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Parliamentarization and the Question of German Exceptionalism: 1867–1918

Marcus Kreuzer

In a contribution to this journal, Volker Berghahn regretted the fragmentation and lack of focus in the recent research on the German Empire. While he may have overstated his case, his criticism certainly applies to the historiography of Germany's parliamentaryization. The dearth of research, especially of recent vintage, has left the debate about the exceptionalism of Germany's governing institutions indeed "fragmented and decentered." Since Manfred Rauh's two volumes in the 1970s, little has been published. His thesis about Germany's silent parliamentaryization has been attacked, it seems, more for the haughtiness of its footnotes than the substance of its argument. As a result, Rauh's provocative interpretation coexists far too quietly with other accounts, and thereby preempts the sort of dialogue and scholarly integration Berghahn so misses. In her response to Berghahn, Margaret Anderson points out that such a dialogue can be found in, without being confined to, the new work of Germany's electoral politics, that looked anew and more skeptically at the exceptional political development of Imperial Germany. Its findings

An earlier and shorter version of this paper, "Und sie parlamentarisirt sich doch: Die Entwicklung der kaiserlichen Verfassungsordnung in vergleichender Perspektive" has been published in Parlamentarismus in Europa im 19. und 20. Jahrhundert, ed. Marie-Luise Recker (Munich, forthcoming 2003). I would like to thank Marie-Luise Recker, Gerhard A. Ritter, and Christoph Schönberger for their comments. As usual, Margaret L. Anderson's copious and thoughtful suggestions helped vastly to improve my argument.

4. Anderson, "Reply to Volker Berghahn."

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indirectly raise questions about why the development of Germany’s governing institutions — the Reichstag, the Bundesrat, and the chancellor — continue to be interpreted in much more exceptionalist terms than the evolution of electoral politics.

This article reviews the existing historiography of Germany’s parliamentarization and reassesses its prevailing, but by no means unanimous, exceptionalist interpretation. The explanations pivot around two issues. First, scholars disagree about the level of parliamentarization Germany had reached on the eve of the Great War. This disagreement hinges largely on different interpretations about how the Constitution divided power among the Reichstag, Bundesrat, and the imperial government. Second, scholars disagree on the obstacles various noninstitutional factors, particularly democratization and legislative norms, posed for any constitutional shift of power from the Bundesrat and imperial government to the Reichstag. These accounts are exceptional in that they claim that the Reichstag’s limited and arrested parliamentarization before 1918 set Germany apart from European countries and constituted a key factor in Weimar’s collapse. By placing these disagreements in a wider comparative context, the article challenges the more exceptionalist accounts. It demonstrates that these interpretations owe much of their exceptionalism to interpreting Germany’s parliamentarization in light of the British Westminster model. The article does so by expanding the benchmark for assessing the Reichstag’s development from the House of Commons to a wider number of post-1945 European governing institutions.

Mapping the Historiographical Debate

How historians assess Germany’s parliamentarization is the by-product, albeit a largely unselfconscious one, of different models of political development. If we explicate these models, historians can be placed in roughly three historiographical camps. This section briefly introduces these three camps, while the subse-

6. In his review article, Thomas Kühne comes to a similar conclusion. “The majority of monographs focus attention on the pathological aspects of Germany’s parliamentary history.” However, he cites a number of more recent studies focusing on state legislatures that “point to relativization of the Sondersweg thesis.” Thomas Kühne, “Parlamentarismusgeschichte in Deutschland: Probleme, Erträge und Perspektiven einer Gesamtdarstellung,” Geschichte und Gesellschaft 24, no. 2 (1998): 325, 37.

7. Space limitations permit me to review only works dealing with or touching on the Reichstag and Bundesrat between 1871–1918. I therefore do not survey studies dealing with state legislatures or national legislatures before and after the Kaiserreich. This literature is reviewed by Kühne, see n. 6.
quent sections discuss in greater detail the particular positions of individual historians.

The optimists like Manfred Rauh, David Schoenbaum, Thomas Nipperdey, Werner Fraiendienst, Ernst Wolfgang Böckenförde, and Christian Schönberger — whose critics strangely label them as conservatives — closely study formal constitutional arrangements and informal constitutional practices and conclude that the Reichstag played a significant and, especially after 1890, rapidly growing role in shaping political outcomes. They observe close parallels between Germany’s electoral democratization and the parliamentarization of her governing institutions that place it in sync with the political development of the rest of Europe. Ultimately, the optimists subscribe to an evolutionary conception of political development in which continuous political reforms incrementally transformed Germany’s political system. These small, barely visible transformations will bring the constitutional order to a tipping point at which the hybrid autocratic-democratic regime changes into a fully democratic one. Incremental, procedural transformations thus beget a largely unintentional, overall, qualitative regime change.

Pessimists like Hans-Ulrich Wehler, Heinrich-August Winkler, and Volker Berghahn view political institutions, especially the Bundesrat and Bundestag, as so unchanging and inconsequential that political outcomes are principally determined by extraconstitutional factors, such as the repressive capacity of the state, the manipulation of popular opinion, or the advent of mass politics.\(^8\) Pessimists subscribe to a static view of Germany’s political development in which there are no significant, incremental transformations and hence no regime change. To the extent that they identify any procedural transformations, they point to noninstitutional factors, especially Germany’s democratization, which in their view blocked Germany’s parliamentarization.

Sandwiched between these two camps are the skeptics like Hans-Jürgen Puhle, Gerhard A. Ritter, and David Blackbourn. These scholars acknowledge the Reichstag’s importance and widening prerogatives and the Bundesrat’s diminished standing but they characterize these changes as either inconsequential or insufficient to transform fundamentally the existing constitutional order. They point to the emergence of mass politics from 1880 onward as not only dividing parties more deeply and hence lessening their united front vis-à-vis the government, but also deepening both popular and elite antipathy toward sectarian political parties and the parliamentary form of government associated with them. Skeptics thus acknowledge Germany’s gradual transformation but

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8. The work of these scholars is well summarized by Dieter Langewiesche, ”Das deutsche Kaiserreich — Bemerkungen zur Diskussion über Parlamentarierung und Demokratisierung Deutschlands,” *Archiv für Sozialgeschichte* 19 (1979): 628–29.
judge it to be too feeble and too offset by counterdevelopments, ultimately to lead to full regime change.

