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Constitutional Implications of the Campaign against Nuclear Power (November 3, 1976)

A liberal commentator reflects on the ironies of a citizens' movement that worked against the decisions of democratically elected bodies. He criticizes the costly use of force to put down the protests, and urges politicians to take more seriously the activist segment of the population that opposed nuclear power.

Nuclear Power Splits the Constitutional State

The term “nuclear fascism” has existed for quite a while. It has not made its way into public discussion yet because only very few people have any idea what it means. You can get a sense of its meaning from the conflict over the construction site at Brokdorf on the lower Elbe River.¹ The onslaught of hundreds of police with gas masks, dogs, and water cannons, the bulldozers closing up the ranks, and barbed wire entanglements being rolled out made a lasting impression on anyone who watched the special report on NDR television on Sunday evening. But most important was not the action at dawn, when – following the Bundestag election – a surprise raid outmaneuvered the citizens' initiatives after the sudden issuance of a construction permit with instructions for the immediate execution of a project that has been disputed for years. Even more significant were the mass psychology of the accompaniment and the self-assured interplay of the power company, the state government, the security organs, and the police. They were all well-informed and could prepare themselves accordingly.

The plan of action is similar to the one used at Wyhl.² Concerned or affected citizens raise objections to the planning permission procedure: in Brokdorf there were more than 20,000. Complaints are also submitted before the court. The residents are then invited to hearings at which police presence assures the necessary mood. The organization in Brokdorf was such that, according to a member of the television film crew, the people involved in Dithmarsch³ got to speak on one day but the experts they invited testified on a different day. That made it possible to treat the former group as ignorant in nuclear matters, and the latter as uninvolved individuals from outside. In the meantime, the permit procedures by the government in Kiel took their course, strictly according to the order of the constitutional state and without the involvement of the state assembly.

¹ Northern German site (in Schleswig-Holstein) for the construction of a nuclear power plant – eds.

² Southern German site of the first anti-nuclear power protests. See previous document on the citizens' movement there – eds.

³ The region in which Brokdorf is situated – eds.

That is not provided for, as the responsible social minister [Karl-Eduard] Claussen explained. Questions regarding nuclear power plants are to be treated by the executive alone, which – except for industry – has no one to contact, however, unless citizens' initiatives are formed. But these are treated as not legitimate. They are not provided for by the constitutional state. Or to be more precise: They are not provided for by the law and order state [*Gesetzes- und Verordnungsstaat*]. And even if the Basic Law guarantees that all Germans have the right to assemble peacefully and unarmed, there is no government that is in any way required to attend to such assemblies.

Instead, the unwavering, organized communists attend to them. They mingle as little groups among thousands of all kinds of demonstrators. The press office of the Northwest German Power Plant could thus easily publicize that the demonstration was “organized well in advance” by militant communists. And the security organs promptly determined that there were 150 communists among 5,000 demonstrators: Even their distancing themselves from these activists didn't help the spokespeople of the nonviolent “Lower Elbe Environmental Protection Citizens' Initiative” – a pastor from Bremen and a local farmer (CDU). The power plant corporation announced that its security measures had proved justified in view of the radicals and because the citizens' initiative could not keep the demonstration under control, and it was expected that they would continue the struggle only with the means of a constitutional state. Meanwhile the ditch around the construction site was widened to eight meters [26 feet] and barbed wire was spread out “to protect children playing.”

The effort to defend the construction site has so far cost two million marks. These will one day be added to the many millions of investment costs for the first construction stage. This volume of money will carry weight if a court has to rule on complaints or if authorities have to decide whether or not the next construction stage can begin. Such policies of a *fait accompli* and millions that have been cemented in, which first exploit the state in all its institutions and then make it powerless, are what call the citizens' initiatives to action. The case of Wyhl has shown how hard it is for them to fight the courts for a little more leeway in the face of governments addicted to industrialization, business-smart electricity companies, and unions intoxicated by all the jobs.

If there are some communists among the demonstrators, companies and authorities enjoy taking the opportunity to discredit a democratically permitted free expression of opinion without any further arguments. First, it should be asked if communists in our country represent the legendary sourdough that – added in small amounts – makes any protest action by assembled democrats irrelevant. Minister President [Gerhard] Stoltenberg told the state parliament in Kiel they could be pleased that the police action at dawn near Brokdorf secured the procedures of a constitutional state.

If heads of governments – in the face of unrest among their constituencies due to the threat posed by the unknown consequences of the construction of a nuclear power plant – can come up with nothing better than this naïve joy over a constitutional state, then it is high time for the parliaments to finally secure more rights in the question of nuclear power. The people are no longer so simple-minded that they will continue to listen to fairy tales about the threatening scarcity of energy while the chemical industry declares its disinterest in the question of storing radioactive waste, the electricity companies feel no responsibility, and the governments continue to do nothing but threaten a ban on permits for additional nuclear power plants.

Source: Christian Schütze, "Kernkraft spaltet den Rechtsstaat" ["Nuclear Power Splits the Constitutional State"], *Süddeutsche Zeitung*, November 3, 1976.

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