally, and thereby, you can see that this conception of the Rule of law in the economic order basically rules out the existence of any universal subject of economic knowledge who could have, as it were, a bird's eye view of all of the economic processes, define their ends, and take the place of this or that agent so as to take this or that decision. In actual fact, the state must be blind to the economic processes. It must not be expected to know everything concerning the economy, or every phenomenon concerning the economy.³² In short, both for the state and for individuals, the economy must be a game: a set of regulated activities—you can see that we have come back to what we were saying at the start—but in which the rules are not decisions which someone takes for others. It is a set of rules which determine the way in which each must play a game whose outcome is not known by anyone. The economy is a game and the legal institution which frames the economy should be thought of as the rules of the game. The Rule of law and *l'État de droit* formalize the action of government as a provider of rules for an economic game in which the only players, the only real agents, must be individuals, or let's say, if you like, enterprises. The general form taken by the institutional framework in a renewed capitalism should be a game of enterprises regulated internally by a juridical-institutional framework guaranteed by the state. It is a rule of the economic game and not a purposeful economic-social control. Hayek describes this definition of the Rule of law, or of *l'État de droit* in economic matters in a very clear sentence. The plan, he says, is precisely the opposite of *l'État de droit* or the Rule of law, "it shows how the resources of society must be consciously directed in order to achieve a particular end. The Rule of law, on the other hand, sets out the most rational framework within which individuals engage in their activities in line

with their personal plans."³³ Or again, Polanyi, in his *The Logic of Liberty*, writes: "The main function of a system of jurisdiction is to govern the spontaneous order of economic life. The system of law must develop and reinforce the rules according to which the competitive mechanism of production and distribution operates."³⁴ We have therefore a system of laws as the rules of the game, and then a game which, through the spontaneity of its economic processes, displays a certain concrete order. *Law and order**: these two notions, [to which] I will try to return next week and whose destiny in the thought of the American Right you are familiar with, are not just slogans for a stubborn American extreme Right born in the Midwest.³⁵ *Law and order* originally had a very precise meaning which can be traced back well beyond the liberalism I am talking about.[†] *Law and order* means that the state, the public authorities, will only ever intervene in the economic order in the form of the law and, if the public authorities really are limited to these legal interventions, within this law an economic order will be able to emerge which will be at the same time both the effect and principle of its own regulation.

This is the other aspect I wanted to stress with regard to the text from Rougier I quoted. So, first of all, an essential Capitalism (*le capitalisme*), with its logic, contradictions, and impasses does not exist. Second, it now becomes perfectly possible to invent or devise a capitalism different from the first, different from the capitalism we have known, and whose essential principle would be a reorganization of the institutional framework in terms of the Rule of law, and which would consequently discard the whole system of administrative or legal interventionism which states have assumed the right to impose, be it in the form of the nineteenth century protectionist economy or of the planned economy of the twentieth century.

The third aspect is inevitably what could be called the growth of judicial demand, because in fact this idea of law in the form of a rule of the game imposed on players by the public authorities, but which is only imposed on players who remain free in their game, implies of course a revaluation of the juridical, but also a revaluation of the

judicial. You know that one of the problems of liberalism in the eighteenth century was the maximum reinforcement of a juridical framework in the form of a general system of laws imposed on everyone in the same way. But the idea of the primacy of law that was so important in eighteenth century thought entailed as a result a reduction of the judicial, or of the jurisprudential, inasmuch as the judicial institution was in principle confined to the pure and simple application of the law. Now, on the other hand, if it is true that the law must be no more than the rules for a game in which each remains master regarding himself and his part, then the judicial, instead of being reduced to the simple function of applying the law, acquires a new autonomy and importance. Concretely, in this liberal society in which the true economic subject is not the man of exchange, the consumer or producer, but the enterprise, in this economic and social regime in which the enterprise is not just an institution but a way of behaving in the economic field—in the form of competition in terms of plans and projects, and with objectives, tactics, and so forth—you can see that the more the law in this enterprise society allows individuals the possibility of behaving as they wish in the form of free enterprise, and the greater the development of multiple and dynamic forms typical of this "enterprise" unit, then at the same time so the number and size of the surfaces of friction between these different units will increase and occasions of conflict and litigation multiply. Whereas economic regulation takes place spontaneously, through the formal properties of competition, the social regulation of conflicts, irregularities of behavior, nuisance caused by some to others, and so forth, calls for a judicial interventionism which has to operate as arbitration within the framework of the rules of the game. If you multiply enterprises, you multiply frictions, environmental effects, and consequently, to the extent that you free economic subjects and allow them to play their game, then at the same time the more you detach them from their status as virtual functionaries of a plan, and you inevitably multiply judges. The reduction of the number of functionaries, or rather, the de-functionarization of the economic action of plans, together with the increased dynamic of enterprises, produces the need for an ever-increasing number of judicial instances, or anyway of instances of arbitration.

* In English and French in original; G.B.

† Foucault adds: since already in the nineteenth century ... [unfinished sentence]. In short

The problem—but this is a question of organization—of whether this arbitration should be inserted within already existing judicial institutions, or whether it is necessary to create new institutions, is one of the fundamental problems in liberal societies where there is a multiplication of the judicial and instances of and the need for arbitration. Solutions vary from one country to another. Next week I will try to talk about this³⁶ with regard to France and problems which have arisen in the present French judicial institution, the magistrates' association, and so on.³⁷ Anyway, with regard to this creation of an intensified and increased judicial demand, I would just like to quote this text of Röpke, who said: "It is now advisable, to make courts, more than in the past, organs of the economy and to entrust to their decision tasks that were previously entrusted to administrative authorities."³⁸ In short, the more the law becomes formal, the more numerous judicial interventions. And to the extent that governmental interventions of the public authority are more and more formalized, and to the extent that administrative intervention recedes, then to the same extent justice tends to become, and must become, an omnipresent public service.

I will stop there on this description of the ordoliberal program formulated by the Germans from 1930 up until the foundation and development of the modern German economy. However, I would like to take a further thirty seconds, well, two minutes, to indicate—how can I put it?—a possible way of reading these problems. So, ordoliberalism envisions a competitive market economy accompanied by a social interventionism that entails an institutional reform around the revaluation of the "enterprise" unit as the basic economic agent. I do not think that this is merely the pure and simple consequence and projection of the current crisis of capitalism in ideology, economic theory, or political choice. It seems to me that we are seeing the birth, maybe for a short period or maybe for a longer period, of a new art of government, or at any rate, of a renewal of the liberal art of government. I think we can grasp the specificity of this art of government and its historical and political stakes if we compare them with Schumpeter³⁹ (and I would like to dwell on this for a few moments and then I will let you go). Basically, all these economists, Schumpeter, Röpke, or Eucken, all start (I have stressed this, and I come back to it) from the Weberian problem

of the rationality or irrationality of capitalist society. Schumpeter, like the ordoliberals, and the ordoliberals like Weber, think that Marx, or at any rate, Marxists, are wrong in looking for the exclusive and fundamental origin of this rationality/irrationality of capitalist society in the contradictory logic of capital and its accumulation. Schumpeter and the ordoliberals think that there is no internal contradiction in the logic of capital and its accumulation and consequently that capitalism is perfectly viable from an economic and purely economic point of view. This, in brief, is the set of theses shared by Schumpeter and the ordoliberals.

The differences begin at this point. For Schumpeter, if it is true that capitalism is not at all contradictory [on the level of] the purely economic process, and if, consequently, the economic in capitalism is always viable, in actual fact, Schumpeter says, historically, concretely, capitalism is inseparable from monopolistic tendencies. This is not due to the economic process, but to the social consequences of the process of competition. That is to say, the very organization of competition, and the dynamic of competition, will call for, and necessarily so, an increasingly monopolistic organization. So the monopolistic phenomenon is, for Schumpeter, a social phenomenon consequent upon the dynamic of competition, but not inherent to the economic process of competition itself. There is a tendency to centralization; there is a tendency to an incorporation of the economy in increasingly closely connected decision-making centers of the administration and the state.⁴⁰ This, then, is the historical condemnation of capitalism. But it is not a condemnation in terms of contradiction; it is condemnation in terms of historical inevitability. For Schumpeter, capitalism cannot avoid this concentration; it cannot avoid a sort of transition to socialism being brought about within its own development, since this, for Schumpeter, is what defines socialism: "a system in which a central authority will be able to control the means of production and production itself."⁴¹ So the transition to socialism is not inscribed in the historical necessity of capitalism by virtue of an illogicality or irrationality specific to the capitalist economy, but due to the organizational and social necessity entailed by the competitive market. So we will develop into socialism, with, of course, a political price, which Schumpeter says is undoubtedly heavy, but not one that it is absolutely impossible to pay. That is to say, the political

price is not absolutely unbearable and is not impossible to correct, so that we will advance towards socialist society with a political structure which will obviously have to be strictly supervised and worked out so as to avoid the political price of, broadly speaking, totalitarianism.⁴² Totalitarianism can be avoided, but not without effort. We can say, broadly speaking, that, for Schumpeter, it won't be much fun, but it will happen. It will come about and, if we take great care, it may not be as bad as we might think.

With regard to Schumpeter's analysis—both as an analysis of capitalism and as an historical-political prediction—with regard to this kind of pessimism, or what we can call Schumpeter's pessimism, the ordoliberals reply by, as it were, reassembling his analysis and saying that, first of all, unlike Schumpeter, we should not think that the political price he says we will have to pay, this loss of freedom, if you like, when we arrive at a socialist regime, is acceptable. And why is it not acceptable? It is not acceptable because it is not in fact just a matter of drawbacks which accompany a planned economy. In actual fact, a planned economy cannot avoid being politically costly; that is to say, it cannot avoid being paid for with the loss of freedom. Consequently, there is no possible correction. No possible adjustment would be able to circumvent the loss of freedom which is the necessary political consequence of planning. And why is this complete loss of freedom inevitable with planning? Quite simply, it is because planning involves a series of basic economic errors and it will constantly have to make up for these errors; and you will only be able to make up for the intrinsic error or irrationality of planning by the suppression of basic freedoms. Now, they say, how can we avoid the error of planning? Precisely by seeing to it that the tendency Schumpeter identifies in capitalism towards the organization, centralization, and absorption of the economic process within the state, which he saw was not a tendency of the economic process but of its social consequences, is corrected, and corrected precisely by social intervention. At this point, social intervention, the *Gesellschaftspolitik*, legal interventionism, the definition of a new institutional framework of the economy protected by a strictly formal legislation like that of the *Rechtsstaat* or the Rule of law, will make it possible to nullify and absorb the centralizing tendencies which are in fact immanent to capitalist society and not

to the logic of capital. This is what will enable us to maintain the logic of capital in its purity and get the strictly competitive market to work without the risk of it ending up in the phenomena of monopoly, concentration, and centralization observable in modern society. As a result, this is how we will be able to mutually adapt to each other, on the one hand, a competitive type of economy, as defined or at least problematized by the great theorists of the competitive economy, and, on the other, an institutional practice whose importance was demonstrated in the great works of historians or sociologists of the economy, like Weber. Broadly speaking, according to the ordoliberals the present historical chance of liberalism is defined by a combination of law, an institutional field defined by the strictly formal character of interventions by the public authorities, and the unfolding of an economy whose processes are regulated by pure competition.

This analysis, political project, and historical wager of the ordoliberals has, I think, been very important, forming the framework of modern German policy. And if there really is a German model, it is not the frequently invoked model of the all-powerful state, of the police state, which, as you know, has so frightened our compatriots. The German model being diffused is not the police state; it is the Rule of law (*l'État de droit*). And I have not made these analyses just for the pleasure of engaging in a bit of contemporary history, but so as to try to show you how it was possible for this German model to spread, on the one hand, in contemporary French economic policy, and, on the other, in a number of liberal problems, theories, and utopias like those we see developing in the United States. So, next week I will talk about some aspects of Giscard's economic policy and then about American liberal utopians.*

* Foucault adds:

I will not give my lecture next Wednesday, simply for reasons of tiredness and so I can take a bit of a breath. Forgive me. So, I will resume the lectures in two weeks' time. The seminar next Monday, but the lecture in two weeks' time.