Tables 1a & b provide a first and rather coarse overview of the different historiographical camps, assigning to each a separate column. They cover interpretations for the period from 1890 to 1914. Since historians are not equally optimistic or pessimistic across all elements of political development, the tables’ rows add five factors found in most historiographical accounts. The first three elements — government formation, legislative powers, and Bundesrat — all touch on institutional features defining the degree of sovereignty the Reichstag had in translating voter preferences into policy outcomes. The final two elements — electoral democratization and legislative norms — involve noninstitutional or societal factors that affected the Reichstag’s actual function and hence its ability to exploit, or not to exploit, its constitutionally prescribed prerogatives. Table 1a spells out the criteria used for assessing these five elements of Germany’s parliamentarization, while table 1b graphs the various historians onto this historiographical matrix.

### Table 1a: Criteria for Categorizing Historiographical Interpretations

<table>
<thead>
<tr>
<th>A. Institutional Factors</th>
<th>Pessimists</th>
<th>Skeptics</th>
<th>Optimists</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Legislative Powers of Reichstag</td>
<td>– limited legislative powers of Reichstag overshadowed by bureaucracy</td>
<td>– important legislative powers of Reichstag but used only in reactive fashion</td>
<td>– important legislative powers used both in reactive fashion and to set the political agenda</td>
</tr>
<tr>
<td>3. Bundesrat</td>
<td>– “constitutional fig leaf” for Prussian and imperial dominance⁹</td>
<td>– legislatively weak, reactive role. Legitimating government’s</td>
<td>– minimal executive role, mostly functions as conventional upper chamber</td>
</tr>
</tbody>
</table>

### Table 1a (cont.)

<table>
<thead>
<tr>
<th>Pessimists</th>
<th>Skeptics</th>
<th>Optimists</th>
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</thead>
<tbody>
<tr>
<td>self-appointment &amp; obstructing</td>
<td>checking power,</td>
<td>genuine electoral competition. No adverse</td>
</tr>
<tr>
<td>parliamentarization</td>
<td>increasingly ineffective in</td>
<td>effects on parliamentarization</td>
</tr>
<tr>
<td></td>
<td>blocking parliamentarization</td>
<td></td>
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</table>

#### B. Non-Institutional Factors

1. Democratization — enhanced autocratic control by permitting Bonapartist strategies
   - genuine electoral competition but undermined parliamentarization by polarizing parties

2. Legislative Norms — are static and impede parliamentarization
   - are changing but incompatible with parliamentary government
   - changing and compatible with multiple regime types

The institutional and noninstitutional factors in Table 1a closely correspond to the two key criteria historians use to assess the exceptionalism of a particular phenomenon: cross-national uniqueness and continuities across time. In the debate about German parliamentarization, institutional factors are mostly used to assess Germany’s uniqueness compared to other nations, most particularly England. By contrast, the noninstitutional or societal factors serve to discuss continuities across time. This historiographical matrix, therefore, covers the two key dimensions in any exceptionalist debate.

Table 1b plots individual historians on this matrix.
Table 1b: Mapping Historiographical Positions

<table>
<thead>
<tr>
<th>A. Institutional Factors</th>
<th>Pessimists</th>
<th>Skeptics</th>
<th>Optimists</th>
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Table 1b (cont.)

<table>
<thead>
<tr>
<th>B. Non-Institutional Factors</th>
<th>Pessimists</th>
<th>Skeptics</th>
<th>Optimists</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Democratization¹³</td>
<td>Berghahn, 204–5; Schönberger, 650–54; Nipperdey; Wehler, 53. Rauh, &quot;Föderalismus&quot;; Rauh, &quot;Parlamentararisierung.&quot;</td>
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<tr>
<td>2. Legislative Norms¹⁴</td>
<td>Berghahn, 208–9; Schönberger, 657–58, 662; Blackbourn &amp; Eley, 279; Blackbourn, Nipperdey, 104–5; Craig, 49; Frenkel, 24–25; Puhle, 351; 206–9; Puhle, Rauh, &quot;Parlamentararisierung.&quot; Wehler, 72–73. 350–54; Sheehan, &quot;Political Leadership,&quot; 525–27; Ritter, 26, 30.</td>
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</tbody>
</table>

Table 1b reveals that occasionally a historian straddles two camps on a position or two, but otherwise their positions are largely cumulative. It also underscores that there is little evolution in the historiographical debates, as representatives of different camps are evenly distributed across time. This lack of evolution is largely a reflection of the dearth of research done since the late 1970s. To the extent that a historiographical trend has been detected, it has involved a shift in the debate and the displacement of pessimists by the skeptics as the primary counterpoint to the optimists.¹⁵ It therefore seems most productive to concentrate on skeptics and optimists and their disagreement over how extensive the post-1900 transformations — which they both concede — were and how close they came to moving Germany to a tipping point beyond which it would have

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¹³ Föderalismus; Ritter, ed., Der Berliner Reichstag; Schönberger, "Die überholte Parlamentarisierung"; Shepard, "Tendencies"; Wehler, The German Empire.

¹⁴ Berghahn, Imperial Germany; Nipperdey, Machtsstaat; Rauh, Die Parlamentarisierung; Rauh, Föderalismus; Schönberger, "Die überholte Parlamentarisierung"; Wehler, The German Empire.

