

Contents

Editor's Preface to the first edition 1983	xv
Editor's Preface to the 1995 edition	xvii
Introduction	xix
I The Origins of the Federal Republic of Germany, 1944–1949 ROBERT SPENCER	I
Doc. 1a: Four-Power-Protocol on the Zones of Occupation in Germany and the administration of 'Greater Berlin', 12 September 1944, as amended by the agreements of 14 November 1944 and 26 July 1945—Doc. 1b: Statement by the Four Powers on control machinery in Germany, 5 June 1945—Doc. 1c: (Four-Power) Control Council Law No.46: Abolition of the State of Prussia, 25 February 1947 -Doc. 2a: Control Council approval of air corridors, 30 November 1945—Doc. 2b: Speech of Berlin's Lord Mayor Ernst Reuter, 24 June 1948—Doc. 3: The emergence of German political parties after 1945; directive by the British Military Government, 15 September 1945—Doc. 4a: Invitation of the minister-president of Bavaria, Ehard, to a conference of minister-presidents of all four occupation zones, 7 May 1947—Doc. 4b: Final Statement of Minister-President Ehard, 7 June 1947—Doc. 4c: Report of the General Secretary of the Länderrat, 9 June 1947—Doc. 5: Ludwig Erhard on the Social Market Economy, 22 August 1948—Doc. 6: Letter of the Military Governors to Dr. Konrad Adenauer, then President of the Parliamentary Council, 12 May 1949—Doc. 7: The signing and proclamation of the Basic Law (<i>Grundgesetz</i>), 23 May 1949—Doc. 8: Reply by Professor Theodor Heuss to the Allied High Commissioners on his election as President of the Federal Republic of Germany, 13 September 1949 -Doc. 9: Speech by Chancellor Adenauer at the Petersberg Ceremonies, 21 September 1949—Doc. 10: Soviet Military Administration Order No.2:	

Establishment of Anti-Fascist Parties and Free Trade Unions in the Soviet Zone, 10 June 1945—Doc. 11: Principles and aims of the Socialist Unity Party (SED) of Germany. 21 April 1946—Doc. 12: The Socialist Unity Party Appeal for a German People's Congress for Unity and a Just Peace. 26 November 1947—Doc. 13a: Resolution passed by the second German People's Congress: Establishment of a German People's Council, 17 March 1948—Doc. 13b: Text of the Constitution of the German Democratic Republic, 30 May 1949—Doc. 14: Law on the establishment of the Provisional People's Chamber of the German Democratic Republic, Berlin, 7 October 1949

2 Berlin ROBERT SPENCER

29

Doc. 1a: The Four-Power Agreement of Berlin, 3 September 1971, with appendices—*Doc. 1b:* Letter of Chancellor Willy Brandt to the Ambassadors of the United States, the United Kingdom, and France.—*Doc. 1c:* Agreement between the Government of the Federal Republic of Germany and the Government of the German Democratic Republic on Transit Traffic, 17 December 1971—*Doc. 1d:* Arrangement between the Berlin Senate and the Government of the German Democratic Republic concerning travel and visitor traffic, 20 December 1971—*Doc. 2:* Speech by Federal President Karl Carstens on signing the Golden Book in Berlin, 13 July 1979—*Doc. 3:* Flight Rules by allied control authority for aircraft flying in air corridors and in Berlin control zone, 22 October 1946—*Doc. 4:* Berlin and the Federal Republic: Third Transfer Law, 4 January 1952—*Doc. 5a:* Note from the government of the USSR to the government of the United States, 27 November 1958—*Doc. 5b:* Communiqué of the Foreign Ministers of the United States, the United Kingdom, France and the Federal Republic of Germany, Paris, 14 December 1958—*Doc. 5c:* Communiqué issued following ministerial meeting of the North Atlantic Council, (with declaration on Berlin), 16-18 December 1958—*Doc. 6:* Declaration of the North Atlantic Council, 5 December 1969—*Doc. 7:* Treaty of 31 August 1990 between the Federal Republic of Germany and the German Democratic Republic on the establishment of German Unity—*Doc. 8:* Bundestag-Motion on the completion of German Unity, 21 June 1990