1. See above, this lecture, p. 175.
2. See above, lecture of 14 February 1979.
3. See below, lectures of 21 and 28 March 1979.
4. Milton Friedman (1912-2006): founder of the American neo-liberal movement, Nobel Prize-winner for economics in 1976, became known at the end of the 1950s through his rehabilitation of the quantitative theory of money (the so-called "monetarist" theory). Partisan of an intransigent liberalism and the main inspirer of United States economic policy from the 1970s (he was the economic advisor of Nixon and Reagan during their candidatures for the Presidency), he is the author of a number of works, including *Capitalism and Freedom* (Chicago: The University of Chicago Press, 1962) in which he claims that the market mechanism is sufficient to regulate most of the economic and social problems of our times. See, H. Lepage, *Demain le capitalisme*, pp. 373-412: "Milton Friedman or the death of Keynes."
5. Louis Rougier (1889-1982), the author notably of: *La Matière et l'Énergie, suivant la théorie de la relativité et la théorie des quanta* (Paris: Gauthier-Villars, 1919); *Les Paralogismes du rationalisme. Essai sur la théorie de la connaissance* (Paris: F. Alcan, 1920); *La Philosophie géométrique de Henri Poincaré* (Paris: F. Alcan, 1920); *La Structure des théories déductives* (Paris: F. Alcan, 1921); and *La Matière et l'Énergie* (Paris: Gauthier-Villars, 2nd edition, 1921). He was a representative of the Vienna Circle in Paris and was responsible for the organization of the major international colloquium of scientific philosophy that took place in Paris in 1935. On the economic level, he wrote *La Mystique démocratique: ses origines, ses illusions* (Paris: Flammarion, 1929; republished Paris: Albatros, 1983, with a Preface by A. de Benoist); *La Mystique soviétique* (Brussels: Équilibres, 1934), and had just published *Les Mystiques économiques* (Paris: Librairie de Médecis, 1938) in which he proposed to show "how liberal democracies turn into totalitarian regimes by ill-considered social reforms and abusive interventions by public authorities, encouraged by theoreticians of the planned economy," the latter being the "new Mysticism that creates the intellectual climate favorable to the establishment of dictatorships" (pp. 8-9). See, M. Allais, *Louis Rougier, prince de la pensée* (Lyon: Fondation de Lourmarin, printed by Tixier et fils, 1990) bibliography pp. 55-71, and F. Denord, "Aux origines du néo-libéralisme en France. Louis Rougier et le Colloque Walter Lippmann de 1938," *Le Mouvement social*, 195, April-June 2001, pp. 9-34.
6. On this controversial episode, see R.O. Paxton, *Vichy France: Old guard and new order 1940-1944* (New York: A.A. Knopf, 1972): "The Franco-British negotiations at Madrid from September 1940 to February 1941 between the two ambassadors—M. Robert de la Baume followed by François Piétri, facing Sir Samuel Hoare—were the real link between Vichy and London. Few aspects of Vichy policy have been more subject to postwar mystification than this. Two unofficial links, Professor Louis Rougier of the University of Besançon and Jacques Chevalier, Vichy minister of education and then of health in 1940-41, claimed after the war to have negotiated secret Churchill-Pétain 'accords.' Although Professor Rougier did go to London in November 1940, the notations on his document are not in the handwriting of Winston Churchill, as he claimed." See also, J. Lacouture, *De Gaulle* (Paris: Le Seuil, 1984) vol. 1, pp. 453-455.
7. The colloquium was held at the Institut international de coopération intellectuelle from 26 to 30 August 1938 (see above, lecture of 14 February, note 3).
8. *Colloque W. Lippmann*, pp. 16-17.
9. On "isolating abstraction," as a condition of economic morphology according to Eucken, distinct from the "generalizing abstraction" put to work by Weber in the formation of ideal types, see F. Bilger, *La Pensée économique libérale*, p. 52.
10. See, F. Bilger, *ibid.*, pp. 57-58.
11. See *ibid.*, p. 58. "The basic idea of Walter Eucken, the idea that enabled him to resolve the antinomy [between history and economic theory], is the distinction between the framework, which is in history, and the process, which, in the expression of L. Miksch, is 'non-history.' The process is an eternal recommencement that also has a time, an internal time as it were. But the framework, the ensemble of facts, is subject to real, historical time, and evolves in a certain direction."
12. Léon Walras (1834-1910) was a student of the Paris Ecole des mines and became a journalist and then professor of political economy at Lausanne from 1870. He was concerned to reconcile free competition and social justice at the same time as Jevons (*Theory of Political Economy*, 1871) and Menger (*Grundsätze der Volkswirtschaftslehre*, 1871) but according to his own axiomatic approach, and he developed a new theory of value based on the principle of marginal utility ("marginalist revolution" of 1871-1874). He constructed a mathematical model postulating the perfectly "rational" behavior of the set of agents, which should enable the general equilibrium of prices and exchanges to be determined in a system of pure competition. Main works: *L'Économie politique et la Justice* (Paris: Guillaumin, 1860); *Éléments d'économie politique pure, ou Théorie de la richesse sociale* (Lausanne: 1874-1887); English translation by William Jaffé, *Elements of Pure Economics* (London: George Allen & Unwin, 1954); *Théorie mathématique de la richesse sociale* (Lausanne: 1883); *Études d'économie sociale* (Lausanne-Paris, 1896) and, *Études d'économie appliquée* (Lausanne-Paris: 1898); English translation by Jan van Daal, *Studies in Applied Economics: Theory of the Production of Social Wealth* (London: Routledge, 2005).
13. Alfred Marshall (1842-1924): British economist, professor at Cambridge, and author of famous textbook: *Principles of Economy* (London: Macmillan & Co., 1890). Seeking to realize the synthesis of classical political economy and marginalism, he underlined the importance of time as a crucial element in the functioning of the process of equilibrium (distinction between short and long periods).
14. Johann Gustav Knut Wicksell (1851-1926): Swedish economist, professor at the University of Lund. He tried to go beyond the Walrasian theory of general equilibrium in his work on fluctuations of the average level of prices. He is the author of: *Über Wert, Kapital und Rente nach den neueren nationalökonomischen Theorien* (Jena: G. Fischer, 1893); *Geldzins und Güterpreise* (Jena: G. Fischer, 1898); *Vorlesungen über Nationalökonomie auf Grundlage des Marginalprinzips* (Jena: G. Fischer, 1928). None of these works is translated into French. In English see, translated by J.M. Buchanan, *A New Principle of Just Taxation* (The International Economic Association, 1958); translated by E. Classen, *Lectures on Political Economy* (London: George Routledge and Sons, 1934); translated by R.F. Kahn, *Interest and Prices* (London: Macmillan, 1936); *Selected Papers on Economic Theory* (London: George Allen & Unwin, 1958).
15. See above, lecture of 31 January 1979, note 25.
16. It seems that this expression is taken from the following phrase in F. Bilger, *La Pensée économique libérale*, p. 65, with regard to the scientific politics recommended by Eucken on the basis of his economic morphology: "... after having refuted evolutionist philosophy, Eucken recalls that most groups in history are not formed from technical necessity, but thanks to the absence of a real conscious economic law."
17. On this notion of *Wirtschaftsordnung*, see W. Eucken, *Die Grundlagen der Nationalökonomie*, pp. 57-58; *The Foundations of Economics*, pp. 83-85, [where it is translated as "economic constitution" ... the decision as to the general ordering of the economic life of a community"; G.B.] See also the title of the book by Müller-Armack, *Wirtschaftsordnung und Wirtschaftspolitik*.
18. Is this an allusion to the polemics provoked by the expulsion of Klaus Croissant, the lawyer for the Baader group? On this event, which caused a considerable stir in France, see *Sécurité, Territoire, Population; Security, Territory, Population*, lecture of 15 March 1978, note 28 (on Jean Genet), and the "Situation des cours," *ibid.* (French) p. 385; "Course context," *ibid.* (English) p. 372. See, for example, the article by O. Wormser, French ambassador to Bonn from 1974 to 1977, "Connaître avant de juger," *Le Monde*, 5 November 1977: "What did Andreas Baader and his friend want by kidnapping M. Schleyer? Above all, to exchange their freedom for that of the president of the employers' association and at the same time to cause the federal government to lose face; subsidiary to this, if the federal government did not agree to this exchange, to lead it to give up the 'Rule of Law' (*l'État de droit*) established long ago with the support of the Western powers, so as to return to a 'state' where violence would replace law, in a word to an authoritarianism close to Nazism."
19. See H. Mohnhaupt, "L'État de droit en Allemagne: histoire, notion, fonction," *Cahiers de philosophie politique et juridique*, no. 24, 1993: "L'État de droit," pp. 75-76: "The notion of the

- Rule of law (*l'Etat de droit*) in Germany was directed, on the one hand, against the police state, that is to say, state administration in the sense of the Welfare State, and on the other, against the arbitrary state of absolutism. The combination of the two words *droit* and *Etat* appeared for the first time in Germany in 1798, in Johann Wilhelm Petersen who, under the name of Placidus [*Literatur der Staats-Lehre. Eine Versuch*, 1 (Strasbourg: 1798) p. 73], described with this formula the philosophical juridical doctrine of Kant which he entitled 'the critique or the school of the doctrine of the Rule of law (*l'Etat de droit*)' [*Die kritische oder die Schule der Rechts-Staats-Lehre*]. See M. Stolleis, "Rechtsstaat," in *Handwörterbuch zur deutschen Rechtsgeschichte*, vol. IV (Berlin: E. Schmidt, 1990) col 326, and by the same author, *Geschichte des öffentlichen Rechts in Deutschland* (Munich: C.H. Beck, 1988) vol. 1, p. 326; French translation by M. Senellart as *Histoire du droit public en Allemagne, 1600-1800* (Paris: PUF, 1998) p. 490.
20. C. Th. Welcker, *Die letzten Gründe von Recht, Staat und Strafe* (Giessen: Heyer, 1813), pp. 13-26. See H. Mohnhaupt, "L'Etat de droit in Allemagne: histoire, notion, fonction," p. 78: "[He traced] the following stages of the development of the state: despotism, as state of sensibility, theocracy as state of belief, and, as the supreme development the 'Rule of Law (*Etat de droit*)' as 'state of reason'." The manuscript, p. 12, adds the following references: "Von Mohl, studies on the United States and federal law (*Bundesstaatsrecht*) [- *Das Bundesstaatsrecht der Vereinigten Staaten von Nord-Amerika* (Stuttgart: 1824)], *Polizwissenschaft nach den Grundsätzen des Rechtsstaates* ([Tübingen: Laupp] 2 vol., 1832-1833); F.J. Stahl, *Philosophie des Rechts* [= *Die Philosophie des Rechts nach geschichtlicher Ansicht* (Heidelberg: J.C.B. Mohr, 1830-1837) 2 vol.]"
 21. Rudolf von Gneist, *Der Rechtsstaat* (Berlin: J. Springer, 1872); 2nd edition with the title *Der Rechtsstaat und die Verwaltungsgesichte in Deutschland* (Berlin: J. Springer, 1879). Foucault relies here on F. Hayek, to whom he refers later, *The Constitution of Liberty*, 1976 ed., p. 200 (ch. 13: "Liberalism and Administration: The 'Rechtsstaat'").
 22. Otto Bähr, *Der Rechtsstaat. Eine publizistische Skizze* (Cassel: Wigand, 1864), republished (Aalen: Scientia Verlag, 1961). See Hayek, *The Constitution of Liberty*, p. 200 on this "jurist" conception of the *Rechtsstaat*. On this point, see M. Stolleis, *Geschichte des öffentlichen Rechts in Deutschland* (Munich: C.H. Beck, 1992) p. 387.
 23. F. Hayek, *The Constitution of Liberty*, pp. 203-204, refers here to the classic work of A.V. Dicey, *Lectures Introductory to the Study of the Law of the Constitution* (London: Macmillan & Co., 1886), which he reproaches for "completely misunderstanding the use of the term [*Rule of Law/Rechtsstaat*] on the continent" *ibid.* p. 484, n. 35.
 24. The heir of the old *Conseil du roi*, the *Conseil d'Etat* was created by the Constitution of Year VIII (15 December 1799) and is the highest jurisdictional organ in France. "Since the reform of 1953, it has recognized three types of disputed appeal: in the first instance, against certain important administrative acts, such as decrees, in appeal against all judgments made by administrative courts, and in cassation against the rulings of administrative jurisdictions deliberating in the final instance. The rulings of the Council of State all enjoy the definitive authority of the matter judged" (*Encyclopaedia Universalis*, Thesaurus, t. 18, 1974, p. 438).
 25. Hayek, after remarking that Dicey, ignoring the German evolution of administrative law, only had knowledge of the French system, observes that, in relation to the latter "his severe strictures may then have been somewhat justified, although even at that time the *Conseil d'Etat* had already initiated a development which, as a modern observer has suggested [M.A. Sieghart, *Government by Decree* (London: Stevens, 1950) p. 221] 'might in time succeed in bringing all discretionary powers of the administration ... within the range of judicial control'" *The Constitution of Liberty*, p. 204. He adds, however, that Dicey later recognized that he was partly mistaken, in his article, "*Droit administratif* in Modern French Law," *Law Quarterly Review*, vol. XVII, 1901.
 26. F.A. Hayek, *The Constitution of Liberty*. Actually, Foucault's references are not to this book but to *The Road to Serfdom*. See ch. 5, pp. 54-65: "Planning and the Rule of Law" which could be linked with ch. 15 of *The Constitution of Liberty*: "Economic policy and the Rule of Law."
 27. *Ibid.* (ch. VI) p. 55: "Economic planning of the collectivist kind necessarily involves the very opposite of this [the Rule of Law]."
 28. *Ibid.*: "Under the second [direction of economic activity by a central authority] the government directs the use of the means of production to particular ends."
 29. *Ibid.*: "The planning authority ... must constantly decide questions which cannot be answered by formal principles only, and in making these decisions it must set up distinctions of merit between the needs of different people."
 30. *Ibid.* p. 36: "What [the supporters of central planning] generally suggest is that the increasing difficulty of obtaining a coherent picture of the complete economic process makes it indispensable that things should be co-ordinated by some central agency if social life is not to dissolve in chaos."
 31. *Ibid.* p. 54: "government in all its actions is bound by rules fixed and announced beforehand—rules which make it possible to foresee with fair certainty how the authority will use its coercive powers in given circumstances," and, "under the Rule of Law the government is prevented from stultifying individual efforts by *ad hoc* action."
 32. *Ibid.* p. 36 (on the impossibility of having a "synoptic view" of the whole of the economic process): "As decentralisation has become necessary because nobody can consciously balance all the considerations bearing on the decisions of so many individuals, the co-ordination can clearly not be effected by 'conscious control,' but only by arrangements which convey to each agent the information he must possess in order effectively to adjust his decisions to those of others." On this necessary blindness of the state with regard to economic processes, see Foucault's reading of Adam Smith's "invisible hand" below, lecture of 28 March 1979, pp. 279-281.
 33. The manuscript refers here to *Road of Serfdom* [*sic*], but the quotation is undoubtedly a fairly free adaptation of the text. See p. 55: "Under the first [the Rule of Law] the government confines itself to fixing rules determining the conditions under which the available resources may be used, leaving to the individuals the decision for what ends they are to be used. Under the second [central planning] the government directs the use of the means of production to particular ends."
 34. Michael Polanyi (1891-1976): chemist, economist, and philosopher originally from Hungary (the brother of the historian Karl Polanyi). He was professor of chemistry at Manchester University from 1933 to 1948, and then professor of social sciences at the same university from 1948 to 1958. The quotation is taken from *The Logic of Liberty: Reflections and rejoinders* (London: Chicago University Press, 1951) p. 185: "... the main function of the existing spontaneous order of jurisdiction is to govern the spontaneous order of economic life. A consultative system of law develops and enforces the rules under which the competitive system of production and distribution operates. No marketing system can function without a legal framework which guarantees adequate proprietary powers and enforces contracts."
 35. See "Le citron et le lait" (October 1978) in *Dits et Ecrits*, 3, p. 698; English translation by Robert Hurley, "Lemon and Milk" in *Essential Works of Foucault*, 3, p. 438: "Law and Order is not simply the motto of American conservatism (...). Just as people say milk or lemon, we should say law or order. It is up to us to draw lessons for the future from that incompatibility."
 36. Foucault does not return to this subject in the next lecture.
 37. In 1977, Foucault participated in the days of reflection of the magistrate's union and discussed the work *Liberté, Libertés* (1976), directed by R. Badinter; he criticized "the increased role that the Socialist Party assigned to judges and judicial power as a means of social regulation" (Daniel Defert, "Chronologie," *Dits et Ecrits*, 1, p. 51). The text appeared posthumously in the Union's journal, *Justice*, no. 115, June 1984, pp. 36-39 (not reproduced in *Dits et Ecrits*).
 38. W. Röpke, *The Social Crisis of Our Times*, Part II, chapter 2, p. 193: "Indeed, the law courts of a country are the last citadel of the authority of the state and of trust in the state, and no state is completely lost where this citadel is still intact. This leads us to urge more insistently than has ever been done before that the law courts should be made organs of national economic policy and that they should be given jurisdiction over matters which up to now have been left to the administrative agencies." He sees the American anti-trust legislation, since the Sherman Act of 2 July 1890, as an example allowing one to see how "such a judicially directed economic policy is likely to work in practice."

39. See above, lecture of 14 February 1979, note 59.
40. See Joseph A. Schumpeter, *Capitalism, Socialism and Democracy*, Part II: "Can Capitalism Survive?" and in particular pp. 139-142, "The Destruction of the Institutional Framework of Capitalist Society."
41. Ibid. p. 167: "By socialist society we shall designate an institutional pattern in which the control over the means of production and over production itself is vested with a central authority—or, as we may say, in which, as a matter of principle, the economic affairs of society belong to the public and not to the private sphere."
42. See *ibid.*, Part IV, pp. 232-302: "Socialism and Democracy." See in particular the conclusion, pp. 296-302, on the problem of democracy in a socialist regime: "No responsible person can view with equanimity the consequences of extending the democratic method, that is to say the sphere of 'politics,' to all economic affairs. Believing that democratic socialism means precisely this, such a person will naturally conclude that democratic socialism must fail. But this does not necessarily follow. As has been pointed out before, extension of the range of public management does not imply corresponding extension of the range of political management. Conceivably, the former may be extended so as to absorb a nation's economic affairs while the latter still remains within the boundaries set by the limitations of the democratic method."



7 MARCH 1979

General remarks: (1) The methodological scope of the analysis of micro-powers. (2) The inflationism of state phobia. Its links with ordoliberalism. ~ Two theses on the totalitarian state and the decline of state governmentality in the twentieth century. ~ Remarks on the spread of the German model, in France and in the United States. ~ The German neo-liberal model and the French project of a "social market economy." ~ The French context of the transition to a neo-liberal economics. ~ French social policy: the example of social security. ~ The separation of the economic and the social according to Giscard d'Estaing. ~ The project of a "negative tax" and its social and political stakes. "Relative" and "absolute" poverty. Abandonment of the policy of full employment.