¹⁵ Kühne, "Parlamentarismusgeschichte"; Langewiesche, "Das deutsche Kaiserreich."
undergone a full regime change to a parliamentary government. I will answer this question by placing the institutional and noninstitutional elements of Germany’s parliamentarization in a wider cross-sectional comparison. Unlike the historian who would muster new archival evidence from Germany, I draw on the existing knowledge about other countries and use a comparative approach.  

The motivation for such a comparative approach is twofold. First, to my knowledge, it has not been undertaken and therefore promises to shed a new light on the existing debates. Second, the parliamentarization debate so far has focused too exclusively on the British Westminster model. This focus is understandable; after all, Britain was the cradle of modern parliamentarism, the continuity of the House of Commons is unrivaled, and its transformation occurred peacefully. Still, it is surprising to see the model employed equally by all three historiographical camps. Skeptics and pessimists use the English norm to explain why Germany was so unique, just as the optimists try to show that Germany’s parliamentarization was closer to the British model than their critics claim.  

At a methodological level, however, conceptualizing parliamentary sovereignty in terms of the Westminster model and benchmarking parliamentarization against the British experience is highly problematic. Britain may have been the mother country of parliamentary government, but this does not mean — and the American case certainly illustrates this — that it constitutes a singular destination around which democratic and constitutional political developments converge. The political institutions and experience of Britain simply are too singular to provide a clear conceptual basis or developmental benchmark for convincingly demonstrating the uniqueness of Germany’s parliamentarization.

Using the Westminster model as a comparative benchmark results in two specific problems. First, it overlooks the multiple democratic regime types into which gradual transformations can ultimately change regimes. Already in the late 1960s, Arend Lijphart chided his fellow political scientists studying democ-

17. The only parliamentary scholar to depart from this Anglocentrism is Schönberger, “Die überholte Parlamentarierung,” 650–66. For the benefits of a more comparative perspective yield, see Anderson, Practicing Democracy.
18. Scholars like Barrington Moore or Gregory Luebbern, who look at the social-economic foundations of modern democracy, have long pointed out that there are multiple paths of political development. Gregory Luebbern, Liberalism, Fascism or Social Democracy (New York, 1991); Barrington Moore, The Social Origins of Dictatorship and Democracy (Boston, 1966).
19. Blackbourn and Eley, The Peculiarities, 10–11. Ernst Fraenkel provides a particularly illustrative example of unreflective reliance on the British model when he attributes Weimar’s failure to the uncritical importation of the English parliamentary system. Given Weimar’s federalism, powerful and directly elected president, referenda and proportional representation, there was, in fact, very little shared with the Westminster model. Fraenkel, Deutschland und die westlichen Demokratien, 13.
ratization for being far too Anglo-centric and overlooking the nonmajoritarian yet stable democracies found in smaller European countries. Lijphart's suggestion has gone unheeded among German political historians and has so far only been picked up by a legal historian. Around the turn of the century, Max Weber and Walter Shepard entertained the possibility that parliamentarization could advance by democratizing the Bundesrat. Second, the Westminster benchmark ignores the wide range of institutional configurations within each regime type (e.g., parliamentarism, presidentialism, semipresidentialism), the spectrum of legislative norms compatible with fully developed liberal democracies, as well as the different developmental sequences of parliamentarization and democratization found in the histories of functioning democracies. These two shortcomings therefore make it impossible productively to assess the questions over which skeptics and optimists debate, namely how significant were the gradual, procedural transformations in late Imperial Germany and what was the prospect of their bringing about a regime change? The following section, therefore, addresses these two questions by applying a wider comparative perspective to the five specific items around which the historiographical debate centers: government formation, Reichstag's legislative powers, role of Bundesrat, legislative norms and developmental sequencing.

Government Formation

Exceptionalist historians certainly are correct in asserting that a legislature's control of government formation constitutes a key element of parliamentary sovereignty, at least in parliamentary systems. Yet, by comparing the Reichstag to the House of Commons, exceptionalist historians inadvertently make full parliamentary control over government formation the central condition for parliamentarization. Ultimately, such benchmarking distorts Germany's political development because it overlooks the fact that the range of parliamentary involvement in government formation varies a great deal, even among fully parliamentarized political systems. Once the Reichstag is analyzed in this broader

21. Schönberger, "Die überholte Parlamentarisierung."
23. Schönberger extends the same mistake to the Weimar Republic. He argues that the Weimar president's prerogative to nominate the chancellor constituted a violation of parliamentary sovereignty, what he calls negative parliamentarism. Schönberger, "Die überholte Parlamentarisierung," 640. Weimar, however, was in no way a negative, inferior, or otherwise compromised form of parliamentarism. It was instead a semi-presidential system in which it was perfectly legitimate for presidents to have a say in government formation. Once Weimar is judged as a semi-presidential system rather than a parliamentary system, its characterization as negative parliamentarism does not make much sense. Giovanni Sartori, Comparative Constitutional Engineering (New York, 1994), 128–29.
comparative perspective, its underdevelopment becomes far less pronounced. More specifically, such a comparative perspective raises doubts about the historians' elevation of full parliamentary control over government formation as an unqualified sine qua non for parliamentarization. Schönberger, for example, argues that the Reichstag's growing censures of individual ministers "should not be viewed as a step toward the parliamentarization of the Reichstag."24 This all or nothing reasoning is akin to claiming that the UK's 1832 and 1867 Reform Acts did not constitute genuine steps toward democracy because they fell short of universal suffrage. Nipperdey nicely acknowledges this point when he writes, "Since the Reichstag had no influence over the make-up of the government... its standing among historians has been low. But the matter of its power and impotence is more complicated than that."25