3 The Two Germanies CARL-CHRISTOPH SCHWEITZER

48

Doc. 1a: Programme of the Socialist Unity Party of Germany (SED), as amended, May 1976—*Doc. 1b:* Programme of the LDPD as amended 1982—*Doc. 1c:* Programme of the NDP as amended 1977—*Doc. 1d:* Programme of the CDU (East) as amended 1977—*Doc. 2:* Memorandum of the Academy of Pedagogic Science in the GDR on Problems of Communist Education, 1974—*Doc. 3a:* The German Nation—as set out in the Constitution of the German

Democratic Republic; Art. 1 of the Constitution of 1949—*Doc. 3b*: Amendment to the Constitution, 1968—*Doc. 3c*: Amendment to the Constitution, 1974—*Doc. 4a*: The Law on Citizenship (GDR), 20 February 1967—*Doc. 4b*: Additional Law on Questions of Citizenship, 16 October 1972—*Doc. 5*: Kassel Memorandum of Chancellor Willy Brandt and his meeting with GDR Prime Minister Stoph, 21 May 1970—*Doc. 6a*: Treaty on the Basis of Relations between the Federal Republic of Germany and the German Democratic Republic ('Basic Treaty'), 26 May 1972—*Doc. 6b*: Letter from the Government of the Federal Republic of Germany to the Government of the German Democratic Republic on German Unity, 21 December 1972—*Doc. 6c*: Statements on Record, 21 December 1972—*Doc. 6d*: Explanatory notes regarding the exchange of letters on the reuniting of families, the facilitation of travel and the improvement of non-commercial goods traffic, 21 December 1972—*Doc. 7*: Basic principles underlying the ruling of the Federal Constitutional Court on the validity of the treaty of December 1972 (*Leitsätze*), 31 July 1973—*Doc. 8*: Speech by Erich Honecker, General Secretary of the SED and Chairman of the Council of State on 'topical questions of the domestic and foreign policy of the GDR', at Gera, 13 October 1980—*Doc. 9*: Regulation concerning the obligatory minimum currency exchange (on entering the GDR) 10 October 1980—*Doc. 10*: The West German Undersecretary of State for Foreign Affairs Walter Hallstein in the Bundestag on the special trade relationship between the two German states, 21 March 1957—*Doc. 11a*: Speech made by the Chancellor Helmut Kohl at a banquet given in honour of Erich Honecker in Bonn—*Doc. 11b*: Excerpts from Erich Honecker's reply—*Doc. 11c*: Communiqué issued at the end of that official visit—*Doc. 12*: 'From Ideological Confrontation and Joint Security', joint declaration SED/SPD 1987

4 Germany Reunited 1989—Her first successful revolution, and a peaceful one CARL-CHRISTOPH SCHWEITZER 76

Doc. 1a: Stalinism in the schools—*Doc. 1b*: 'Our own candidates'—*Doc. 1c*: A pulpit declaration by Erfurt clergymen, 27th May, 1989—*Doc. 1d*: Brave public protest by clergy 1975—*Doc. 2a*: A call for non-alignment in Europe, East Berlin, April 1985—*Doc. 2b*: Twenty Theses from Wittenberg on renewal and reform in the GDR, 24 June 1988, on the initiative of Pfarrer Friedrich Schorlemmer—*Doc. 2c*: Article by Bärbel Bohley, one of the leading "Bürgerrechtler" in the former GDR, November 1988—*Doc. 3*: The Founding of the 'New Forum', 1989—*Doc. 4*: A call for the setting-up of an initiative for the purpose of establishing a Social Democratic Party in the GDR, 24 July 1989—*Doc. 5a*: The LDPD'S position in the process of the democratic renewal of socialism in the GDR, 24 November 1989—*Doc. 5b*: Statement of the East German CDU, 28 October