I WOULD LIKE TO assure you that, in spite of everything, I really did intend to talk about biopolitics, and then, things being what they are, I have ended up talking at length, and maybe for too long, about neo-liberalism, and neo-liberalism in its German form. I must however explain a little this change to the direction I wanted to give these lectures. Obviously, I have not spoken at such length about neo-liberalism, and worse, about the German form of neo-liberalism, because I wanted to trace the historical or theoretical "background"* of German Christian

*In English in the original; G.B.

28 MARCH 1979

The model of homo oeconomicus. ~ Its generalization to every form of behavior in American neo-liberalism. ~ Economic analysis and behavioral techniques. ~ Homo oeconomicus as the basic element of the new governmental reason appeared in the eighteenth century. ~ Elements for a history of the notion of homo oeconomicus before Walras and Pareto. ~ The subject of interest in English empiricist philosophy (Hume). ~ The heterogeneity of the subject of interest and the legal subject: (1) The irreducible nature of interest in comparison with juridical will. (2) The contrasting logics of the market and the contract. ~ Second innovation with regard to the juridical model: the economic subject's relationship with political power. Condorcet. Adam Smith's "invisible hand": invisibility of the link between the individual's pursuit of profit and the growth of collective wealth. The non-totalizable nature of the economic world. The sovereign's necessary ignorance. ~ Political economy as critique of governmental reason: rejection of the possibility of an economic sovereign in its two, mercantilist and physiocratic, forms. ~ Political economy as a science lateral to the art of government.

TODAY I WOULD LIKE to start from the things I have been explaining over the last weeks and go back a bit toward what I took as my starting point at the beginning of the year. Last week I tried to show how American neo-liberals apply, or at any rate try to apply economic analysis

to a series of objects, to domains of behavior or conduct which were not market forms of behavior or conduct: they attempt to apply economic analysis to marriage, the education of children, and criminality, for example. This of course poses a problem of both theory and method, the problem of the legitimacy of applying such an economic model, the practical problem of the heuristic value of this model, etcetera. These problems all revolve around a theme or a notion: *homo æconomicus*, economic man. To what extent is it legitimate, and to what extent is it fruitful, to apply the grid, the schema, and the model of *homo æconomicus* to not only every economic actor, but to every social actor in general inasmuch as he or she gets married, for example, or commits a crime, or raises children, gives affection and spends time with the kids? So there is a problem of the validity of the applicability of this grid of *homo æconomicus*. Actually, this problem of the application of *homo æconomicus* has become one of the classics of neo-liberal discussion in the United States. The background* of this analysis, well, the first text, is the book by von Mises, *Human Action*,¹ and you will also find in the years 1960-1970, and especially in 1962,² a series of articles in the *Journal of Political Economy*: articles by Becker,³ Kirzner,⁴ and others.

This problem of *homo æconomicus* and its applicability seems to me to be interesting because I think there are important stakes in the generalization of the grid of *homo æconomicus* to domains that are not immediately and directly economic. The most important stake is no doubt the problem of the identification of the object of economic analysis with any conduct whatsoever entailing an optimal allocation of scarce resources to alternative ends, which is the most general definition of the object of economic analysis as defined, roughly, by the neo-classical school.⁵ But behind this identification of the object of economic analysis with conducts involving an optimal allocation of scarce resources to alternative ends we find the possibility of a generalization of the economic object to any conduct which employs limited means to one end among others. And we reach the point at which maybe the object of economic analysis should be identified with any purposeful conduct which involves,

* In English in the lecture; G.B.

broadly speaking, a strategic choice of means, ways, and instruments: in short, the identification of the object of economic analysis with any rational conduct. In the end, is not economics the analysis of forms of rational conduct and does not all rational conduct, whatever it may be, fall under something like economic analysis? Is not a rational conduct, like that which consists in formal reasoning, an economic conduct in the sense we have just defined, that is to say, the optimal allocation of scarce resources to alternative ends, since formal reasoning consists in deploying certain scarce resources—a symbolic system, a set of axioms, rules of construction, and not just any symbolic system or any rules of construction, but just some—to be used to optimal effect for a determinate and alternative end, in this case a true rather than a false conclusion which we try to reach by the best possible allocation of scarce resources? So, if it comes to it, we do not see why we would not define any rational conduct or behavior whatsoever as the possible object of economic analysis.

In truth, this already extremely extensive definition is not even the only one, and Becker, for example—the most radical of the American neo-liberals, if you like—says that it is still not sufficient, that the object of economic analysis can be extended even beyond rational conduct as defined and understood in the way I have just described, and that economic laws and economic analysis can perfectly well be applied to non-rational conduct, that is to say, to conduct which does not seek at all, or, at any rate, not only to optimize the allocation of scarce resources to a determinate end.⁶ Becker says: Basically, economic analysis can perfectly well find its points of anchorage and effectiveness if an individual's conduct answers to the single clause that the conduct in question reacts to reality in a non-random way. That is to say, any conduct which responds systematically to modifications in the variables of the environment, in other words, any conduct, as Becker says, which "accepts reality," must be susceptible to economic analysis.⁷ *Homo æconomicus* is someone who accepts reality. Rational conduct is any conduct which is sensitive to modifications in the variables of the environment and which responds to this in a non-random way, in a systematic way, and economics can therefore be defined as the science of the systematic nature of responses to environmental variables.

This is a colossal definition, which obviously economists are far from endorsing, but it has a certain interest. It has a practical interest, if you

like, inasmuch as if you define the object of economic analysis as the set of systematic responses to the variables of the environment, then you can see the possibility of integrating within economics a set of techniques, those called behavioral techniques, which are currently in fashion in the United States. You find these methods in their purest, most rigorous, strictest or aberrant forms, as you wish, in Skinner,⁸ and precisely they do not consist in analyzing the meaning of different kinds of conduct, but simply in seeing how, through mechanisms of reinforcement, a given play of stimuli entail responses whose systematic nature can be observed and on the basis of which other variables of behavior can be introduced. In fact, all these behavioral techniques show how psychology understood in these terms can enter the definition of economics given by Becker. There is little literature on these behavioral techniques in France. In Castel's last book, *The Psychiatric Society*, there is a chapter on behavioral techniques and you will see how this is precisely the implementation, within a given situation—in this case, a hospital, a psychiatric clinic—of methods which are both experimental and involve a specifically economic analysis of behavior.⁹

Today though, I would like to emphasize a different aspect. This is that Becker's definition, which, again, although it is not recognized by the average economist, or even by the majority of them, nonetheless, despite its isolated character, enables us to highlight a paradox, because *homo æconomicus* as he appears in the eighteenth century—I will come back to this shortly—basically functions as what could be called an intangible element with regard to the exercise of power. *Homo æconomicus* is someone who pursues his own interest, and whose interest is such that it converges spontaneously with the interest of others. From the point of view of a theory of government, *homo æconomicus* is the person who must be let alone. With regard to *homo æconomicus*, one must *laissez-faire*; he is the subject or object of *laissez-faire*. And now, in Becker's definition which I have just given, *homo æconomicus*, that is to say, the person who accepts reality or who responds systematically to modifications in the variables of the environment, appears precisely as someone manageable, someone who responds systematically to systematic modifications artificially introduced into the environment. *Homo æconomicus* is someone who is eminently governable. From being the intangible partner of *laissez-faire*,

homo æconomicus now becomes the correlate of a governmentality which will act on the environment and systematically modify its variables.

I think this paradox enables us to pinpoint the problem I would like to say something about, which is precisely this: since the eighteenth century, has *homo æconomicus* involved setting up an essentially and unconditionally irreducible element against any possible government? Does the definition of *homo æconomicus* involve marking out the zone that is definitively inaccessible to any government action? Is *homo æconomicus* an atom of freedom in the face of all the conditions, undertakings, legislation, and prohibitions of a possible government, or was he not already a certain type of subject who precisely enabled an art of government to be determined according to the principle of economy, both in the sense of political economy and in the sense of the restriction, self-limitation, and frugality of government? Obviously, the way in which I have formulated this question gives the answer straightaway, but this is what I would like to talk about, that is to say, *homo æconomicus* as the partner, the vis-à-vis, and the basic element of the new governmental reason formulated in the eighteenth century.

In actual fact, to tell the truth there is no theory of *homo æconomicus*, or even a history of his notion.¹⁰ You practically have to wait for what are called the neo-classical economists, Walras¹¹ and Pareto,¹² to see the more or less clear emergence of what is understood by *homo æconomicus*. But this notion was in fact employed even before Walras and Pareto, although it was not conceptualized very rigorously. How can we consider this problem of *homo æconomicus* and its appearance? To simplify things, and somewhat arbitrarily, I will start, as from a given, with English empiricism and the theory of the subject which is in fact put to work in English empiricist philosophy, with the view that—once again, I am making a somewhat arbitrary division—the theory of the subject in English empiricism probably represents one of the most important mutations, one of the most important theoretical transformations in Western thought since the Middle Ages.

What English empiricism introduces—let's say, roughly, with Locke¹³—and doubtless for the first time in Western philosophy, is a subject who is not so much defined by his freedom, or by the opposition of soul and body, or by the presence of a source or core of concupiscence

marked to a greater or lesser degree by the Fall or sin, but who appears in the form of a subject of individual choices which are both irreducible and non-transferable. What do I mean by irreducible? I will take Hume's very simple and frequently cited passage,¹⁴ which says: What type of question is it, and what irreducible element can you arrive at when you analyze an individual's choices and ask why he did one thing rather than another? Well, he says: "You ask someone, 'Why do you exercise?' He will reply, 'I exercise because I desire health.' You go on to ask him, 'Why do you desire health?' He will reply, 'Because I prefer health to illness.' Then you go on to ask him, 'Why do you prefer health to illness?' He will reply, 'Because illness is painful and so I don't want to fall ill.' And if you ask him why is illness painful, then at that point he will have the right not to answer, because the question has no meaning." The painful or non-painful nature of the thing is in itself a reason for the choice beyond which you cannot go. The choice between painful and non-painful is a sort of irreducible that does not refer to any judgment, reasoning, or calculation. It is a sort of regressive end point in the analysis.

Second, this type of choice is non-transferable. I do not mean that it is non-transferable in the sense that one choice could not be replaced by another. You could perfectly well say that if you prefer health to illness, you may also prefer illness to health, and then choose illness. It is also clear that you may perfectly well say: I prefer to be ill and that someone else is not. But, in any case, on what basis will this substitution of one choice for another be made? It will be made on the basis of my own preference and on the basis of the fact that I would find someone else being ill more painful, for example, than being ill myself. In the end the principle of my choice really will be my own feeling of painful or not-painful, of pain and pleasure. There is Hume's famous aphorism which says: If I am given the choice between cutting my little finger and the death of someone else, even if I am forced to cut my little finger, nothing can force me to think that cutting my little finger is preferable to the death of someone else.¹⁵

So, these are irreducible choices which are non-transferable in relation to the subject. This principle of an irreducible, non-transferable, atomistic individual choice which is unconditionally referred to the subject himself is what is called interest.

What I think is fundamental in English empiricist philosophy—which I am treating completely superficially—is that it reveals something which absolutely did not exist before. This is the idea of a subject of interest, by which I mean a subject as the source of interest, the starting point of an interest, or the site of a mechanism of interests. For sure, there is a series of discussions on the mechanism of interest itself and what may activate it: is it self-preservation, is it the body or the soul, or is it sympathy? But this is not what is important. What is important is the appearance of interest for the first time as a form of both immediately and absolutely subjective will.

I think the problem and that which gets the problematic of *homo oeconomicus* underway is whether this subject of interest or form of will called interest can be considered as the same type of will as the juridical will or as capable of being connected to the juridical will. At first sight, we can say although interest and the juridical will cannot be completely assimilated to each other, they may perfectly well be reconciled. And in fact this is what we see from the end of the seventeenth century up to the middle of the eighteenth century and a jurist like Blackstone:¹⁶ a kind of mixture of juridical analysis and analysis in terms of interest. For example, when Blackstone addresses the problem of the original contract, of the social contract, he says: Why have individuals entered into the contract? Well, they have entered the contract because they have an interest. Every individual has his interests, but in the state of nature and before the contract, these interests are threatened. So, to protect at least some of their interests they are forced to sacrifice others. The immediate will be sacrificed for what is more important and possibly deferred.¹⁷ In short, interest appears here as an empirical source of the contract. And the juridical will which is then formed, the legal subject who is constituted through the contract, is basically the subject of interest, but a purified subject of interest who has become calculating, rationalized, and so on. Now in relation to this, if you like, somewhat loose analysis, in which juridical will and interest are mixed together and intertwined, generating each other, Hume notes that it's not like this and that things are not so simple. Why, Hume says, do you enter the contract? Out of interest. You enter the contract out of interest, because you realize that if you were alone and had no ties with others your interests would be

harm. But once you have entered the contract, why do you respect it? The jurists say, and Blackstone in particular said around this time: You respect the contract because once individual subjects of interest have recognized the interest in entering the contract, the obligation of the contract constitutes a sort of transcendence in relation to which the subject finds himself, in a way, subjected and constrained, so that, having become a subject of right, he will obey the contract. Hume replies to this: But this won't do at all, because in fact, if you obey a contract this is not because it is a contract, because you are held by the obligation of the contract, or, in other words, because you have suddenly become a subject of right and ceased being a subject of interest. If you continue to respect the contract it is simply because you hold to the following reasoning: "The commerce with our fellows from which we draw such great advantages would have no security if we did not respect our engagements."¹⁸ This means that it is not because we have contracted that we respect the contract, but because it is in our interest that there is a contract. That is to say, the appearance and the emergence of the contract have not replaced a subject of interest with a subject of right. In a calculation of interest, the subject of interest has constituted a form, an element in which he will continue to have a certain interest right to the end. And if, moreover, the contract no longer offers an interest, nothing can oblige me to continue to comply with it.¹⁹ So, juridical will does not take over from interest. The subject of right does not find a place for itself in the subject of interest. The subject of interest remains, subsists, and continues up to the time a juridical structure, a contract exists. For as long as the law exists, the subject of interest also continues to exist. The subject of interest constantly overflows the subject of right. He is therefore irreducible to the subject of right. He is not absorbed by him. He overflows him, surrounds him, and is the permanent condition of him functioning. So, interest constitutes something irreducible in relation to the juridical will. This is the first point.

Second, the subject of right and the subject of interest are not governed by the same logic. What characterizes the subject of right? Of course, at the outset he has natural rights. But he becomes a subject of right in a positive system only when he has agreed at least to the principle of ceding these rights, of relinquishing them, when he has subscribed to

their limitation and has accepted the principle of the transfer. That is to say, the subject of right is, by definition, a subject who accepts negativity, who agrees to a self-renunciation and splits himself, as it were, to be, at one level, the possessor of a number of natural and immediate rights, and, at another level, someone who agrees to the principle of relinquishing them and who is thereby constituted as a different subject of right superimposed on the first. The dialectic or mechanism of the subject of right is characterized by the division of the subject, the existence of a transcendence of the second subject in relation to the first, and a relationship of negativity, renunciation, and limitation between them, and it is in this movement that law and the prohibition emerge.