Table 2 reveals that legislative involvement in government formation is subject to great procedural complexities, to a far wider range than the Westminster model would suggest. The rules structuring government formation are far too many and complex to be discussed in full. Here I shall only concentrate on the three principle procedures determining a legislature's control over government formation: nomination rules, investiture rules, and censure rules.26

i) Nomination Rules: Nomination rules affect a legislature's control over the nomination of prospective executive members. If such rules impose few restrictions, legislatures can self-select the prime minister and in some instances even the ministers. More commonly, however, nomination rules delegate nominations to the head of state whose discretion varies according to whether he has to consider election results and whether he can call on individual politicians or parties to form a government. These formal nomination powers of heads of states increase with the fragmentation of party systems and the organizational cohesion of parties. The nomination powers are of course strongest in presidential systems or semi-authoritarian systems like Imperial Germany.

ii) Investiture Rules: Investiture rules stipulate whether or not nominated governments or even individual ministers require legislative endorsements before being sworn into office. The more extensive the investiture requirements the greater the parliament's control will be over government formation. In most Scandinavian democracies, incoming governments are not subject to an investiture vote because they are assumed to have parliament's confidence until a vote of no-confidence indicates

26. In many instances these rules are not constitutionally codified but have evolved from longstanding practices to become extra-constitutional norm. Lieven de Winter, "The Role of Parliament in Government Formation and Resignation," in Parliaments and Majority Rule in Western Europe, ed. Herbert Döring (New York, 1995), 122–23.
otherwise. By contrast, votes of investitures increase the legislature’s control over government formation depending on their scope (i.e., whether it approves only the PM but not ministers, the entire cabinet, or individual ministers) and the voting rules (i.e., requirement of simple or absolute majority, whether abstentions are counted or not, and whether abstentions are counted as endorsements or rejections). 27

iii) Censure Rules: Censure rules or votes of no-confidence determine the restrictions legislatures face in dismissing governments. Legislative dismissal powers are strongest where censure votes require only a small number of sponsors for bringing them to the floor, where its frequency per session is unrestricted, where its success is not tied to the formation of an alternative government, and where it is not linked to impeachable causes. 28

Table 2: Parliamentary Control over Government Formation 29

<table>
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<tr>
<th>Elements of Government Formation:</th>
<th>Degree of Parliamentary Control</th>
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<td>Low</td>
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<td>3. Government Dismissal</td>
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<td>- Swi.</td>
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A quick glance at Table 2 shows that the Reichstag's control over government formation varied across the three procedures, thus making it neither an exceptional outlier nor the antithesis of the House of Commons. Clearly, the Reichstag's most anomalous characteristic was its lack of control over the nomination and investiture of the executive. On those two elements, Imperial Germany resembles a presidential system where legislatures have no control over government formation. This comparison underscores the point that government nomination and investiture do not have to be legislative prerogatives for a political system to be fully developed. Obviously, this comparison is forced given that presidential governments are directly elected whereas the German emperor had a hereditary claim to his office. Table 2 further reveals that, even among nonpresidential systems, legislatures vary in their control over nominating and investing governments. Their control is weakest in semi-presidential systems like the Fifth Republic, Weimar, or Finland. Among pure parliamentary systems, only the legislature in Sweden and the Third Republic had full control over the nomination and investiture of new governments. In all other parliamentary systems, the head of state plays a role in the nomination and the investiture powers of parliaments are circumscribed. It is difficult to assess precisely the actual nominating powers of heads of states since the number of legislative parties and their organizational cohesion can greatly modify these nominal powers.

The discussion so far has done little to challenge the Reichstag's widely alleged impotence in the government formation process. This assessment, however, changes once we compare votes of censure or no-confidence that determine the powers legislatures have to hold accountable or dismiss governments. If we solely go by formal constitutional clauses, the Reichstag was as powerless on this score as it was in nominating or investing governments. However, once we look at informal practices, the picture changes. Böckenförde points out that the ministers were always expected to explain their policies before the Reichstag, thus implicitly acknowledging a tacit parliamentary accountability. From 1900 onward, the SPD, the Progressives and, to a lesser extent, the Center Party introduced various bills to establish ministerial responsibility. Not surprisingly, these initiatives were all blocked by either the Conservatives, the Reichsleitung, or the Bundesrat. These formal, constitutional defeats notwithstanding, ministerial responsibility gradually expanded from 1890 onward. Ironically, the

30. Still, this comparison raises the question why historians preclude presidential option for Germany's political development rather than focusing solely on extending parliamentary sovereignty over government formation. The obvious answer might be that presidential systems, with their strong, highly personalized executive, would have been constitutionally incompatible with a monarchy. Still, given Weimar's semi-presidential constitution, historians could defend their focus on parliamentization more effectively by rejecting more explicitly the presidential alternative.

emerging principle of ministerial responsibility was more powerful than in
many existing liberal democracies because it was based on informal and hence
changeable conventions rather than formal and potentially more restrictive con-
stitutional clauses. Frauenthein was one of the first scholars to point to the
Reichstag's growing willingness to censure the chancellor and his ministers. He
explicitly recognizes that the Reichsverfassung did not give the Reichstag the
right to censure ministers, but beginning in 1890 the norm was gradually estab-
lished that ministers, after suffering defeat on a significant piece of legislation,
resign because they lacked the confidence of parliament. "Even in a constitu-
tional system heavily dominated by the emperor, no minister had any prospects
of working successfully, let alone in the long run remain in office, if he did
not enjoy a reliable parliamentary majority. A hostile parliament could not
necessarily topple him but it could become obstructionist enough . . . so that
the chancellor's and the emperor's decision to keep him were considerably
complicated."32
By 1912, the Reichstag formalized this convention of censuring the govern-
ment. It did so by permitting motions to be attached to legislative interpella-
tions that expressively stated no-confidence in a minister. In this context, it
should be pointed out that the Reichstag's growing control — even if only in
negative fashion — over the Reichsleitung was the by-product of the govern-
ment's (e.g., Reichsleitung's) growing independence from the Bundesrat and
Prussia. During the Bismarck era, the imperial government largely overlapped
with the Prussian state cabinet and also was the de facto executive organization
of the Bundesrat. The Bundesrat's declining influence over the government
went hand in hand with the Reichstag's growing assertion of the power to cen-
sure the ministers.33 Interestingly enough, I could not find any references to
works rebutting Frauenthein's compelling argument. To appreciate its larger
significance, however, requires an understanding that government formation
rests on two equally important components: ministers' nomination and their
dismissal. Many existing historians are too focused on the former and discount
the latter.