1989—*Doc. 5c*: 'With a regenerated NDPD for the renewal of socialism in the GDR' 4/5. NOVEMBER 1989—*Doc. 5d*: Statement of the Democratic Party of Farmers and Land-Workers of Germany (DBD) on the process of the renewal of Socialist Society in the GDR, 4 November 1989—*Doc. 6*: 'On behalf of our Country', 26 November 1989—*Doc. 7a*: 'Ten Points' by Chancellor Kohl enunciated in the Bundestag concerning relations between the FRG and GDR, 28 November 1989—*Doc. 7b* Declaration of Intent 19 December 1989—*Doc. 8*: Final Declaration of the Round Table, 12 March 1990—*Doc. 9*: Treaty of Unity—Preamble, 31 August 1990—*Doc. 10*: Article 146 of the Basic Law—*Doc. 11*: Article 15 of the Constitution of the GDR as amended on 27 September 1974

5 Foreign Policy ROBERT SPENCER

108

Doc. 1: Declaration by the Foreign Ministers of Great Britain, The United States and France, London, 13 May 1950—*Doc. 2*: Statement on West German Sovereignty by the Three Western Foreign Ministers and the Federal Chancellor, Paris, 22 November 1951—*Doc. 3*: Konrad Adenauer in the Bundestag on the European Coal and Steel Community, 12 July 1952—*Doc. 4*: Final Act of the Nine-Power Conference, London, 28 September-3 October 1954—*Doc. 5*: Joint Declaration by Chancellor Adenauer and President de Gaulle, 22 January 1963—*Doc. 6*: Statement by Chancellor Adenauer to the Bundestag concerning the attitude of the Federal Republic towards the Jews, 27 September 1951—*Doc. 7*: Treaty between the Federal Republic of Germany and the Kingdom of Norway, 7 August 1959—*Doc. 8*: Declaration on the Oder-Neisse Line by Paul Loebe, SPD, 13 June 1950—*Doc. 9*: Chancellor Adenauer in the Bundestag on the Agreement with the USSR, 22 September 1955—*Doc. 10*: Memorandum of Chancellor Adenauer to the Federal Ministers, 19 January 1956—*Doc. 11*: Government Declaration, 28 June 1956: The Hallstein Doctrine—*Doc. 12*: Peace Note (Friedensnote) of the Federal Republic of Germany, 29 March 1966—*Doc. 13*: The Declaration by the 'Great Coalition' Government, 13 December 1966—*Doc. 14*: Government Declaration, 28 October 1969—*Doc. 15a*: Treaty between the Federal Republic of Germany and the Union of Soviet Socialist Republics, 12 August 1970—*Doc. 15b*: Letter on German Unity, 12 August 1970—*Doc. 16a*: Treaty between the Federal Republic of Germany and the People's Republic of Poland, 7 December 1970—*Doc. 16b*: Note from the Federal Government to the Three Western Powers, 19 November 1970—*Doc. 16c*: Information from the Government of the People's Republic of Poland (undated)—*Doc. 17*: Treaty between the Federal Republic of Germany and the Czechoslovak Socialist Republic, 11 December 1973—*Doc. 18*: Speech of Chancellor Willy Brandt at the European Community's Summit Conference, The Hague, 1 December 1969—*Doc. 19*:

Declaration of the Governments of the United States, France, the USSR and Great Britain, 18 June 1973—*Doc. 20*: New policy criteria of the Federal Ministry for Economic Cooperation, October 1991—*Doc. 21*: Chancellor Helmut Kohl's Policy Statement, 13 October 1982—*Doc. 22*: Government Declaration by Chancellor Helmut Kohl before the Bundestag, 4 May 1983—*Doc. 23*: Statement of Chancellor Helmut Kohl to the Bundestag, on his return from meeting Mikhail Gorbachov in Moscow, 10 November 1988—*Doc. 24*: 'Forty years of freedom and security under the North Atlantic Treaty'; statement by Chancellor Helmut Kohl, 4 April 1989—*Doc. 25*: Telephone conversation between Foreign Minister Genscher and Soviet Foreign Minister Eduard Schevardnadse, 11 November 1989—*Doc. 26*: Joint statement following the meeting of Chancellor Kohl and GDR Prime Minister Modrow in Dresden, 19-20 December 1989—*Doc. 27*: Statement to the press by Chancellor Kohl concerning policy on Germany and his visit to the Soviet Union, Bonn, 17 July 1990—*Doc. 28*: Treaty on the final conditions with respect to Germany, Moscow, 12 September 1990—*Doc. 29*: Treaty between the Federal Republic of Germany and the Union of Soviet Socialist Republics on good-neighbourliness, partnership and cooperation, 13 September 1990—*Doc. 30*: Foreign Minister Kinkel to the United Nations General Assembly, 23 September 1993