On the other hand—and this is where the economists' analysis links up with this theme of the subject of interest and gives it a sort of empirical content—the subject of interest is not at all governed by the same mechanism. What the analysis of the market shows, for example, what the physiocrats in France, the English economists, and even theorists like Mandeville²⁰ reveal, is that fundamentally the subject of interest is never called upon to relinquish his interest. Consider, for example, what takes place with the grain market—you recall, we talked about this last time²¹—when there is an abundant harvest in one country and dearth in another. The legislation in most countries prohibited unlimited export of wheat from the rich country to the country suffering from dearth so as not to cause shortages in the country which had reserves. The economists' [response] to this is: Absurdity! Let the mechanism of interests operate, let the sellers rush their grain to the countries where there is dearth, where grain is dear and sells easily, and you will see that the more they pursue their own interests the better things will be and you will have a general advantage which will be formed on the basis of the maximization of the interest of each. Not only may each pursue their own interest, they must pursue their own interest, and they must pursue it through and through by pushing it to the utmost, and then, at that point, you will find the elements on the basis of which not only will the interest of others be preserved, but will thereby be increased. So, with the subject of interest, as the economists make him function, there is a mechanism which is completely different from the dialectic of the subject of right, since it is an egoistic mechanism, a directly multiplying

mechanism without any transcendence in which the will of each harmonizes spontaneously and as it were involuntarily with the will and interest of others. We could not be more distant from the dialectic of renunciation, transcendence, and the voluntary bond of the juridical theory of the contract. The market and the contract function in exactly opposite ways and we have in fact two heterogeneous structures.

To summarize this, we could say that at first sight it seems that the analysis of interest in the eighteenth century can be linked to the theory of the contract without too much difficulty, but when it is examined more closely it in fact gives rise to what I think is a completely new, heterogeneous problematic in relation to the typical elements of the doctrine of the contract and the subject of right.* At the point of intersection, as it were, of the empirical conception of the subject of interest and the analyses of the economists, a subject can be defined who is a subject of interest and whose action has a multiplying and beneficial value through the intensification of interest, and it is this that characterizes *homo oeconomicus*. In the eighteenth century the figure of *homo oeconomicus* and the figure of what we could call *homo juridicus* or *homo legalis* are absolutely heterogeneous and cannot be superimposed on each other.

Given this heterogeneity, I think we need to go further and say first of all that not only are the economic subject and the subject of right formally heterogeneous for the reasons I have just given, but it seems to me that, partly as a consequence of this, the economic subject and the subject of right have an essentially different relationship with political power. Or, if you like, with regard to the question of the foundation and exercise of power, the question posed by the problematic of economic man is completely different from that which could be posed by the figure and element of juridical man, the legal subject. To understand what is radically new in economic man from the point of view of the problem of power and of the legitimate exercise of power, I would like to start by quoting a text from Condorcet, which seems to me to be rather illuminating on this.

* The manuscript, p. 9, adds: "a) First by an empirical radicalism in the manner of Hume, b) then by an analysis of the mechanisms of the market."

It comes from *Les Progrès de l'esprit humain*, in the Ninth era. Condorcet says: If we consider the interest of an individual apart from the general system of a society—he does not mean an individual isolated from society (that is to say, he does not consider an individual alone), he means: take an individual in society, and consider his own, peculiar interest—then this specifically individual interest of someone who finds himself within the general system of not only one society, but of societies, has two characteristics. The first is that it is an interest which is dependent upon on an infinite number of things. The interest of the individual will depend on accidents of nature about which he can do nothing and which he cannot foresee. It depends on more or less distant political events. In short, the individual's enjoyment is linked to a course of the world that outstrips him and eludes him in every respect. The second characteristic is that, on the other hand, despite everything "in this apparent chaos," Condorcet says, "we see nonetheless, through a general law of the moral world, the efforts each makes for himself serving the good of all."²² This means, on the one hand, that each is dependent on an uncontrollable, unspecified whole of the flow of things and the world. In a way, the most distant event taking place on the other side of the world may affect my interest, and there is nothing I can do about it. The will of each, the interest of each, and the way in which this interest is or is not realized are bound up with a mass of elements which elude individuals. At the same time, this individual's interest, without him knowing it, wishing it, or being able to control it, is linked to a series of positive effects which mean that everything which is to his advantage will turn out to be to the advantage of others. So that economic man is situated in what we could call an indefinite field of immanence which, on the one hand, links him, in the form of dependence, to a series of accidents, and, on the other, links him, in the form of production, to the advantage of others, or which links his advantage to the production of the advantage of others. The convergence of interests thus doubles and covers the indefinite diversity of accidents.

The situation of *homo oeconomicus* could therefore be described as doubly involuntary, with regard to the accidents which happen to him and with regard to the benefit he unintentionally produces for others. It is also doubly indefinite since, on the one hand, the accidents upon which

his interest depends belong to a domain which cannot be covered or totalized and, on the other, the benefit he produces for others by producing his own benefit is also indefinite and cannot be totalized. His situation is therefore doubly involuntary, indefinite, and non-totalizable, but all these involuntary, indefinite, uncontrollable, and non-totalizable features of his situation do not disqualify his interest or the calculation he may make to maximize it. On the contrary, all these indefinite features of his situation found, as it were, the specifically individual calculation that he makes; they give it consistency, effect, insert it in reality, and connect it in the best possible way to the rest of the world. So, we have a system in which *homo æconomicus* owes the positive nature of his calculation precisely to everything which eludes his calculation. We arrive here, of course, at the unavoidable text, Adam Smith's famous words in the second chapter of Book IV, the only place, as you know, in *The Wealth of Nations*, where he speaks of this famous thing, and where he says: "By preferring the support of domestick to that of foreign industry, he intends only his own security; and by directing that industry in such a manner as its produce may be of the greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention."²³ So we are at the heart of the problematic of the invisible hand, which is the correlate of *homo æconomicus* if you like, or rather is that kind of bizarre mechanism which makes *homo æconomicus* function as an individual subject of interest within a totality which eludes him and which nevertheless founds the rationality of his egoistic choices.

What is this invisible hand? Well, of course, it is usually said that the invisible hand refers to a more or less well thought-out economic optimism in Smith's thought. It is also usually said that we should see the invisible hand as the remains of a theological conception of the natural order. Through the notion of the invisible hand, Smith would be someone who more or less implicitly fixed the empty, but nonetheless secretly occupied place of a providential god who would occupy the economic process a bit like Malebranche's God occupies the entire world down to the least gesture of every individual through the relay of an intelligible extension of which He is the absolute master.²⁴ Smith's invisible hand would be something like Malebranche's God, whose

intelligible extension would not be occupied by lines, surfaces, and bodies, but by merchants, markets, ships, carriages, and roads. A consequence of this would be the idea that there is an essential transparency in this economic world and that if the totality of the process eludes each economic man, there is however a point where the whole is completely transparent to a sort of gaze of someone whose invisible hand, following the logic of this gaze and what it sees, draws together the threads of all these dispersed interests. Therefore, there is the requirement, if not a postulate, of the total transparency of the economic world. Now if we read the text a bit further on, what does Adam Smith say? He is speaking of those people who, without really knowing why or how, pursue their own interest and this ends up benefiting everyone. Each only thinks of his own gain and, in the end, the whole of industry benefits. People, he says, only think of their own gain and do not think about the benefit of everyone. And he adds that it is not always the worse for society that the end of benefiting all does not enter into merchants' concerns.²⁵ "I have never known much good done by those who affected to trade for the publick good. It is an affectation, indeed, not very common among merchants."²⁶ We can say, roughly: Thank heaven people are only concerned about their interests, thank heaven merchants are perfect egoists and rarely concern themselves with the public good, because that's when things start to go wrong.

So, in other words, there are two, absolutely coupled elements. For there to be certainty of collective benefit, for it to be certain that the greatest good is attained for the greatest number of people, not only is it possible, but it is absolutely necessary that each actor be blind with regard to this totality. Everyone must be uncertain with regard to the collective outcome if this positive collective outcome is really to be expected. Being in the dark and the blindness of all the economic agents are absolutely necessary.²⁷ The collective good must not be an objective. It must not be an objective because it cannot be calculated, at least, not within an economic strategy. Here we are at the heart of a principle of invisibility. In other words, what is usually stressed in Smith's famous theory of the invisible hand is, if you like, the "hand," that is to say, the existence of something like providence which would tie together all the dispersed threads. But I think the other element, invisibility, is at least

as important. Invisibility is not just a fact arising from the imperfect nature of human intelligence which prevents people from realizing that there is a hand behind them which arranges or connects everything that each individual does on their own account. Invisibility is absolutely indispensable. It is an invisibility which means that no economic agent should or can pursue the collective good.

But we must no doubt go further than economic agents; not only no economic agent, but also no political agent. In other words, the world of the economy must be and can only be obscure to the sovereign, and it is so in two ways. We are already familiar with one of these and there's no point in stressing it too much, which is that since the economic mechanism involves each pursuing his own interest, then each must be left alone to do so. Political power is not to interfere with this dynamic naturally inscribed in the heart of man. The government is thus prohibited from obstructing individual interests. This is what Adam Smith says when he writes: the common interest requires that each knows how to interpret his own interest and is able to pursue it without obstruction.²⁸ In other words, power, government, must not obstruct the interplay of individual interests. But it is necessary to go further. Not only must government not obstruct the interests of each, but it is impossible for the sovereign to have a point of view on the economic mechanism which totalizes every element and enables them to be combined artificially or voluntarily. The invisible hand which spontaneously combines interests also prohibits any form of intervention and, even better, any form of overarching gaze which would enable the economic process to be totalized. A text from Ferguson is very clear on this point. In his *Essay on the History of Civil Society*,²⁹ he says: "the more [the individual] gains for himself, the more he augments the wealth of his country ... When the refined politician would lend an active hand, he only multiplies interruptions and grounds of complaint; when the merchant forgets his own interest to lay plans for his country, the period of vision and chimera is near."³⁰ Ferguson takes the example of French and English settlements in America, and analyzing the French and English mode of colonization, he says: The French arrived with projects, administration, and their definition of what would be best for their American colonies. They constructed "great projects" that were only ever "in idea" and the French

colonies in America collapsed. What did the English bring to colonize America? Did they bring grand projects? Not at all. They arrived with "limited views." They had no other project than the immediate advantage of each, or rather, each had in mind only the limited view of their own project. As a result, industry was active and settlements flourished.³¹ Consequently, the economy, understood as a practice but also as a type of government intervention, as a form of action of the state or sovereign, can only be short-sighted, and if there were a sovereign who claimed to be long-sighted, to have a global and totalizing gaze, he would only ever see chimeras. In the middle of the eighteenth century, political economy denounces the paralogism of political totalization of the economic process.

That the sovereign is, can, and must be ignorant is what Adam Smith says in chapter 9 of Book IV of *The Wealth of Nations*, clarifying perfectly what he means by the invisible hand and what is important in the adjective "invisible." Smith says: "Every man, as long as he does not violate the laws of justice, must be able to pursue his interest and bring his capital where he pleases."³² So, the principle of *laissez-faire*: in any case, every man must follow his own interest. And as a result, he says somewhat hypocritically—I am the one saying it is hypocritical—the sovereign can only find this to his advantage, since he "is completely discharged of a duty, in the attempting to perform which he must always be exposed to innumerable delusions ... the duty of superintending the industry of private people, and of directing it towards the employments most suitable to the interest of the society."³³ I say this sentence is "hypocritical" because it could also be taken to mean that if the sovereign, one person surrounded by more or less loyal advisors, were to undertake the infinite task of superintending the totality of the economic process, there is no doubt that he would be deceived by disloyal administrators and ministers. But Smith also means that it is not just due to his ministers' disloyalty or the complexity of an inevitably uncontrollable administration that he would make mistakes. He would make mistakes for an, as it were, essential and fundamental reason. He could not fail to be mistaken, and what is more this is what the sentence says when speaking of this task, this duty, of which the sovereign must be relieved, that of superintending the totality of the economic process,

"for the proper performance of which no human wisdom or knowledge could ever be sufficient."³⁴

Economic rationality is not only surrounded by, but founded on the unknowability of the totality of the process. *Homo oeconomicus* is the one island of rationality possible within an economic process whose uncontrollable nature does not challenge, but instead founds the rationality of the atomistic behavior of *homo oeconomicus*. Thus the economic world is naturally opaque and naturally non-totalizable. It is originally and definitively constituted from a multiplicity of points of view which is all the more irreducible as this same multiplicity assures their ultimate and spontaneous convergence. Economics is an atheistic discipline; economics is a discipline without God; economics is a discipline without totality; economics is a discipline that begins to demonstrate not only the pointlessness, but also the impossibility of a sovereign point of view over the totality of the state that he has to govern. Economics steals away from the juridical form of the sovereign exercising sovereignty within a state precisely that which is emerging as the essential element of a society's life, namely economic processes. Liberalism acquired its modern shape precisely with the formulation of this essential incompatibility between the non-totalizable multiplicity of economic subjects of interest and the totalizing unity of the juridical sovereign.

The problematic of the economy is by no means the logical completion of the great problematic of sovereignty through which eighteenth century juridical-political thought strove to show how, by starting from individual subjects of natural right, one could arrive at the constitution of a political unity defined by the existence of an individual or collective sovereign who is the holder of part of the totality of these individual rights and at the same time the principle of their limitation. The economic problematic, the problematic of economic interest, is governed by a completely different configuration, by a completely different logic, type of reasoning, and rationality. In fact, from the eighteenth century the political-juridical world and the economic world appear as heterogeneous and incompatible worlds. The idea of an economic-juridical science is strictly impossible and what is more it has never in fact been constituted. *Homo oeconomicus* is someone who can say to the juridical sovereign, to the sovereign possessor of rights and founder of positive

law on the basis of the natural right of individuals: You must not. But he does not say: You must not, because I have rights and you must not touch them. This is what the man of right, *homo juridicus*, says to the sovereign: I have rights, I have entrusted some of them to you, the others you must not touch, or: I have entrusted you with my rights for a particular end. *Homo oeconomicus* does not say this. He also tells the sovereign: You must not. But why must he not? You must not because you cannot. And you cannot in the sense that "you are powerless." And why are you powerless, why can't you? You cannot because you do not know, and you do not know because you cannot know.

I think this is an important moment when political economy is able to present itself as a critique of governmental reason. I am using "critique" here in the specific, philosophical sense of the term.³⁵ Kant too, a little later moreover, had to tell man that he cannot know the totality of the world. Well, some decades earlier, political economy had told the sovereign: Not even you can know the totality of the economic process. There is no sovereign in economics. There is no economic sovereign. This is a very important point in the history of economic thought, certainly, but also and above all in the history of governmental reason. The absence or impossibility of an economic sovereign is a problem which will ultimately be raised throughout Europe, and throughout the modern world, by governmental practices, economic problems, socialism, planning, and welfare economics. All the returns and revivals of nineteenth and twentieth century liberal and neo-liberal thought are still a way of posing the problem of the impossibility of the existence of an economic sovereign. And with the appearance of planning, the state-controlled economy, socialism, and state socialism the problem will be whether we may not overcome in some way this curse against the economic sovereign which was formulated by political economy at its foundation and which is also the very condition of existence of political economy: In spite of everything, may there not be a point through which we can define an economic sovereignty?

On a more limited scale, it seems to me that the basic function or role of the theory of the invisible hand is to disqualify the political sovereign. If we situate it in its immediate context, and not in the history of liberalism over the last two centuries, it is very clear that this theory, understood

as the disqualification of the very possibility of an economic sovereign, amounts to a challenge to the police state I talked about last year.³⁶ The police state, or the state governed by *raison d'État*, with its mercantilist policies, was, from the seventeenth century, the perfectly explicit effort to constitute a sovereign who would no longer be a sovereign of right and in terms of right, but who could also be an administrative sovereign, that is to say, a sovereign who would, of course, be able to administer the subjects over whom he exercises sovereignty, but also the possible economic processes taking place between individuals, groups, and states. The police state, the state which implements the both voluntarist and mercantilist policy of sovereigns, or at any rate, of some seventeenth and eighteenth century sovereigns, like the French sovereign, rests in fact on the postulate that there must be an economic sovereign. Political economy is not just a refutation of mercantilist doctrines or practices. Adam Smith's political economy, economic liberalism, amounts to a disqualification of this entire project and, even more radically, a disqualification of a political reason indexed to the state and its sovereignty.