Legislative Powers

Skeptics and even pessimists do not dismiss the Reichstag's legislative
significance quite as quickly as they do its control of government formation.
They now acknowledge the Reichstag's veto powers, heavy workload, increas-
ingly important committees and, occasionally, even the right to initiate legisla-
tion. They argue that, while these prerogatives gave the Reichstag some reactive

32. Hermann Butzer, Deutsche und Freiheit im Deutschen Reichstag (Düsseldorf, 1999), 179–80;
Frauenthein, "Demokratisierung," 738.
leverage, they ultimately were too insignificant, especially in light of its inability to appoint the government, to shape the political agenda. But once we contrast the Reichstag's legislative powers against more than just the Westminster model and compare them one by one rather than as an undifferentiated whole, this assessment has to be revised.

Since the golden days of classical, nineteenth-century parliamentarism, legislative powers have gradually shifted from individual deputies to committees, parties, and, most importantly, to the executive. Yet, within this broad historical shift from assembly to party- and prime-ministerial government, the degree to which deputies and legislatures have lost control over setting the agenda continues to vary significantly across liberal democracies. Political scientists generally look at four different parliamentary procedures for assessing a legislature's decision-making authority vis-à-vis the executive:

i. Constraints on individual legislator's law-making ability (so-called private member bills). Such include numerical restrictions on private member bills, requirements on the number of legislators required to propose a bill and content restrictions for private member bills (such as the prohibition on the introduction of money bills).

ii. Constraints on the ability of legislatures or legislative committees to introduce so-called money bills that entail new expenditures. Some parliamentary standing orders make money bills the sole prerogative of governments.

iii. Constraints on these committees' ability to rewrite bills. Standing orders stipulate whether committees have any power to rewrite bills and, if so, whether parliamentary amendments have to be presented or not together with the original bill when it is sent back to the floor for a vote.

iv. Constraints on parliamentary debates. The executives' ability to limit parliamentary debate significantly affects the legislature's ability to influence voting outcomes through filibustering.

This list of constraints on legislative sovereignty is by no means exhaustive. A comprehensive account would also consider vote-of-confidence procedures that enable governments to discipline legislatures; the governmental control over political careers; and parliamentary voting procedures. Considerations of


these further factors would refine, without fundamentally altering, the argument to be developed below.

Table 3: Parliamentary Control over Agenda Setting*

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<thead>
<tr>
<th>Constraints over:</th>
<th>Degree of Parliamentary Agenda Control</th>
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<tr>
<td></td>
<td>Low</td>
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<tr>
<td>1. Private</td>
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<td>Member Bills</td>
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<td>- Aus.</td>
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<td>2. Money Bills</td>
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<td>3. Legislative</td>
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<td>Amendments</td>
<td>- Den.</td>
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<td></td>
<td>- V Rep.</td>
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<td>4. Parliamentary</td>
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Table 3 compares the Reichstag's legislative powers with those of postwar European democracies and the United States. It clearly underscores how many legislative powers the Reichstag actually enjoyed and how little countervailing leverage the government commanded.39


39. To some readers Table 3 seems to make the common sense-defying assertion that the Reichstag was more powerful than the current Bundestag. This assertion holds only for strictly formal agenda-setting powers. Once the formal powers of government formation and noninstitutional factors like party cohesion, parliamentary norms, or societal polarization are factored in, the
The Reichstag's powers cluster together with those of the legislatures of Belgium, Netherlands, Finland, Norway, Sweden, and Switzerland. These countries are generally categorized as so-called assembly governments to underscore their almost unfettered parliamentary sovereignty. The Reichstag's legislative powers were considerable as it could introduce bills, including money bills, and because its committees had considerable discretion over rewriting and amending the bills introduced by the government. Moreover, the Reichstag's Senior Council (Seniorenkonvent) controlled the scheduling and timing of parliamentary debates independently of the government. In an ironic twist, by these criteria the House of Commons ranks together with Greece, Ireland, and the Fifth Republic as a weak legislature. It is not an accident that political scientists frequently refer to Britain as an elective dictatorship.

The imperial government also had few countervailing powers to offset the Reichstag's formidable legislative prerogatives. Its strongest leverage was the power to dissolve the Reichstag and thereby to jeopardize deputies' political careers. It did so five times—in 1878, 1887, 1890, 1893, and 1907—and threatened to do so on various other occasions. On three occasions, this strategy allowed the government to increase its parliamentary strength, but only at the long-term cost of further politicizing the electorate—and thereby diminishing the conservatives' deferential voter base—and corroding the government's claim to being above party politics. While the power of parliamentary dissolution gave the government some definite leverage, it has to be pointed out that this is a very standard, and thus hardly exceptional, prerogative of virtually every parliamentary government. And other than the power of dissolution, the government had no further countervailing powers. Given the strict separation of executive and legislature, it could not use the demand for a vote of confidence as a tool to pressure the Reichstag to support its bills. Votes of confidence have an important disciplining potential because they threaten the government's legislative supporters with the loss of office and all benefits to be derived from incumbency if they fail to pass. Finally, the government could not use control over career advances to the cabinet or committees as leverage to