6 Defence Policy and the Armed Forces

CARL-CHRISTOPH SCHWEITZER

150

Doc. 1: Memorandum of Chancellor Adenauer to the Allied High Commission on the security of the Federal Republic, 29 August 1950—*Doc. 2a*: Compulsory Military Service Act 21 July 1956—*Doc. 2b*: Civilian Alternative Service Act (*Zivildienstgesetz*), 3 January 1960, here as amended 26 June 1981—*Doc. 3*: Regulation 10/1 of 1972 (ZDV), issued by the Ministry of Defence, on principles of leadership (*Innere Führung*) in the Armed Forces—*Doc. 4*: Federal Law governing the legal status of soldiers (Soldiers' Act, *Soldatengesetz*), 19 March 1956, as amended in 1975—*Doc. 5*: Military Appeal (Complaint) Act (*Wehrbeschwerdeordnung*), 23 December 1956—*Doc. 6*: New directive on the problem of traditions in the Armed Forces by the Ministry of Defence, 20 September 1982—*Doc. 7*: Report of the Defence Commissioner to the Bundestag for the Year 1963, issued 1965—*Doc. 8*: Appeal of Krefeld (*Krefelder Appell*) against NATO's Dual Track Decision of 1979, November 1980—*Doc. 9*: Speech by the long-serving Social Democratic Minister of Defence, Hans Apel, to the commanding officers of all three services, 27 October 1982—*Doc. 10*: Principles (*Leitsätze*) of the ruling of the Federal Constitutional Court; decision of July 1994, concerning deployment of German Armed Forces abroad

7 Parliamentary Democracy: The Bundestag

175

CARL-CHRISTOPH SCHWEITZER

- Doc. 1:* Standing Orders of the Bundestag (*Geschäftsordnung*)—*Doc. 2:* Standing Orders of the SPD-Caucus (*Fraktion*)—*Doc. 3:* Standing Committees of the Bundestag and ad hoc commissions—*Docs. 4a-d:* Examples of agendas of Standing Committees of the Bundestag—*Doc. 5:* Constructive vote of no-confidence, 27 April 1972—*Doc. 6:* Joint Rules of Procedure of the Bundestag and Bundesrat for the Mediation Committee (*Vermittlungsausschuss*)—*Doc. 7:* Defence Commissioner (*Wehrbeauftragter des Deutschen Bundestages*) Law of 26 June 1957, as amended 2 March 1974—*Doc. 8:* The Defence Committee as a Committee of Investigation—*Doc. 9:* Speech by a dissenting member of the SPD caucus in 1978

8 Political Parties ANTHONY NICHOLLS

201

- Doc. 1:* The Law on Political Parties (*Parteiengesetz*), 24 July 1967 as amended 22 December 1988—*Doc. 2:* The Law on Political Parties: Finances—*Doc. 3:* The Electoral Law of the Federal Republic of Germany (*Bundeswahlgesetz*), 7 May 1956, as amended 21 July 1993—*Doc. 4:* Statutes of the Christian Democratic Union (CDU), 1 April 1993—*Doc. 5:* Organisation statute of the Social Democratic Party of Germany, 29 May 1991—*Doc. 6:* SPD Subscriptions—*Doc. 7:* The Godesberg Programme of the German Social Democratic Party, November 1959—*Doc. 8:* The 'Freiburg Theses' of the Free Democratic Party, October 1971—*Doc. 9:* Freedom and responsibility: draft proposals of the CDU Federal Executive, October 1993—*Doc. 10:* The Republicans Party Programme, January 1990—*Doc. 11:* Leaflet put out in Munich by the Republican Party, 1992—*Doc. 12:* Programme of the Party of Democratic Socialism (PDS)—1993—*Doc. 13:* Statute of the Federal Association of Alliance 90 and the Greens, June 1993