It is interesting to see even more precisely what the theory of the invisible hand is opposed to. It is opposed, very precisely, to what the physiocrats said almost at the same time or, at any rate, to what they were saying some years earlier, because from this point of view the position of the physiocrats is very interesting and very paradoxical. In France, the physiocrats analyzed the market and market mechanisms in precisely the terms I have talked about several times³⁷ and proved that the government, the state, or the sovereign must absolutely not interfere with the mechanism of interest which ensures that commodities go where they most easily find buyers and the best price. Physiocracy was therefore a strict critique of all the administrative rules and regulations through which the sovereign's power was exercised on the economy. But the physiocrats straightaway added this: Economic agents must be left free, but, first, we must take account of the fact that the entire territory of a country is basically the sovereign's property, or at any rate that the sovereign is co-owner of all the land of the country and so is therefore co-producer. This enabled them to justify taxation. So, in the physiocrat's conception, the sovereign, as co-owner of a country's lands and co-producer of its products, will correspond perfectly, as it were, in

principle and right as well as in fact, to all the production and all the economic activity of a country.

Second, the physiocrats say that the existence of an Economic Table, which enables the circuit of production and the formation of rent to be followed very exactly, gives the sovereign the possibility of exact knowledge of everything taking place within his country, thus giving him the power to control economic processes. That is to say, the Economic Table will offer the sovereign a principle of analysis and a sort of principle of transparency in relation to the whole of the economic process. So that if the sovereign leaves economic agents free, it is because, thanks to the Economic Table, he knows both what is taking place and how it should be taking place. Thus, in the name of this total knowledge, he will be able to accept freely and rationally, or rather, he will be forced by reason, knowledge, and truth to accept the principle of the freedom of economic agents. So that there will be a second perfect correspondence between the sovereign's knowledge and the freedom of individuals.

Finally, third, a good government—that is to say, the government of a sovereign who, thanks to the Economic Table, knows exactly what is taking place with regard to economic processes—will have to explain to the different economic agents, to the different subjects, how and why things are as they are and what they have to do to maximize their profit. There will have to be an economic knowledge spread as widely and uniformly as possible among all these subjects, and this economic knowledge, whose principle is found in the Economic Table drawn up by the physiocrats, will be common to economically well-educated subjects and to the sovereign who will be able to recognize the fundamental laws of the economy. So at the level of knowledge, at the level of the consciousness of truth, there will be a third perfect correspondence between the sovereign and the economic processes, or at least the economic agents. You can see therefore that the principle of *laissez-faire* in the physiocrats, the principle of the necessary freedom of economic agents can coincide with the existence of a sovereign who is all the more despotic and unrestrained by traditions, customs, rules, and fundamental laws as his only law is that of *évidence*, of a well-formed, well-constructed knowledge which he will share with the economic agents. It is here, and only here, that we have in fact the idea of a mutual transparency of the economic

and the political. It is here, and only here, that we can find the idea that economic agents must be allowed their freedom and that a political sovereignty will cover the totality of the economic process with a gaze in the uniform light, as it were, of evidence.

Adam Smith's invisible hand is the exact opposite of this. It is the critique of this paradoxical idea of total economic freedom and absolute despotism which the physiocrats tried to maintain in the theory of economic evidence. The invisible hand posits instead, as a rule, that this is not possible, that there cannot be a sovereign in the physiocratic sense, and that there cannot be despotism in the physiocratic sense, because there cannot be economic evidence. So you can see, from the start—if we call Adam Smith's theory and liberal theory the start of political economy—economic science never claimed that it had to be the line of conduct, the complete programming of what could be called governmental rationality. Political economy is indeed a science, a type of knowledge (*savoir*), a mode of knowledge (*connaissance*) which those who govern must take into account. But economic science cannot be the science of government and economics cannot be the internal principle, law, rule of conduct, or rationality of government. Economics is a science lateral to the art of governing. One must govern with economics, one must govern alongside economists, one must govern by listening to the economists, but economics must not be and there is no question that it can be the governmental rationality itself.

It seems to me that this is how we can comment on the theory of the invisible hand in relation to the problem of governmental rationality or of the art of governing. So, a problem arises: what will government be concerned with if the economic process, and the whole of the economic process, is not in principle its object? I think it is the theory of civil society, which I will try to talk about next week.

1. Ludwig von Mises, *Human Action: A treatise on economics*.
2. See in particular *Journal of Political Economy*, vol. 70 (5), October 1962, 2nd part, coordinated by T. Schultz, entirely devoted to the problem of the "investment in human beings."
3. G. Becker, "Investment in human capital: a theoretical analysis."
4. J.M. Kirzner, "Rational action and economic theory," *Journal of Political Economy*, vol. 70 (4), August 1962, pp. 380-385.
5. See above, lecture of 14 March 1979, notes 23 and 25.
6. See G. Becker, "Irrational action and economic theory," *Journal of Political Economy*, vol. 70 (1), August 1962, pp. 153-168.
7. *Ibid.*, p. 167: "Even irrational decision units must accept reality and could not, for example, maintain a choice that was no longer within their opportunity set. And these sets are not fixed or dominated by erratic variation, but are systematically changed by different economic variables (...)."
8. Burrhus Frederic Skinner (1904-1990), American psychologist and psycho-linguist, is one of the main representatives of the behaviorist school. Harvard professor from 1947, he published many books, amongst which, *Science and Human Behavior* (London: Collier-Macmillan, 1953); *Verbal Behavior* (Englewood Cliffs, NJ: Prentice Hall, 1957); and *Beyond Freedom and Dignity* (New York: A.A. Knopf, 1971). Hostile to the use of statistics, he thought individual behavior should be studied, "which presupposes control of the environment in which the subject is placed and the definition of informative measures of response. (...) When a subject moves in his environment, some of his behavior produces detectable modifications in the latter (contingencies of reinforcement). The effective response is a class of responses defined by the consequences it has for the subject and emitted in a given situation without being causally dependent on a stimulus of the situation. A rigorous control of the contingencies thus enables repeatable behavior to be selected" *Encyclopaedia Universalis*, Thesaurus, 1975, vol. 20, p. 1797. The end sought is therefore "selection of the relevant behavior by manipulation of programs of reinforcement" *ibid.*
9. F. Castel, R. Castel and A. Lovell, *La Société psychiatrique avancée: le modèle américain* (Paris: Grasset, 1979) ch. 4, pp. 138-139; English translation by Arthur Goldhammer, *The Psychiatric Society* (New York: Columbia University Press) pp. 113-115, on behavior modification, inspired by the principles of conditioning (Pavlov) and behaviorism (Thorndike, Skinner) in the psychiatric milieu (see also ch. 8, pp. 299-302; English, pp. 265-266).
10. See now P. Demeulenaere's book, *Homo oeconomicus. Enquête sur la constitution d'un paradigme* (Paris: PUF, 1996).
11. See above, lecture of 21 February 1979, note 12.
12. Vilfredo Pareto (1848-1923), Italian sociologist and economist, Walras' successor at the University of Lausanne. *Manuel d'économie politique* (1906), in *Œuvres complètes*, vol. VII (Geneva: Droz, 1981) pp. 7-18; English translation by Ann S. Schwier, *Manual of Political Economy* (London: Macmillan, 1972) pp. 12-14. See J. Freund, Pareto, *la théorie de l'équilibre* (Paris: Seghers, 1974) pp. 26-27 (*homo oeconomicus* according to Pareto), which Foucault had read.
13. John Locke (1632-1704), the author of *Essay concerning Human Understanding* (London: printed by E. Holt for T. Bassett, 1690).
14. David Hume (1711-1776), *An Enquiry Concerning the Principles of Morals* (1751) in *Enquiries Concerning Human Understanding and Concerning the Principles of Morals*, ed. L.A. Selby-Bigge (Oxford: The Clarendon Press, 1975, 3rd edition), Appendix 1, "Concerning Moral Sentiment" p. 293: "Ask a man *why he uses exercise*; he will answer, *because he desires to keep his health*. If you then enquire, *why he desires health*, he will readily reply, *because sickness is painful*. If you push your enquiries farther, and desire a reason *why he hates pain*, it is impossible he can ever give any. This is an ultimate end, and is never referred to any other object."
15. See D. Hume, *A Treatise of Human Nature* (1739-40), ed. L.A. Selby-Bigge (Oxford: Clarendon Press, 1978) Book III, Part III, section III, p. 416: "Where a passion is neither founded on false supposition, nor chuses means insufficient for the end, the understanding

- can neither justify nor condemn it. 'Tis not contrary to reason to prefer the destruction of the whole world to the scratching of my finger."
16. William Blackstone (1723-1780): conservative jurist and professor of Law at Oxford, where Bentham was his student 1763-64 (who later appears, on the basis of his *Fragment on Government* (1776) as the "anti-Blackstone" (Halévy)). The author of *Commentaries on the Laws of England* (Oxford: Clarendon Press, 1765-1769) in 4 volumes. See E. Halévy, *La Formation du radicalisme philosophique*, vol. 1, 1995 ed., pp. 55-56; *The Growth of Philosophic Radicalism*, pp. 35-36; Mohammed El Shakankiri, *La Philosophie juridique de Jeremy Bentham* (Paris: LJDJ, 1970) pp. 223-237.
 17. See *Commentaries*, vol. 1 (there is a good summary in M. El Shakankiri, pp. 236-238). On the mixture of juridical and utilitarian principles in Blackstone's justification of the penalty, see E. Halévy, *La Formation du radicalisme philosophique* p. 101; *The Growth of Philosophic Radicalism*, p. 58, who detects here a lack of coherence.
 18. D. Hume, "Of the Original Contract" in *Essays Moral, Political, and Literary*, ed. Eugene F. Miller (Indianapolis: Liberty Classics, 1987) p. 481: "We are bound to obey our sovereign, it is said; because we have given a tacit promise to that purpose. But why are we bound to observe our promise? It must here be asserted, that the commerce and intercourse of mankind, which are of such mighty advantage, can have no security where men pay no regard to their engagements." See also *A Treatise of Human Nature*, Book III, Part II, section VIII, "Of the source of allegiance."
 19. *A Treatise of Human Nature*, Book III, Part II, section IX, p. 553: "(...) if interest first produces obedience to government, the obligation to obedience must cease, whenever the interest ceases, in any great degree, and in a considerable number of instances."
 20. Bernard Mandeville (1670-1733), author of the famous *Fable of the Bees, or Private Vices, Publick Benefits* (1714) (Oxford: Clarendon Press, 1924; reprinted Indianapolis: Liberty Classics, 1988).
 21. Foucault means "last year." See *Sécurité, Territoire, Population; Security, Territory, Population*, lectures of 18 January and 5 April 1978.
 22. Condorcet (Jean-Antoine-Nicolas Caritat, marquis de, 1743-1794), *Esquisse d'un tableau historique des progrès de l'esprit humain* (1793), Ninth era (Paris: Garnier-Flammarion, 1988) p. 219: "How, in this astonishing variety of works and products, of needs and resources, in this frightening complication of interests, which links the isolated individual's subsistence and well-being to the general system of societies, which makes him dependent on all the accidents of nature and every political event, which, as it were, extends his capacity to experience enjoyment or privation to the entire globe, how, in this apparent chaos, do we see nonetheless, through a general law of the moral world, the efforts each makes for himself serving the well-being of all, and, despite the external clash of opposed interests, the common interest requires that each knows how to interpret his own interest and is able pursue it without obstruction?" [See below, note 28; G.B.]
 23. Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, eds. R.H. Campbell and A.S. Skinner (Oxford: Oxford University Press, 1976), Vol. I, Book IV, ch. 2, p. 456.
 24. Nicolas Malebranche (1638-1715), philosopher and theologian, member of the Oratorians. Foucault is referring here to the "occasionalist" thesis, or theory of "occasional causes," defended by Malebranche in several of his works—*De la Recherche de la vérité* (1674), *XV^e Éclaircissement*, (*Œuvres*, t. I (Paris: Gallimard, 1979) pp. 969-1014; *Entretiens sur la métaphysique et la religion* (1688), VII, *Œuvres*, t. II (1992) pp. 777-800, etcetera—according to which "only God is a real cause. What we call a natural cause is not at all a real and genuine cause, but simply, if we insist on keeping the name, an occasional cause, which, as a consequence of general laws, determines that God manifests his action, which alone is effective, in this way" (V. Delbos, "Malebranche et Maine de Biran," *Revue de métaphysique*, 1916, pp. 147-148). This omnipresent, but hidden God is the source of every movement and active inclination: "God, who alone can act in us, is now hidden from our eyes; his operations are not perceptible, and although he produces and conserves every being, the mind that so ardently seeks the cause of every thing has difficulty recognizing it, although it encounters it at every moment" (*De la Recherche de la vérité*, *XV^e Éclaircissement*, p. 969). On the theological sources of Smith's conception of the "invisible hand," see J. Viner, *The*

- Role of Providence in Social Order* (Philadelphia: Independence Square, 1972) ch. 3: "The invisible hand and the economic order."
25. A. Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, p. 456: "Nor is it always the worse for the society that it [the end, promotion of the publick interest] was no part of it [the individual's intention]."
 26. Ibid. Smith adds: "and very few words need be employed in dissuading them from it."
 27. On this necessary "blindness," see above, lecture of 21 February 1979, the analysis of the Rule of law and the criticism of planning according to Hayek.
 28. Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, p. 456: "By pursuing his own interest he frequently promotes that of the society more effectually than when he really intends to promote it." [The words Foucault attributes to Adam Smith here are in fact from Condorcet's *Esquisse d'un tableau historique des progrès de l'esprit humain*, quoted above in note 22. But see too, Smith, p. 531: "But the law ought always to trust people with the care of their own interest, as in their local situations they must generally be able to judge better of it than their legislator can do" and p. 540: "The natural effort of every individual to better his own condition ... is so powerful a principle, that it is alone, and without any assistance, not only capable of carrying on the society to wealth and prosperity, but of surmounting a hundred impertinent obstructions with which the folly of human laws too often incumbers its operations"; G.B.]
 29. Adam Ferguson, *An Essay on the History of Civil Society*, ed. Duncan Forbes (Edinburgh: Edinburgh University Press, 1966). Ferguson's *Essay* was first published in Edinburgh in 1767. The French translation by M. Bergier, *Essai sur l'histoire de la société civile*, appeared in the Librairie Mme Yves Desaint in 1783, although the text was printed five years previously. This translation, revised and corrected, was republished with an important introduction by C. Gautier (Paris: PUF, 1992).
 30. Adam Ferguson, *An Essay on the History of Civil Society*, p. 144. The sentence ends with these words "and the solid basis of commerce withdrawn."
 31. Ibid. p. 144: "the event has shewn, that private interest is a better patron of commerce and plenty, than the refinements of state. One nation lays the refined plan of a settlement on the continent of North America, and trusts little to the conduct of traders and short-sighted men; another leaves men to find their own position in a state of freedom, and to think of themselves. The active industry and limited views of the one, made a thriving settlement; the great projects of the other were still in idea."
 32. A. Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, p. 687: "Every man, as long as he does not violate the laws of justice, is left perfectly free to pursue his own interest in his own way, and to bring both his industry and capital into competition with those of any other man, or order of men."
 33. Ibid.
 34. Ibid.
 35. On the way in which Foucault interprets the Kantian critique at this time, see his lecture the previous year, "Qu'est-ce que la critique?" delivered on 27 May 1978 at the Société française de philosophie, *Bulletin de la société française de philosophie*, no. 2, April-June 1990, pp. 38-39 (not included in *Dits et Écrits*).
 36. See *Sécurité, Territoire, Population; Security, Territory, Population*, lectures of 29 March and 5 April 1978.
 37. See above, lecture of 17 January 1979 and *Sécurité, Territoire, Population; Security, Territory, Population*, lectures of 18 January and 5 April 1978.