40. Böckenförde, "Der deutsche Typ," 292–93; Butzer, Diätten, 149; Raub, Die Parlamentarisation, 124–15, 32.
41. Raub, Die Parlamentarisation, 136.
induce legislative cooperation, as deputies did not expect to gain cabinet level offices and the Reichstag made committee appointments.\textsuperscript{42} The Reichstag thus clearly enjoyed a wide range of prerogatives that significantly limited the government’s ability to act unilaterally. The simple shift from what the Reichstag could not do (the skeptics’ and pessimists’ favorite preoccupation) to what it actually could do reveals it being a powerful legislature by any standard. It closely resembles legislatures in presidential systems or the European Parliament, which also lack influence over the government formation process and play a secondary role in initiating legislation. Such nonparliamentary legislatures commonly have formidable blocking or delaying powers that are effectively used indirectly to shape political agendas through what scholars have come to call veto bargaining. Research on the U.S. Congress and more recently on the European Parliament has shown that a constitutional actor’s ability to delay, modify, and veto bills confers on him agenda-setting power even if another actor is formally in charge of initially introducing bills. Drawing on game theory, these scholars point out that blocking powers create strategic interdependencies among actors to the point where the formal agenda setter (e.g., the imperial government) will anticipate its opponents’ (e.g., the Reichstag’s) preferences and incorporate them in the initially submitted bill. Rauh clearly identifies how the Reichstag used veto bargaining for the purpose of what legislative scholars call conditional agenda setting.\textsuperscript{43} His various case studies suggest that the Reichstag cooperated with the government in initiating legislation and not just in subsequently modifying it. For example in 1909, it requested the government to submit a bill for a value added tax on land; in 1903–1904 the Center Party pushed for a bill repealing the (anti-) Jesuit law by threatening to oppose the government’s much needed finance reform and trade agreements.\textsuperscript{44} Even though such veto bargaining has not been systematically studied, there is every reason to suspect that it was widely employed by the Reichstag, otherwise various chancellors would not have assiduously lobbied Reichstag members by inviting them to informal soirees in their palais.\textsuperscript{45} During the brief Bülow Block (1907–1909), Chancellor von Bülow even went so far as to form a governmental coalition in the Reichstag rather than having to rely on continuously rotating legislative majorities.\textsuperscript{46}

\begin{thebibliography}{9}
\bibitem{Rauh2} Rauh, \textit{Föderalismus}, 252–53.
\end{thebibliography}
So far, my argument rests on formal constitutional analysis and some theoretical speculations. The goal for this line of analysis has been to shift the focus from the Reichstag's few limitations to its numerous legislative prerogatives. Of course, whether these possibilities translated into actual legislative power is quite a different issue. Was the Reichstag merely reactive, as pessimists and skeptics claim, or did it significantly redirect the course set by the government or even actively set the political agenda? Given the present dearth of research, it is difficult to provide a definite answer.47

The current state of research permits two tentative conclusions. First, there is little evidence for any accounts representing the Reichstag's legislative role as purely reactive. For such accounts to be compelling, they would have to dismiss the Reichstag's veto bargaining potential and show that the government set its agenda with total disregard for the Reichstag's preferences. Second, there is compelling, albeit fragmentary evidence that the Reichstag used its prerogatives, and on many occasions did so successfully, to press for political reforms like parliamentary diets, travel subsidies, secret ballots, or shortening military appropriations from seven to five years.48 The Reichstag also employed its prerogatives to block valiantly the government's attempt during the 1890s to curtail the rights of labor and of Social Democrats by rejecting the Sedition Bill and the Penitentiary Bill.49 Thus, when it came to advancing liberal democracy, the Reichstag set the agenda or at least was successful in blocking the government's attempt to reverse it. When it comes to economic and social legislation, it is more difficult to assess the Reichstag's agenda-setting control because of the dearth of detailed legislative studies. Ritter argues that it significantly shaped economic policy and social policy.50 Similarly, the studies by Butzer and Rauh clearly demonstrate that the Reichstag was by no means the passive, purely reactive parliament as it is commonly portrayed.51

Therefore, if we compare the Reichstag's legislative powers with that of other legislative bodies, we find many constitutional assets to offset its constantly mentioned and allegedly exceptionalist liability of having no say over the government formation. As so often, Nipperdey was right on target when he observed that “the monarchy was constrained by the constitution, the legal

47. No major study of either the Reichstag or Bundesrat has been published since Rauh, Die Parlamentarisierung. Rauh’s work was followed by a number of studies on state legislatures but the last one to appear was in 1987. Kuhne, "Parlamentarismusgeschichte," 355.
51. Butzer, Diäten; Rauh, Die Parlamentarisierung.
norms and the participation of parliament... The fact that the government’s survival did not depend on the parliament does not diminish these constraints.\textsuperscript{92}

**Bundesrat**

Assessing the Bundesrat’s effect on Germany’s parliamentary development is complicated by its peculiar constitutional standing. Unlike other upper chambers, the Bundesrat served the triple function of representing territorial interests, acting as a check against widening popular sovereignty, and, most peculiarly of being the seat of the executive. We already pointed out that after 1900 it lost much of its executive function to the Reichsregierung.\textsuperscript{53} Nevertheless, the Bundesrat’s multiple and overlapping constitutional roles and its informal, gradual transformation complicate the assessment of its impact on Germany’s overall political development. These complications aside, skeptics and pessimists make three claims about the Bundesrat’s larger political significance: it impeded parliamentary sovereignty; it was Bismarck’s most successful piece of autocratic constitutional engineering; and it constitutes a unique feature of German political development. I will take up these three charges in reverse order. Once again, a comparative perspective tempers the Bundesrat’s alleged exceptionalism.

First, the Bundesrat was neither unique in its undemocratic selection method nor in its blocking of political reforms. Table 4 shows that the Bundesrat’s method of selection — a chamber of appointed state representatives — placed it squarely in the middle of the late nineteenth-century upper chambers whose spectrum of selection methods ranged from hereditary seats to direct election. It was less democratic than upper chambers in France, Scandinavia, and the Benelux countries and somewhat more democratic than those in Britain, Italy, Austria, Hungary, and Spain. Moreover, the Bundesrat was hardly any more reactionary than other nineteenth-century upper chambers in its role of blocking democratic reforms. The US Senate vetoed the abolition of slavery and delayed the female franchise; the British House of Lords stymied Irish Home Rule and the 1884 Reform Act; and the Third Republic’s Senate repeatedly vetoed female suffrage.\textsuperscript{54}

\textsuperscript{92} Nipperdey, Machtstaat, 99–100.