9 Chancellor, Cabinet, and President

239

DONALD P. KOMMERS

- Doc. 1:* Articles of the Basic Law—*Doc. 2a:* Policy speech by Adenauer in August 1957—*Doc. 2b:* Erhard's Statement of 16 October 1963 on Government Policy after having been sworn in as the new Chancellor in the Bundestag—*Doc. 2c:* Kiesinger's Statement of 16 December 1966 on Government Policy in the Bundestag after taking office—*Doc. 2d:* Brandt's Statement of 28 October 1969 on Government Policy in the Bundestag after taking office—*Doc. 2e:* Schmidt's Statement on Government Policy in the Bundestag of 24 November 1980 after the Formation of his second government—*Doc. 2f:* Kohl's address on the eve of German Unity, 2 October 1990—*Doc. 3:* The Coalition Agreement between SPD and FDP, 1980—*Doc. 4:* Standing Orders of the Federal Cabinet (*Geschäftsordnung der Bundesregierung*)—*Doc. 5:* Federal Ministers

Act (*Bundesministergesetz*) 1953/1968—*Doc. 6*: Parliamentary under Secretaries Act (*Parlamentarische Staatssekretäre*), 1967—*Doc. 7a*: Basic Law, Excerpts—*Doc. 7b*: Presidential Election Act, 1959—*Doc. 8a*: Address by President Weizsäcker on 3 October 1990—*Doc. 8b*: Speech by President Weizsäcker on 8 May 1985 (40th anniversary of the end of war)—*Doc. 8c*: Speech by President Roman Herzog in Warsaw, 1 August 1994, commemorating the 50th anniversary of the Warsaw uprising—*Doc. 9*: Decision of the Federal Constitutional Court on the Dissolution of the Bundestag, 16 February 1983

10 The Judiciary DONALD P. KOMMERS

272

Doc. 1: Extracts from the Basic Law—*Doc. 2*: The Judiciary Act (*Gerichtsverfassungsgesetz*) 1950/75—*Doc. 3*: Judges Act (*Deutsches Richtergesetz*) 1961/72—*Doc. 4*: Federal Judicial Election Act (*Richterwahlgesetz*)—*Doc. 5*: Federal Constitutional Court Act (*Bundesverfassungsgerichtsgesetz*), as amended 1985—*Doc. 6a*: Treaty of 18 May 1990—*Doc. 6b*: Treaty of 31 August 1990 (Treaty of Unity)

11 Basic Rights and Constitutional Review

DONALD P. KOMMERS

297

Doc. 1: Excerpts from the Basic Law—*Doc. 2*: The Socialist Reich Party Case before the Federal Constitutional Court, 1952—*Doc. 3*: The Lüth-Harlan Case, Federal Constitutional Court, 1958—*Doc. 4a*: Church Tax, I, Federal Constitutional Court, 1965—*Doc. 4b*: Church Tax, II, Federal Constitutional Court, 1966—*Doc. 5a*: The Abortion Case, Federal Constitutional Court, 1975—*Doc. 5b*: The Abortion Case, Federal Constitutional Court, 1993—*Doc. 6*: The Civil Servant Loyalty Case Federal Constitutional Court, 1975—*Doc. 7*: Privacy of Communications Case Federal Constitutional Court, 1970—*Doc. 8a*: Article 16a, amendment Basic Law, 1993—*Doc. 8b*: The Citizenship Case, 1987—

12 Federalism: Bund and Länder R. TAYLOR COLE, as revised by CARL-CHRISTOPH SCHWEITZER

325

Doc. 1: Constitutional provisions concerning the Bundesrat (Basic Law)—*Doc. 2*: Rules of procedure of the Bundesrat (*Geschäftsordnung*)—*Doc. 3*: Decision of the Bundesrat regarding the Act to Amend the Value Added Tax, 6 June 1976—*Doc. 4*: Speech by Bundespräsident Karl Carstens on German Federalism, 4 June 1981—*Doc. 5*: Art. 29. Basic Law on reorganization of the Federal Territory—*Doc. 6*: Basic Law Articles 70-75—*Doc. 7a*: Federal Civil Service Framework Act, 1977 (*Beamtenrechtsrahmengesetz*)—*Doc. 7b*: Framework Act for Higher Education (*Hochschulrahmengesetz*), 1976—*Doc. 8*: Amendment of the Basic Law in 1992 concerning new powers of the Länder in the legislation of the European Union and a new status for nationals of the EU in German local elections—