4 APRIL 1979

Elements for a history of the notion of homo oeconomicus (II). ~ Return to the problem of the limitation of sovereign power by economic activity. ~ The emergence of a new field, the correlate of the liberal art of government: civil society. ~ Homo oeconomicus and civil society: inseparable elements of liberal governmental technology. ~ Analysis of the notion of "civil society": its evolution from Locke to Ferguson. Ferguson's An Essay on the History of Civil Society (1787). The four essential characteristics of civil society according to Ferguson: (1) it is an historical-natural constant; (2) it assures the spontaneous synthesis of individuals. Paradox of the economic bond; (3) it is a permanent matrix of political power; (4) it is the motor of history. ~ Appearance of a new system of political thought. ~ Theoretical consequences: (a) the question of the relations between state and society. The German, English, and French problematics; (b) the regulation of political power: from the wisdom of the prince to the rational calculations of the governed. ~ General conclusion.

LAST WEEK I TOUCHED on the theme of *homo oeconomicus* which has permeated economic thought, and especially liberal thought, since around the middle of the eighteenth century. I tried to show how *homo oeconomicus* was a sort of non-substitutable and irreducible atom of interest. I tried to show that this atom of interest could not be superimposed

on, was not identifiable with, and was not reducible to the essential characteristics of the subject of right in juridical thought; that *homo œconomicus* and the subject of right were therefore not superposable, and finally that *homo œconomicus* and the subject of right are not integrated into their respective domains according to the same dialectic, that is to say, that the subject of right is integrated into the system of other subjects of right by a dialectic of the renunciation of his own rights or their transfer to someone else, while *homo œconomicus* is integrated into the system of which he is a part, into the economic domain, not by a transfer, subtraction, or dialectic of renunciation, but by a dialectic of spontaneous multiplication.

I also tried to show that this difference, this irreducibility of *homo œconomicus* to the subject of right entails an important modification with regard to the sovereign and the exercise of sovereign power. In fact, the sovereign is not in the same position vis-à-vis *homo œconomicus* as he is vis-à-vis the subject of right. The subject of right may well, at least in some conceptions and analyses, appear as that which limits the exercise of sovereign power. But *homo œconomicus* is not satisfied with limiting the sovereign's power; to a certain extent, he strips the sovereign of power. Is power removed in the name of a right that the sovereign must not touch? No, that's not what's involved. *Homo œconomicus* strips the sovereign of power inasmuch as he reveals an essential, fundamental, and major incapacity of the sovereign, that is to say, an inability to master the totality of the economic field. The sovereign cannot fail to be blind vis-à-vis the economic domain or field as a whole. The whole set of economic process cannot fail to elude a would-be central, totalizing bird's-eye view. Let's say that in the classical conception of the sovereign in the Middle Ages, and still in the seventeenth century, there was something above the sovereign which was impenetrable, and this was God's intentions. A sovereign could be absolute and marked out as God's representative on Earth, but the designs of Providence still eluded him and encompassed him in their destiny. Now, beneath the sovereign, there is something which equally eludes him, and this is not the designs of Providence or God's laws but the labyrinths and complexities of the economic field. To that extent I think the emergence of the notion of *homo œconomicus* represents a sort of political challenge to

the traditional, juridical conception, whether absolutist or not, of the sovereign.

So, in relation to this, and considering things very abstractly and schematically, I think there were two possible solutions. We can say that if economic practice or economic activity, if the set of processes of production and exchange elude the sovereign, then, very well, we will limit the sovereign's sovereignty geographically, so to speak, and fix a sort of frontier to the exercise of his power: the sovereign will be able to intervene everywhere except in the market. The market will be, if you like, a sort of free port or free space in the general space of sovereignty. This is the first possibility. The second possibility is the concrete proposal supported by the physiocrats. It consists in saying that the sovereign really must respect the market, but this does not mean that there will be a sort of zone within his sovereignty in which he will not be able to intervene or from which he is excluded. Rather, it means that vis-à-vis the market the sovereign will have to exercise a completely different power than the political power he has exercised hitherto. Vis-à-vis the market and the economic process, the sovereign will not be someone who, by some right, possesses an absolute decision-making power. His relationship to the market will have to be like that of a geometer to geometrical realities, that is to say, he will have to recognize it: he will have to recognize it through an *évidence* which will put him in a position of both passivity with regard to the intrinsic necessity of the economic process and, at the same time, of supervision and, as it were, checking, or rather of total and constant verification of this process. In other words, in the physiocrats' perspective the sovereign will have to pass from political activity to theoretical passivity in relation to the economic process. He will become a sort of geometer of the economic domain forming part of his field of sovereignty. The first solution, that of limiting the activity of the sovereign to everything not pertaining to the market, consists in maintaining the same form of governmental reason, the same form of *raison d'État*, by simply carrying out a subtraction of the market object, or of the market or economic domain. The second solution, that of the physiocrats, consists in maintaining the full extent of the activity of governmentality, but fundamentally altering the very nature of this activity, since it changes its

the rules of right, a space of sovereignty which for good or ill is inhabited by economic subjects? How can a reason, a rational principle be found for limiting, other than by right or by the domination of economic science, a governmental practice which must take responsibility for the heterogeneity of the economic and the juridical? Civil society is not a philosophical idea therefore. Civil society is, I believe, a concept of governmental technology, or rather, it is the correlate of a technology of government the rational measure of which must be juridically pegged to an economy understood as process of production and exchange. The problem of civil society is the juridical structure (*économie juridique*) of a governmentality pegged to the economic structure (*économie économique*). And I think that civil society—which is very quickly called society, and which at the end of the eighteenth century is called the nation—makes a self-limitation possible for governmental practice and an art of government, for reflection on this art of government and so for a governmental technology; it makes possible a self-limitation which infringes neither economic laws nor the principles of right, and which infringes neither the requirement of governmental generality nor the need for an omnipresence of government. An omnipresent government, a government which nothing escapes, a government which conforms to the rules of right, and a government which nevertheless respects the specificity of the economy, will be a government that manages civil society, the nation, society, the social.

Homo œconomicus and civil society are therefore two inseparable* elements. *Homo œconomicus* is, if you like, the abstract, ideal, purely economic point that inhabits the dense, full, and complex reality of civil society. Or alternatively, civil society is the concrete ensemble within which these ideal points, economic men, must be placed so that they can be appropriately managed. So, *homo œconomicus* and civil society belong to the same ensemble of the technology of liberal governmentality.

You know how often civil society has been invoked, and not just in recent years. Since the nineteenth century, civil society has always been referred to in philosophical discourse, and also in political discourse, as

* M.F.: indispensable

a reality which asserts itself, struggles, and rises up, which revolts against and is outside government or the state, or the state apparatuses or institutions. I think we should be very prudent regarding the degree of reality we accord to this civil society. It is not an historical-natural given which functions in some way as both the foundation of and source of opposition to the state or political institutions. Civil society is not a primary and immediate reality; it is something which forms part of modern governmental technology. To say that it belongs to governmental technology does not mean that it is purely and simply its product or that it has no reality. Civil society is like madness and sexuality, what I call transactional realities (*réalités de transaction*). That is to say, those transactional and transitional figures that we call civil society, madness, and so on, which, although they have not always existed are nonetheless real, are born precisely from the interplay of relations of power and everything which constantly eludes them, at the interface, so to speak, of governors and governed. Civil society, therefore, is an element of transactional reality in the history of governmental technologies, a transactional reality which seems to me to be absolutely correlative to the form of governmental technology we call liberalism, that is to say, a technology of government whose objective is its own self-limitation insofar as it is pegged to the specificity of economic processes.

A few words, now, on this civil society and what characterizes it. I would like to try to show, at least in principle, because we are now coming to the end of the lectures, how this notion of civil society may indeed resolve the problems I have just tried to indicate. So, to start with, I will make a deplorably banal remark about civil society, namely, that the notion of civil society completely changed during the eighteenth century. Practically until the start of the second half of the eighteenth century, civil society designated something very different from what it will subsequently designate. In Locke, for example, civil society is precisely a society characterized by a juridical-political structure. It is society, the set of individuals who are linked to each other through a juridical and political bond. In this sense, the notion of civil society is absolutely indistinguishable from political society. In Locke's *Second Treatise of Government*, chapter 7 is entitled: "Of Political or Civil Society." So, until then, civil society is always a society characterized by

the existence of a juridical and political bond. It is from the second half of the eighteenth century, precisely at the time when the questions of political economy and of the governmentality of economic processes and subjects are being addressed, that the notion of civil society will change, if not totally, then at least in a significant way, and it will be thoroughly reorganized.

Of course, the notion of civil society is presented from different angles and in various forms throughout the second half of the eighteenth century. To simplify matters, I will take the most fundamental, almost statutory text regarding the characterization of civil society. This is Ferguson's famous text, translated into French in 1783 with the title *Essais sur l'histoire de la société civile*,² and which is very close to Adam Smith's *Wealth of Nations*, the word "nation" in Smith, moreover, having more or less the same meaning as civil society in Ferguson.³ We have here the political correlate, the correlate in terms of civil society, of what Adam Smith studied in purely economic terms. Ferguson's civil society is actually the concrete, encompassing element within which the economic men Smith tried to study operate. I would like to pick out three or four essential characteristics of this civil society in Ferguson: first, civil society understood as an historical-natural constant; second, civil society as principle of spontaneous synthesis; third, civil society as permanent matrix of political power; and fourth, civil society as the motor element of history.

First, civil society as an historical-natural constant. For Ferguson, in fact, civil society is a given beyond which there is nothing to be found. Nothing exists before civil society, says Ferguson, or if something exists, it is absolutely inaccessible to us, so withdrawn in the depths of time, so anterior, so to speak, to what gives man his humanity, that it is impossible to know what really could have taken place before the existence of civil society. Whether this non-society is described in terms of solitude and isolation, as if there could have been men scattered in nature without any union or means of communication, or whether it is described, as in Hobbes, in the form of an endless war or of a war of all against all, in any case, all this—solitude or war of all against all—should be located in a sort of mythical background which is of no use in the analysis of the phenomena which concern us. Human history has always existed "taken

in groups," Ferguson says on page four of the first volume of his *Essay on the History of Civil Society*.⁴ On page six he says society is "as old as the individual," and it would be as idle to imagine men not speaking to each other as it would be to imagine them without feet or hands.⁵ Language, communication, and so a certain constant relationship between men is absolutely typical of the individual and society, because the individual and society cannot exist without each other. In short, there was never a moment, or anyway it is pointless trying to imagine a moment when we passed from nature to history, or from non-society to society. The nature of human nature is to be historical, because the nature of human nature is to be social. There is no human nature which is separable from the very fact of society. Ferguson evokes the kind of myth or methodological utopia which was often taken up in the eighteenth century: Take a group of children, he says, who have been left to bring themselves up outside any other form of society. Imagine some children put in a desert and left to fend for themselves from the youngest age, and to develop all alone, without instruction or guidance. Well, what will we see if we return five, ten, or fifteen years later, provided, of course, that they are not dead? "We would see the members of this little society eating and sleeping, herding together and playing, developing a language, dividing and quarreling," striking up friendships and forsaking their own self-preservation for the sake of others.⁶ So, the social bond develops spontaneously. There is no specific operation to establish or found it. There is no need of the institution or self-institution of society. We are in society anyway. The social bond has no pre-history. Saying that the social bond has no pre-history means that it is both permanent and indispensable. Permanent means that however far back we go in the history of humanity, we will find not only society, of course, but nature. That is to say, there is no need to look somewhere else for the state of nature sought by philosophers in the reality or myth of the savage, we can find it right here. We will find the state of nature in France as well as at the Cape of Good Hope, since the state of nature requires man to live in the social state.⁷ Society studied even in its most complex and developed forms, society with the greatest state of consistency will always tell us what the state of nature is, since the state of nature requires us to live in society. So, the state of nature is permanent in the state of society, and

the state of society is also indispensable for the state of nature, that is to say, the state of nature can never appear in the naked and simple state. Ferguson says: "In the condition of the savage, as well as in that of the citizen, are many proofs of human invention."⁸ And he adds this phrase which is characteristic, not because it is a sort of point of origin, but because it points towards the theoretical possibility of an anthropology: "If the palace be unnatural, the cottage is so no less."⁹ That is to say, the primitive cottage is not the natural and pre-social expression of something. We are not closer to nature with a primitive cottage than with a palace. It is simply a different distribution, a different form of the necessary intertwining of the social and the natural, since the social is part of the natural and the natural is always conveyed by the social. So, we have the principle that civil society is an historical-natural constant for humanity.

Second, civil society assures the spontaneous synthesis of individuals. This returns us to what I have just said: spontaneous synthesis means there is no explicit contract, no voluntary union, no renunciation of rights, and no delegation of natural rights to someone else; in short, there is no constitution of sovereignty by a sort of pact of subjection. In fact, if civil society actually carries out a synthesis, it will quite simply be through a summation of individual satisfactions within the social bond itself. "How," Ferguson says, "can we conceive a happy public if its members, considered apart, be unhappy?"¹⁰ In other words, there is reciprocity between the whole and its components. Basically, we cannot say, we cannot imagine or conceive an individual to be happy if the whole to which he belongs is not happy. Better, we cannot even assess exactly an individual's quality, value, and virtue, we cannot attribute a coefficient of good or evil to the individual unless we think of it [the coefficient] in the reciprocity, or at any rate unless we think of it on the basis of the place he occupies, the role he performs, and the effects he produces within the whole. Every element of civil society is assessed by the good it will produce or bring about for the whole. We can say that a man is good, that he is fine only insofar as he is right for the place he occupies and, Ferguson says, "produces the effect it must produce."¹¹ But conversely, the value of the whole is not an absolute and is not to be attributed to the whole and only the whole, but to each member of this

whole: "it is likewise true, that the happiness of individuals is the great end of civil society."¹²

So you can see that we are not dealing with a mechanism or system of the exchange of rights. We are dealing with a mechanism of immediate multiplication that has in fact the same form as the immediate multiplication of profit in the purely economic mechanism of interests. The form is the same, but not the elements and contents. And this is why civil society can be both the support of the economic process and economic bonds, while overflowing them and being irreducible to them. For in civil society, that which joins men together is indeed a mechanism analogous to that of interests, but they are not interests in the strict sense, they are not economic interests. Civil society is much more than the association of different economic subjects, although the form in which this bond is established is such that economic subjects will be able to find a place and economic egoism will be able to play its role within it. In fact, what links individuals in civil society is not maximum profit from exchange, it is a series of what could be called "disinterested interests." What will this be? Well, Ferguson says, what links individuals to each other in civil society is instinct, sentiment, and sympathy, it is the impulses of benevolence individuals feel for each other, but is also the loathing of others, repugnance for the misfortune of individuals, but possibly the pleasure taken in the misfortune of others with whom one will break.¹³ This, then, is the first difference between the bonds that bring economic subjects together and those that bring together individuals belonging to civil society: there is a distinct set of non-egoist interests, a distinct interplay of non-egoist, disinterested interests which is much wider than egoism itself.