\textsuperscript{53} Ibid., 489–92; Rauh, Die Parlamentarisierung, 29–43; Rauh, Föderalismus.

Table 4: Nineteenth Century Second Chambers

<table>
<thead>
<tr>
<th>Country</th>
<th>Chamber Name</th>
<th>Method of Selection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>Herrenhaus</td>
<td>Hereditary seats for nobility and permanent seats for church</td>
</tr>
<tr>
<td>Hungary</td>
<td>Table of the Magnates</td>
<td>Hereditary seats for nobility and permanent seats for church</td>
</tr>
<tr>
<td>Spain</td>
<td>Senate</td>
<td>Hereditary nobles, senators appointed by the Crown, Elected by Corporations and large taxpayers</td>
</tr>
<tr>
<td>Italy</td>
<td>Senate</td>
<td>Hereditary seats for members of royal family, royal appointees from present categories</td>
</tr>
<tr>
<td>Netherlands</td>
<td>Second Chamber</td>
<td>Elected from largest taxpayers of provincial estates</td>
</tr>
<tr>
<td>Belgium</td>
<td>Senate</td>
<td>Directly elected as well as indirectly elected from Provincial Councils</td>
</tr>
<tr>
<td>Denmark</td>
<td>Landsting</td>
<td>Largely elected, with king able to appoint a dozen (out of 65)</td>
</tr>
<tr>
<td>France</td>
<td>Senate</td>
<td>Indirectly elected</td>
</tr>
<tr>
<td>UK</td>
<td>House of Lords</td>
<td>Hereditary as well as appointed by the Crown (i.e., government)</td>
</tr>
<tr>
<td>Sweden</td>
<td>Upper House</td>
<td>Indirectly elected</td>
</tr>
<tr>
<td>Norway</td>
<td>Lagthing</td>
<td>Constituted from 1/4 of lower chamber</td>
</tr>
</tbody>
</table>

Second, the reactionary implications of the Bundesrat seem far more indeterminate than many historians make them out to be. Even optimists like Rauh and Nipperdey claim that the Bundesrat functioned "as a protective shield of the monarchical principle against advances of the Reichstag or even parliamentarism."56 This pessimism seems misplaced on several scores. It overlooks the already mentioned creeping expansion of ministerial responsibility, the victory of

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55. Sources: John Marris, Second Chambers (Freepost, 1969), 220–38.
56. Nipperdey, Machtstaat, 93; Rauh, Politikomik, 1–30.
parliamentary stipends in 1907, and the introduction of ballot envelopes facilitating secrecy in 1903. All three of these changes were vehemently opposed by the government. The Bundesrat thus does not seem like an insurmountable obstacle to political development; it could do little to halt its rapidly diminishing executive function. Historians also make too much of the incompatibility of Reichstag mandates and membership in the executive. They claim that the continued constitutional fiction of the Bundesrat as the seat of the executive perpetuated this separation between executive and legislative powers and hence obstructed the establishment of ministerial responsibility. Comparatively speaking, the prohibition of joint membership in the executive and parliament was not unique to Imperial Germany. Such joint memberships are prohibited in present day Luxembourg, Switzerland, France, Norway, the Netherlands, Sweden, and Portugal. Finally, the Bundesrat's reactionary stance was less the result of its role within the larger constitutional framework than it was the by-product of the restrictive electoral laws of some German states, notably Prussia and Saxony. Shepard indirectly makes this point by demonstrating that the prospective and actual democratization of state legislatures could turn the Bundesrat into a catalyst, as opposed to a stumbling block, of parliamentarization.

Third, and more generally, all three camps overlook the fact that the Bundesrat's antiparliamentary and antidemocratic implications fall well within the range of legitimate goals pursued by liberal democratic constitutions. They underestimate the possibility that the Bundesrat blocked not just the democratic promise of the Reichstag but also the tyrannical dangers of the Reichsregierung and the emperor. Nipperdey, partly contradicting his earlier pessimism, argues that, "it would be wrong to view the Bundesrat as a big compliant voting body. Bismarck placed considerable emphasis on friendly relations with the states, on voluntary consultations, on consensus." Similarly, Gerhard Lehbruch points out in his discussion of federalism that the "authoritarian facade of the empire masked a system characterized by the give and take of heterogeneous rival organizations and elites." Moreover, the Bundesrat's antidemocratic and antiparliamentary effects have to be placed in the context of nineteenth-century democracy's less than stellar track record. In France, unfettered popular and parliamentary sovereignty during the 1789 Revolution, the Second Republic, and Second Empire demonstrated that the combination of

57. Blackbourn, "New Legislatures" 202; Nipperdey, Machtstaat, 94.
59. Shepard, "Tendencies."
60. Nipperdey, Machtstaat, 91.
voter ignorance, deference, and manipulation could produce democratic governments just as tyrannical as those that had existed under the ancien régime. Even the United States, whose democracy was constitutionally constrained, endured a civil war and the rise of corrupt party machines. The point here is that checks on parliamentary and popular sovereignty — be they in the form of federalism, judicial review, civil rights, independent central banks — are part and parcel of liberal democracy’s legitimate constitutional repertoire. Liberal democracy consists of two very distinct and mutually contradictory components: popular sovereignty and liberal constitutionalism. Ortega y Gasset made this distinction particularly succinctly when he wrote:

Democracy answers this question — “who ought to exercise the public power?” The answer it gives is that the exercise of public power belongs to the citizens of a body . . . It proposes that we all rule . . . Liberal constitutionalism . . . answers this other question — “regardless of who exercises the public power, what should its limits be?” The answer it gives is — “whether the public power is exercised by an autocrat or by the people, it cannot be absolute; the individual has rights that are over and above any interference by the state.”