Doc. 9: The execution of Federal laws and the Federal administration under the Basic Law—*Doc. 10a:* Provisions of the Basic Law on financial equalization, fiscal administration and budgetary procedure—*Doc. 10b:* Percentage of tax revenue annually accruing to the Bund, Länder, municipalities and European Community—*Doc. 11a-f:* Definition of 'joint tasks' in the Basic Law, as amended 1969, with practical examples: Act regulating the establishment of the Federal Crime Office (*Bundeskriminalamt*); Act regulating the cooperation of the Federal Government and the Länder in matters relating to the protection of the Constitution (*Bundesamt für Verfassungsschutz, Landesämter für Verfassungsschutz*); Law concerning the organization of the Bavarian Land Police, 10 August 1976; The Königstein Agreement of the Länder of the Federal Republic of Germany on the financing of scientific research facilities, 31 March 1949; Standing Conference of the Ministers of Education, Science and Cultural Affairs of the Länder (*Ständige Konferenz der Kultusminister*)—*Doc. 12a:* Concordat Decision of the Federal Constitutional Court, 1957—*Doc. 12b:* 'Television Decision' of the Federal Constitutional Court, 1961—*Doc. 12c:* Evaluation of decisions by the Federal Constitutional Court respecting Federalism generally, 1981

13 Public Opinion: Interest Groups and the Media

DETLEV KARSTEN

371

Doc. 1: The organisation of business interests, 1993—*Doc. 2:* Better framework conditions must support recovery, 1994—*Doc. 3:* The structure of the German Trade Union Federation, 1994—*Doc. 4:* The Trade Unions' view on lockout, 1981—*Doc. 5:* The German Farmers' Association's views on the future of agriculture, 1980—*Doc. 6:* Citizens' Action Groups as seen by themselves, 1977—*Doc. 7:* Free Church in a free state, 1974—*Doc. 8:* The catholic concept of family policy, 1979—*Doc. 9:* The Peace Memorandum of the Evangelical Church, 1981—*Doc. 10:* Law establishing the 'Westdeutscher Rundfunk Köln', 1985/1988—*Doc. 11:* Representation of interest groups in the Television Board of the 'Second German Television', 1961—*Doc. 12:* Inter-State agreement on the restructuring of broadcasting, 1987—*Doc. 13:* The state of the press (*Medienbericht*), 1978

14 Economic and Social Policy

DETLEV KARSTEN

401

Doc. 1: Act against Restraints of Competition (*Gesetz gegen Wettbewerbsbeschränkungen*), 1957/1980—*Doc. 2:* The Act to Promote Stability and Growth (*Stabilitätsgesetz*), 1967—*Doc. 3:* Act to establish the Central Bank (*Bundesbankgesetz*), 1957—*Doc. 4:* Social Code (*Sozialgesetzbuch*), 1976—*Doc. 5a:* Works Constitution Act 1972: Co-Determination at the Shop Floor Level—*Doc. 5b:* Act Respecting Workers' Co-Determination (*Gesetz über die Mitbestimmung der Arbeitnehmer*): Co-determination at board level,

1976—*Doc. 5c*: The employers' criticisms of co-determination at board level, 1977—*Doc. 5d*: The Trade Union view of co-determination, 1978—*Doc. 5e*: The Federal Constitutional Court's judgment on the Co-determination Act, 1979—*Doc. 6*: Foreign workers as a challenge to policy, 1993—*Doc. 7*: Treaty on the establishment of a monetary, economic and social union, 18 May 1990—*Doc. 8*: The Treuhandanstalt, n.d.—*Doc. 9*: Restitution before compensation, 23 September 1990—*Doc. 10*: Financial transfers required, 1993

Statistical Tables	432
Glossary	446
Select Bibliography	449
Notes on the Editors	458
Index	460