The second, equally important difference that we see emerging by bringing in these elements I have just been talking about is that the bond between economic subjects is, if you like, non-local. The analysis of the market proves that the multiplication of profits will ultimately be brought about through the spontaneous synthesis of egoisms over the whole surface of the globe. There is no localization, no territoriality, no particular grouping in the total space of the market. On the other hand, in civil society the bonds of sympathy and benevolence between some individuals are, as I was saying, the correlates of contrary bonds of

repugnance and the absence of support for or benevolence towards others. This means that civil society always appears as a limited ensemble, as one particular ensemble among others. Civil society does not coincide with humanity in general; it exists in the form of ensembles at the same or different levels which bring individuals together in a number of units. Civil society, Ferguson says, leads the individual to enlist "on the side of one tribe or community."¹⁴ Civil society is not humanitarian but communitarian. And in fact we see civil society appear in the family, village, and corporation, and, of course, at higher levels, reaching that of the nation in Adam Smith's sense, [in the sense given to it]* at more or less the same time in France. The nation is precisely one of the major forms, [but] only one of the possible forms, of civil society.

Having said this, you can see that the bond of economic interest occupies an ambiguous position in relation to these bonds of disinterested interests which take the form of local units and different levels.[†] On the one hand, you can see that the economic bond, the economic process which brings economic subjects together, will be able to lodge itself in this form of immediate multiplication which does not involve the renunciation of rights. Formally, therefore, civil society serves as the medium of the economic bond. But the economic bond plays a very strange role within civil society, where it finds a place, since while it brings individuals together through the spontaneous convergence of interests, it is also a principle of dissociation at the same time. The economic bond is a principle of dissociation with regard to the active bonds of compassion, benevolence, love for one's fellows, and sense of community, inasmuch as it constantly tends to undo what the spontaneous bond of civil society has joined together by picking out the egoist interest of individuals, emphasizing it, and making it more incisive. In other words, the economic bond arises within civil society, is only possible through [civil society], and in a way strengthens it, but in another way it undoes it. Thus, on page nineteen of the *Essay on the History of Civil*

* M.F.: as it is employed

† Foucault adds: which (have the look?) of communitarian bonds [words difficult to hear]

Society, Ferguson says: The bond between individuals is never stronger than when the individual has no direct interest; it is never stronger than when it is a question of sacrificing oneself for a friend, for example, or of staying with one's tribe rather than seeking abundance and security elsewhere.¹⁵ It is very interesting that this corresponds exactly to how economic rationality is defined. When the economic subject sees that he can make a profit by buying wheat in Canada, for example, and selling it in England, he will do so. He does it because it is to his advantage, and furthermore it will benefit everyone. However, the bonds of civil society mean that one prefers to stay in one's community, even if one finds abundance and security elsewhere. So, it is "in a commercial state where men may be supposed to have experienced, in its full extent, the interest which individuals have in the preservation of their country* ... that man is sometimes found a detached and solitary being: he has found an object which sets him in competition with his fellow-creatures."¹⁶ Consequently, the more we move towards an economic state, the more, paradoxically, the constitutive bond of civil society is weakened and the more the individual is isolated by the economic bond he has with everyone and anyone. This is the second characteristic of civil society: a spontaneous synthesis within which the economic bond finds its place, but which this same economic bond continually threatens.

The third characteristic of civil society is that it is a permanent matrix of political power. How does power come to a civil society which in a way plays the spontaneous role of the social contract, of the *pactum unionis*? What is the equivalent of the jurists' *pactum subjectionis*, the pact of subjection, which obliges obedience to certain individuals? Well, just as there is no need of a *pactum unionis* to join individuals together in civil society, so for political power to emerge and function within civil society there is no need of a *pactum subjectionis*, of the surrender of certain rights and the acceptance of someone else's sovereignty. There is a spontaneous formation of power. How does this come about? It is brought about

* Foucault stops here, not managing to read what he has written ("... fine, listen, the text roughly says this, as in Medieval manuscripts, the manuscript is a bit spoiled"), but the quotation [from the French translation; G.B.] he gives is accurate, apart from a minor variation.

quite simply by a de facto bond which links different concrete individuals to each other. In fact, these differences between individuals are expressed, of course, in the different roles they play in society and in the different tasks they perform. These spontaneous differences immediately give rise to divisions of labor in the collective decision-making processes of the group: some give their views, others give orders; some reflect, others obey. "Prior to any political institution whatever," says Ferguson, "men are qualified by a great diversity of talents, by a different tone of the soul, and ardour of the passions, to act a variety of parts. Bring them together, each will find his place. They censure or applaud in a body; they consult and deliberate in more select parties; they take or give an ascendant as individuals."¹⁷ That is to say, in civil society the group's decision appears to be the decision of the whole group, but when we look more closely at how this takes place we see that the decisions were taken, he says, in "more select parties." As individuals, some have assumed authority and others have allowed these to acquire authority over them. Consequently, the fact of power precedes the right that establishes, justifies, limits, or intensifies it; power already exists before it is regulated, delegated, or legally established. "We follow a leader, before we have settled the ground of his pretensions, or adjusted the form of his election: and it is not till after mankind have committed many errors in the capacities of magistrate and subject, that they think of making government itself a subject of rules."¹⁸ The juridical structure of power always comes after the event or fact of power itself.* So it cannot be said that men were isolated, that they decided to constitute a power, and then here they are living in a state of society. This was, roughly, the analysis made in the seventeenth and at the start of the eighteenth century. But neither can we say that men join together in society and then [think]: Wouldn't it be good, or convenient, or useful to establish a power and regulate its modalities. In actual fact, civil society permanently, and from the very start, secretes a power that is neither

* Foucault adds: In short, civil society secretes its own power that is neither its first condition nor its supplement.

The sentence is repeated a bit below.

its condition nor supplement. "It is obvious," Ferguson says, "that some mode of subordination is as necessary to men as society itself."¹⁹ You recall that Ferguson said that we cannot conceive of a man without society. We cannot conceive of a man without language and communication, no more than we can conceive of a man without hands and feet. Thus man, his nature, his feet, his hands, his language, others, communication, society, and power all constitute an interdependent whole characteristic of civil society.

The fourth characteristic of civil society is that it constitutes what could be called—using a word from much later which to some extent is now discredited but which it seems to me may find a first point of application here—the motor of history. It is the motor of history precisely because, if we take up the two elements I have been talking about—on the one hand, civil society as spontaneous synthesis and spontaneous subordination, and, [on the other], the existence of an element which finds its place quite naturally within this spontaneous synthesis and subordination but which is also the principle of dissociation, namely interest, the egoism of *homo oeconomicus*, the economic processes—then [first of all], with the idea of civil society as spontaneous synthesis and subordination we have the principle, or theme, or idea, or hypothesis that we are dealing with a stable equilibrium. After all, since men are spontaneously brought together by bonds of benevolence, and since they form communities in which subordination is established by immediate consent, then it should not change and consequently everything should remain in place. And, in actual fact, there are a number of communities which appear with this first aspect of, I would say, if you like, a functional equilibrium of the whole. On page 86, describing North American savages, or reporting observations of North American savages, Ferguson says: "Thus, without any settled form of government, or any explicit bond of union, and by an effect in which instinct seems to have a greater part than reason [the families of these North American savages] conducted themselves with the intelligence, the concert, and the force of a nation. Foreigners, without being able to discover who is the magistrate (...) always find a council with whom they may treat (...). Without police or compulsory laws, their domestic society is conducted with order."²⁰ So, there is a spontaneous bond and spontaneous equilibrium.

However, precisely inasmuch as within this spontaneous bond there is another, equally spontaneous, but dissociative bond, then disequilibrium is introduced as a result, either spontaneously or by virtue of the economic mechanism. Sometimes Ferguson refers to pure and simple egoism: "He who first ranged himself under a leader," he says, "did not perceive, that he was setting the example of a permanent subordination, under the pretence of which, the rapacious were to seize his possessions, and the arrogant to lay claim to his service."²¹ So, there is a mechanism of dissociation which is due simply to the egoism of power. But more frequently and regularly Ferguson invokes actual economic interest and the way in which economic egoism takes shape as the principle of dissociation of the spontaneous equilibrium of civil society. This is how—and here I refer you to those famous texts—Ferguson explains how civil societies regularly pass through three stages: savagery, barbarism, and civilization.²² How is savagery characterized? The characteristic feature of savagery is precisely and above all a certain way of fulfilling or effectuating the interests of economic egoisms. What is savage society? It is a society of hunting, fishing, and natural production, without agriculture or cattle-rearing. It is therefore a society without property in which some elements, the beginnings of subordination and government are found.²³ And then, with economic interests and egoisms coming into play, with everyone wanting their own share, we move on to barbaric society. As a result we have—I was going to say a new mode of production—we have new economic-political institutions: herds belonging to individuals, pastures belonging either to communities or to individuals. Private society begins to be established, but a private society which is not yet guaranteed by laws, and at this point civil society takes on the form of relations between patron and client, master and servant, family and slave, and so on.²⁴ You can see that in this we have a specifically economic mechanism which shows how, starting from civil society and from the economic game which it harbors within itself, so to speak, we move on to a whole series of historical transformations. The principle of dissociative association is also a principle of historical transformation. That which produces the unity of the social fabric is at the same time that which produces the principle of historical transformation and the constant rending of the social fabric.

In the theory of *homo aeconomicus* which I talked about last week, you [recall] how the collective interest arose from a necessarily blind interplay between different egoistical interests. Now you find the same kind of schema of an effect of totality, of a global reality arising through the blindness of each individual, but with regard to history. The history of humanity in its overall effects, its continuity, and in its general and recurrent forms—savage, barbarous, civilized, and so on—is nothing other than the perfectly logical, decipherable, and identifiable form or series of forms arising from blind initiatives, egoistic interests, and calculations which individuals only ever see in terms of themselves. If you multiply these calculations over time and get them to work, the economists say, the entire community will enjoy ever increasing benefits; Ferguson, however, in the name of civil society, says there will be an endless transformation of civil society. I do not mean that this is the entry of civil society into history, since it is always in history, but that this is the motor of history in civil society. It is egoistic interest, and consequently the economic game which introduces the dimension through which history is permanently present in civil society, the process through which civil society is inevitably and necessarily involved in history. "Mankind," he says on page 122, "in following the present sense of their minds, in striving to remove inconveniencies, or to gain apparent and contiguous advantages, arrive at ends which even their imagination could not anticipate, and pass on, like other animals, in the track of their nature, without perceiving its end. (...) Like the winds, that come we know not whence, and blow withersoever they list, the forms of civil society* are derived from an obscure and distant origin."²⁵ In short, the mechanisms which permanently constitute civil society are therefore the same as those which permanently generate history in its general forms.

With this kind of analysis—which, once again, is only one example of the many analyses of civil society in the second half of the eighteenth century, or anyway, at the end of the eighteenth and the beginning of the nineteenth century—we are, I think, at an important crossroads, since, [first], we see a domain opening up of collective and political units

* The word "civil" is added by Foucault here; Ferguson has just "society."

constituted by social relations and bonds between individuals which go beyond the purely economic bond, yet without being purely juridical: civil society is characterized by bonds which are neither purely economic nor purely juridical, which cannot be superimposed on the structures of the contract and the game of rights conceded, delegated, and alienated, and which, in their nature if not their form, are also different from the economic game. Second, civil society is the articulation of history on the social bond. History is not the extension, like a pure and simple logical development, of a juridical structure given at the start. Nor is it a principle of degeneration producing negative phenomena which obscure the original transparency of a state of nature or original situation. There is a never-ending generation of history without degeneration, a generation which is not a juridical-logical sequence but the endless formation of new social fabric, new social relations, new economic structures, and consequently new types of government. Finally, third, civil society makes it possible to designate and show an internal and complex relationship between the social bond and relationships of authority in the form of government. These three elements—the opening up of a domain of non-juridical social relations, the articulation of history on the social bond, in a form which is not one of degeneration, and government as an organic component of the social bond and the social bond as an organic feature of the form of authority—are what distinguish the notion of civil society from (1) Hobbes, (2) Rousseau, and (3) Montesquieu. It seems to me that we enter into a completely different system of political thought and I think it is the thought or political reflection internal to a new technology of government, or to a new problem which the emergence of the economic problem raises for techniques and technologies of government.

I would like to move on now very quickly to conclude—or rather to open up a series of problems. On the one hand, you can see that with this notion of civil society we have a set of questions, problems, concepts, and possible analyses which enable us to avoid the theoretical and juridical problem of the original constitution of society. Certainly, this does not mean that the juridical problem of the exercise of power within civil society does not arise, but the way in which it is posed is reversed. In the seventeenth and eighteenth centuries the problem was how to

find a juridical form at the origin of society, at the very root of society, which would limit the exercise of power in advance. Here, rather, we are dealing with an existing society with phenomena of subordination, and so of power, and the problem is simply how to regulate and limit power within a society in which subordination is already at work. It is in this way that the question which has obsessed practically all political thought from the end of the eighteenth century to the present arises, that is to say, the question of the relations between civil society and the state. Obviously, the problem could not be formulated in this way before the second half of the eighteenth century and it appears in the following way: With its juridical structure and institutional apparatus, what can the state do and how can it function in relation to something, society, which is already given?

I will just mention a series of possible solutions to this.²⁶ First the state will appear as one of the dimensions and forms of civil society. This is the theme developed by Jung-Stilling at the end of the eighteenth century, saying that society has three axes, the family, the household or estate, and then the state.²⁷ Then there will be the, let's say, genetic and historical analysis of Bensen, for example, which says that we should conceive of civil society as having passed through three stages: family society, civil society itself, and state society or society of state control.²⁸ And then there is the typological analysis you find in Schlözer, who says that several types of society can be found. There is an absolutely universal type which is valid for all time and especially for all space and in every part of the world, that is to say, there can be no society without this familial society. And then, he says, presently there is a type of society, civil society, which appears in all the forms of human gatherings presently known to us. As for the state, it characterizes some forms of civil society, those with which we are familiar today.²⁹ And, of course, there is Hegel—about whom I will not speak—and the state as the self-consciousness and ethical realization of civil society.³⁰

Fine, I don't have time to dwell on all this. Let's say, if you like, for a whole range of easily imaginable reasons, civil society is analyzed in Germany in terms of the opposition and relation between civil society and the state. Civil society is only ever questioned in terms of its capacity to support a state, or inasmuch as the state is either the contradictory

element in relation to civil society, or instead the element which reveals and finally realizes its truth. In England, and again for easily imaginable reasons, the analysis of civil society is developed in terms of government rather than in terms of the state, since the state has never been a problem for England. That is to say, the problem is whether there is need for a supplementary government if it is true that civil society is already there, that it ensures its own synthesis, and that it has a sort of internal governmentality. Does civil society really need a government? This is the famous question posed by Paine at the end of the eighteenth century and which will haunt English politics at least until the twentieth century: Could not society exist without government, or at any rate, without a government other than the government it has created spontaneously and without need of institutions which take charge of civil society, as it were, and impose constraints which it does not accept? Paine's question: We should not, he says, confuse society and government. "Society is produced by our wants, and government by our wickedness ... The one encourages intercourse, the other creates distinctions. The first is a patron [in the English sense of the word, a protector; M.F.], the last a punisher."³¹ In France the problem is not posed in either the English or German terms.* The problem addressed in France is not that of "government in relation to civil society" or of "the state in relation to civil society." Here again, for well-known political and historical reasons, the problem is posed differently. The problem is that of the Third Estate as a political, theoretical, and historical problem up until the middle of the nineteenth century: the idea of the bourgeoisie as the element which was the vector and bearer of French history from the Middle Ages until the

* Foucault here diverges from the manuscript, pp. 20-21:

"In France, the problem was retranscribed in the debate on the need for a Declaration of the Rights of Man.

Rights of Man: a complex notion that conveys both the juridical idea of a natural right that it is the function of the political pact to guarantee [p. 21] and the idea of conditions that society imposes on the state so as to enable it to exist and to recognize its legitimacy.

This practice of Rights of Man is referred to a conception of democracy. To which rather, according to the English schema, liberals will oppose the idea that freedoms are what remain after one has delimited government action, that they are not to be fixed as right 'before the entrance into politics,' but to be obtained, preserved, and expanded by transactions, guarantees, an electoral system, opinion, and so on."

nineteenth century³² is basically a way of posing the problem of civil society, of government and power in relation to civil society. Whether it is German philosophers, English political analysts, or French historians, I think you always find the same problem of civil society as the major problem of politics and political theory.

The other aspect, on which I will end this year's lectures, is, of course, that with this idea of civil society there is a redistribution, or a sort of re-centering/de-centering of the governmental reason I tried to talk about last year. Let's look again at the general problem. It seems to me that from the sixteenth century, and already in the Middle Ages moreover, we see the appearance of the [following] question: How can the exercise of power, that very singular practice which men cannot escape, except in part and at times in particular processes and individual or collective acts which pose a number of problems to jurists and historians, be regulated and measured in the person who governs? Well, let's say in a very general, overall way that for a long time the idea of regulating, measuring, and so limiting the indefinite exercise of power was sought in the wisdom of the person who would govern. Wisdom was the old answer. Wisdom means governing in accordance with the order of things. It means governing according to the knowledge of human and divine laws. It means governing according to God's prescriptions. It means governing according to what the general human and divine order may prescribe. In other words, when one sought to identify how the sovereign had to be wise and in what his wisdom consisted, one basically tried to regulate and model government in terms of the truth. It was the truth of religious texts, of revelation, and of the order of the world that had to be the principle of the regulation, or adjustment rather, of the exercise of power.

What I tried to show last year is that from the sixteenth and seventeenth century it does not seem that the exercise of power was adjusted in accordance with wisdom, but according to calculation, that is to say, the calculation of force, relations, wealth, and factors of strength. That is to say, one no longer tries to peg government to the truth; one tries to peg government to rationality. It seems to me that we could describe the modern forms of governmental technology as control of government by pegging it to rationality. Now, this adjustment to rationality—and again

I am being very schematic—has taken two successive forms. The rationality according to which power is regulated may take the form of the rationality of the state understood as sovereign individuality. In this case—this is the period of *raison d'État*—governmental rationality is the rationality of the sovereign himself, of whomever it is who can say “me, the state.” This obviously raises a number of problems. First of all, what is this “me,” or alternatively, what is this “I” that identifies the rationality of government with the rationality of a sovereign maximizing his own power? And thus the juridical question of the contract arises. There is also the factual question: How can this rationality of the sovereign who claims to say “I” be exercised with regard to problems like those of the market or, more generally, economic processes in which rationality not only completely dispenses with a unitary form but absolutely excludes both the unitary form and the bird’s-eye view? Hence there is a new problem, the transition to a new form of rationality to which the regulation of government is pegged. It is now a matter not of modeling government on the rationality of the individual sovereign who can say “me, the state,” [but] on the rationality of those who are governed as economic subjects and, more generally, as subjects of interest in the most general sense of the term. It is a matter of modeling government [on] the rationality of individuals insofar as they employ a certain number of means, and employ them as they wish, in order to satisfy these interests in the general sense of the term: the rationality of the governed must serve as the regulating principle for the rationality of government. This, it seems to me, is what characterizes liberal rationality: how to model government, the art of government, how to [found]* the principle of rationalization of the art of government on the rational behavior of those who are governed.

It seems to me that this is the important dividing point, the important transformation which I have tried to localize, but which is far from meaning that the rationality of state-individual or of the individual sovereign who can say “me, the state” is abandoned. We can even say, in a general, overall way, that the principle of rationality of all the nationalist

and statist politics will be pegged to the rationality or, if you prefer, in other terms, to the interest and to the strategy of interests of the individual sovereign, or of the state insofar as it constitutes a sovereign individuality. Similarly, we can say that government regulated according to the truth also has not disappeared. For after all, what in the end is something like Marxism if not the pursuit of a type of governmentality which will certainly be pegged to a rationality, but to a rationality which is not the rationality of individual interests, but the rationality of history progressively manifesting itself as truth? You can see that in the modern world, in the world we have known since the nineteenth century, a series of governmental rationalities overlap, lean on each other, challenge each other, and struggle with each other: art of government according to truth, art of government according to the rationality of the sovereign state, and art of government according to the rationality of economic agents, and more generally, according to the rationality of the governed themselves. And it is all these different arts of government, all these different types of ways of calculating, rationalizing, and regulating the art of government which, overlapping each other, broadly speaking constitute the object of political debate from the nineteenth century. What is politics, in the end, if not both the interplay of these different arts of government with their different reference points and the debate to which these different arts of government give rise? It seems to me that it is here that politics is born. Good, well that’s it. Thank you.*

* (A bit of a hubbub follows.) Foucault responds briefly to a number of isolated questions and asks someone at some point if he has “any transcriptions of the lectures delivered last year and in previous years,” “because,” he says, “I don’t have any.”

1. John Locke, *The Second Treatise of Government*, ch. 7, "Of Political or Civil Society" in *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 1960) p. 361.
2. Adam Ferguson, *An Essay on the History of Civil Society*; French translation by C. Gautier, *Essai sur l'histoire de la société civile*. As C. Gautier notes, the *Essay* is actually a considerably expanded version of text written in 1755-56, but not published, with the title, *Treatise on Refinement*.
3. On this point, see P. Rosanvallon, *Le Capitalisme utopique* (Paris: Le Seuil, 1979) pp. 68-69 (republished with the title *Le Libéralisme économique. Histoire de l'idée de marché*, Paris: Le Seuil, 1989). Foucault acknowledged this "important book" in Spring 1979, in the Course Summary (see below, p. 320), and perhaps he was familiar with its content when he was giving these lectures.
4. A. Ferguson, *An Essay on the History of Civil Society*, p. 4: "Mankind are to be taken in groupes, as they have always subsisted."
5. Ibid., p. 6: "With [man] the society appears to be as old as the individual, and the use of the tongue as universal as that of the hand or the foot."
6. Ibid., p. 4: "The history of the individual is but a detail of the sentiments and thoughts he has entertained in the view of this species: and every experiment relative to this subject should be made with entire societies, not with single men. We have every reason, however, to believe, that in the case of such an experiment made, we shall suppose, with a colony of children transplanted from the nursery, and left to form a society apart, untaught, and undisciplined, we should only have the same things repeated, which, in so many different parts of the earth, have been transacted already. The members of our little society would feed and sleep, would herd together and play, would have a language of their own, would quarrel and divide, would be to one another the most important objects of the scene, and, in the ardour of their friendships and competitions, would overlook their personal danger, and suspend the care of their self-preservation."
7. Ibid., p. 8: "If we are asked, therefore, Where the state of nature is to be found? we may answer, It is here; and it matters not whether we are understood to speak in the island of Great Britain, at the Cape of Good Hope, or the Straits of Magellan. While this active being is in the train of employing his talents, and of operating on the subjects around him, all situations are equally natural."
8. Ibid.
9. Ibid.
10. Ibid., pp. 58: "if the public good be the principal object with individuals, it is likewise true, that the happiness of individuals is the great end of civil society: for in what sense can a public enjoy any good, if its members, considered apart, be unhappy?"
11. Ibid., pp. 57-58: "[Man] must forgo his happiness and his freedom, where these interfere with the good of society. He is only part of the whole; and the praise we think due to his virtue, is but a branch of that more general commendation we bestow on the member of a body, on the part of a fabric or engine, for being well fitted to occupy its place, and to produce its effect."
12. Ibid., p. 58. See above, note 10.
13. See Part One, section 3, "Of the principles of Union among Mankind" and section 4, "Of the principles of War and Dissension."
14. Ibid., p. 11: "[Man] has one set of dispositions which refer to his animal preservation, and to the continuance of his race; another which lead to society, and by inlisting him on the side of one tribe or community, frequently engage him in war and contention with the rest of mankind."
15. Ibid., p. 19: "Men are so far from valuing society on account of its mere external conveniences, that they are commonly most attached where those conveniences are least frequent; and are there most faithful, where the tribute of their allegiance is paid in blood."
16. Ibid., p. 19. The sentence continues: "and he deals with them as he does with his cattle and his soil, for the sake of the profits they bring."
17. Ibid., p. 63: "Prior to any political institution whatever, men are qualified by a great diversity of talents, by a different tone of the soul, and ardour of the passions, to act a variety of

- parts. Bring them together, each will find his place. They censure or applaud in a body; they consult and deliberate in more select parties; they take or give an ascendant as individuals."
18. Ibid., p. 63.
 19. Ibid.
 20. Ibid., p. 86: "Thus, without any settled form of government, or any bond of union, but what resembled more the suggestion of instinct, than the invention of reason, they conducted themselves with the concert, and the force of nations. Foreigners, without being able to discover who is the magistrate, or in what manner the senate is composed, always find a council with whom they may treat, or a band of warriors with whom they may fight. Without police or compulsory laws, their domestic society is conducted with order, and the absence of vicious dispositions, is a better security than any public establishment for the suppression of crimes."
 21. Ibid., p. 122.
 22. See Parts Two and Three. On these stages of social development, Foucault had read, in particular, R.L. Meek, *Economics and Ideology and other essays* (London: Chapman & Hall, 1967) pp. 34-40.
 23. *An Essay*, p. 81: "Of the nations who dwell in those, or any other of the less cultivated parts of the earth, some intrust their subsistence chiefly to hunting, fishing, or the natural produce of the soil. They have little attention to property, and scarcely any beginnings of subordination or government."
 24. Ibid., p. 81: "Others having possessed themselves of herds, and depending for their provision on pasture, know what it is to be poor and rich. They know the relations of patron and client, of servant and master, and suffer themselves to be classed according to their measures of wealth."
 25. Ibid., p. 122. The final sentence concludes: "they arise long before the date of philosophy, from the instincts, not from the speculations, of men."
 26. See the article by M. Riedel, "Gesellschaft bürgerliche" in O. Brunner, W. Conze, R. Koselleck, eds., *Geschichtliche Grundbegriffe* (Stuttgart: E. Klett, 1975) t. 2, pp. 719-800, which was used by Foucault.
 27. Johann Heinrich Jung-Stilling (1740-1817), *Die Grundlehre der Staatswirthschaft* (Marbourg: 1792 [modern edition, Königstein/Ts: Scriptor-Verlag, 1978]) p. 680: "Das gesellschaftliche Leben ist dreifach: 1) bezieht es sich auf die Familie oder auf das häusliche Verhältnis, 2) auf das Zusammenwohnen der Hausväter oder auf die bürgerliche Gesellschaft, und 3) auf das Verhältnis gegen die regierende Gewalt und ihre Gesetze, das ist: auf die Staatsgesellschaft"; quoted by M. Riedel, "Gesellschaft bürgerliche" p. 753.
 28. Carl Daniel Heinrich Bensen (1761-1805), *System der reinen und angewandten Staatslehre für Juristen und Kameralisten* (Erlangen: Palm, 1804) t. I: "Unsere Staaten und ihre Bewohner haben nur allmählich ihre jetzige Form erhalten. Von der häuslichen Gesellschaft rückte nämlich das Menschengeschlecht zur bürgerlichen und von dieser zur Staatsgesellschaft fort"; quoted by M. Riedel, "Gesellschaft bürgerliche" p. 754.
 29. August Ludwig von Schlözer (1735-1809), *Staats-Anzeigen* (Göttingen: 1792) t. 17, p. 354: "Alle bisher bekannt gewordene Menschenhaufen alter, mittler und neuer Zeiten, leben in den 3 Arten häuslicher Gesellschaft. Alle ohne Ausnahme alle, leben in bürgerlicher Gesellschaft. Und bei weitem die allermeisten, wenngleich nicht alle, leben in Staats-Gesellschaft, oder unter Obrigkeit"; quoted by M. Riedel, "Gesellschaft bürgerliche" p. 754. See also, G. Gurvitch, *Traité de sociologie* (Paris: PUF, 1958) pp. 31-32, consulted by Foucault: "The followers of Leibniz—Nettelbladt in particular—in simplifying his ideas, will distinguish *regimen societatis*, or bloc of varied groups of activity, preferably economic, from *regimen civitatis* or bloc of local groups culminating in the state. This was the source of the opposition between civil and economic society (*bürgerliche Gesellschaft*) and the state. Formulated for the first time by the German historian and statistician, A.L. Schlözer, this opposition was the object of meditation for a number of German, French, and British thinkers in the second half of the eighteenth and the first half of the nineteenth century."
 30. G.W.F. Hegel, *Grundlinien der Philosophie des Rechts*, 3rd Part, 2nd section, §182-256 (Berlin: Librairie Nicolai, 1821); French translation by R. Derathé, *Principes de la philosophie du droit*

(Paris: Vrin, 1975) pp. 215-217; English translation by T.M. Knox, *Hegel's Philosophy of Right* (Oxford: Oxford University Press, 1967) pp. 122-155. See M. Riedel, "Gesellschaft bürgerliche" pp. 779-783, as well as J. Hyppolite, "La conception hégélienne de l'Etat," *Cahiers internationaux de sociologie*, 1947, t. II, p. 146, and B. Quelquejeu, *La Volonté dans la philosophie de Hegel* (Paris: Le Seuil, 1973), which are referred to in Foucault's notes.

31. T. Paine, *Common Sense Addressed to the Inhabitants of America* (Philadelphia: W. & T. Bradford, 1776; Peterborough, Ontario/Plymouth: Broadview Editions, 2004) p. 47. See H.K. Girvetz, *From Wealth to Welfare* (Stanford, California: Stanford University Press, 1950) p. 44, that Foucault read in preparation for this lecture, and P. Rosanvallon, *Le Capitalisme utopique*, p. 144. Although Thomas Paine (1737-1809) was in fact of British origin, we should make it clear that *Common Sense* was published fourteen months after his settlement in America and that the book, written at the request of Benjamin Franklin, expressed the aspirations of the American people at the beginning of the War of Independence.
32. See "Il faut défendre la société" lecture of 10 March 1976, pp. 193-212; "Society Must Be Defended" pp. 215-238.



COURSE SUMMARY*

THIS YEAR'S COURSE ENDED up being devoted entirely to what should have been only its introduction. The theme was to have been "biopolitics," by which I meant the attempt, starting from the eighteenth century, to rationalize the problems posed to governmental practice by phenomena characteristic of a set of living beings forming a population: health, hygiene, birthrate, life expectancy, race ... We know the increasing importance of these problems since the nineteenth century, and the political and economic issues they have raised up to the present.

It seemed to me that these problems were inseparable from the framework of political rationality within which they appeared and took on their intensity. This means "liberalism," since it was in relation to liberalism that they assumed the form of a challenge. How can the phenomena of "population," with its specific effects and problems, be taken into account in a system concerned about respect for legal subjects and individual free enterprise? In the name of what and according to what rules can it be managed? The debate that took place in England in the middle of the nineteenth century concerning public health legislation is an example of this.



What should we understand by "liberalism"? I relied on Paul Veyne's reflections concerning historical universals and the need to test a

* Published in the *Annuaire du Collège de France*, 78^e année. *Histoire des systèmes de pensée*, année 1977-1978, (1978), pp. 445-449, and in *Dits et écrits*, 1954-1988, eds. D. Defert and F. Ewald, with the collaboration of J. Lagrange (Paris: Gallimard, 1994), vol. 3, pp. 719-723. An alternative translation of this summary by Robert Hurley appears in M. Foucault, *The Essential*