Democracy is thus about self-government, about allowing citizens to express their preferences, and about empowering the government to translate these preferences into policies. It establishes positive powers that give governments the right to act; it “is meant to mobilize society in the exercising of state authority.” Liberal constitutionalism, on the other hand, serves the very opposite purpose. By giving individuals civil and economic rights and dividing governing powers, it creates negative rights to block action that are “meant to curb state authority.”

Legislative Behavior and Norms

Historians point out that proper parliamentarization involves not just formal constitutional changes but also the formation of norms and skills necessary for
the proper functioning of legislatures.\textsuperscript{66} There is little with which to disagree on this point. But it is far more difficult to agree on how to draw proper inferences about the degree of parliamentarization from the legislators' internalized norms. The norms and skills that underpin legislative behavior and policymaking styles are far more amorphous and, hence, empirically more elusive than the formalized and mechanical decision-making rules discussed earlier.\textsuperscript{67} The problems notwithstanding, pessimists and skeptics discuss these deficiencies under roughly three separate rubrics: the Reichstag's bureaucratized decision-making style, its antiparliamentarism, and its unwillingness to assume full governmental responsibility.

In noting the Reichstag's peculiarities, many historians frequently point to its bureaucratized or nonpartisan decision-making style. Blackbourn, for example, discusses the growth in horse trading among deputies, behind-the-scenes decision-making and professionalization of deputies;\textsuperscript{68} Fraenkel argues that German parliamentarians found legislative strategizing and bargaining frivolous and dishonorable;\textsuperscript{69} Schönberger contends the Reichstag became more and more "an experienced counter- and cobureaucracy" whose primary interest became securing cross-party support for legislation and assuring constitutional and administrative legality of pending bills.\textsuperscript{70} These and other historians are not always very explicit in how precisely these allegedly peculiar decision-making styles impede parliamentarization. The implicit argument seems to be that a bureaucratic or nonpartisan decision-making style impedes parliamentarization because it was incompatible with the sort of adversarial plenary exchanges and majoritarian votes necessary for parliamentary government. This inference, of course, becomes unsustainable once we recognize that adversarialism and majoritarianism correspond to the parliamentary decision-making style of the Westminster model, which itself constitutes only one among a wide variety of constitutional arrangements permitting full popular sovereignty. Studies of legislatures identify an almost endless variety of parliamentary decision-making styles. Some legislatures clearly follow the Westminster model, while others heavily rely on logrolling and patronage, and still others operate on a consensual basis in which governing and opposition parties jointly shape the agenda.

\textsuperscript{66} The related issue of politicians' constitutional preferences for parliamentary government over the existing or alternative constitutional arrangements is taken up in the conclusion.

\textsuperscript{67} This might explain the dearth of systematic studies devoted to them. Kühne, "Parlamentarismgeschichte," 325.

\textsuperscript{68} Blackbourn, "New Legislatures," 207–8.

\textsuperscript{69} Fraenkel, Deutschland und die westlichen Demokratien, 23–24.

\textsuperscript{70} Schönberger, "Die überholte Parlamentarierung," 645. This alleged bureaucratization directly conflicts with the equally common assertion that the advent of mass politics after 1890 increasingly polarized party politics, making legislative decision more adversarial. Ironically, the same historian oftentimes espouses these two, contradictory positions.
Some emphasize committee-based problem solving, others point to the tremenduous influence of civil servants.\textsuperscript{71} Given this wide spectrum and given that all these styles are associated with established liberal democracies, it makes little sense to infer from the Reichstag’s bureaucratic or nonpartisan decision-making style a lack of parliamentarization.

With the exception of the SPD, the majority of nineteenth-century politicians and the mass public were either indifferent to or opposed to parliamentary government. The combination of Germans’ own belief in a distinct constitutional-monarchical path to modernity and the sectarian partisanship and corruption of British and especially of French parliamentarism profoundly dampened support across all nonsocialist parties for pushing toward full parliamentary sovereignty and party government. This antiparlamentarism, both overt and tacit, is readily acknowledged even by the optimists and unquestionably distinguished Germany from France and Britain. To what extent did this antiparlamentarism prevent Germany’s full parliamentarization? I think that skeptics and pessimists overstate its importance when they claim that without politicians vigorously pushing for full parliamentary sovereignty, Germany was bound to remain a parliamentary-monarchical hybrid. It is the optimists’ interpretation that antiparlamentarism constituted a surmountable obstacle and that full parliamentarization is possible even in the absence of politicians’ normative, parliamentary commitment. Rauh points out that, “To achieve gradual and incremental transition from the constitutional to parliamentary form of government, it is not all necessary for the functioning of a parliamentary system to have a priori a stable parliamentary majority or a theoretical understanding of its functioning.”\textsuperscript{72} I think that Rauh is correct on this point. His interpretation explains why antiparlamentarism did not obstruct the significant expansion after 1900 of the Reichstag’s powers — a point for which pessimists and skeptics fail to account. It also is consistent with comparative evidence that the dearth of democratic, civic, or parliamentary norms rarely poses an insurmountable obstacle to moving a country toward liberal democracy. The driving forces behind political development are less often norms, ideals, and their social support and more often a combination of political self-interest and political miscalculations about the effects of constitutional reforms. Discussing the evolution of popular sovereignty in England and America, Edmund S. Morgan notes that, “it originated, not so much in discontent among the governed many,
as in disagreement among the governing few. More generally, the history of liberal democracy is filled with examples of authoritarian incumbents adopting elements of self-government to legitimate their rule or to win a political advantage over their opponents while showing no signs of normative commitment to its principles. Finally, German politicians' opposition to parliamentarization was closely tied to late nineteenth-century antiparty sentiments, which were hardly unique to Germany. In the German case, the sequencing of democratization before (or at least simultaneous with) parliamentarization meant that the issue of parliamentary sovereignty and antiparty sentiments coincided. As a result, we now risk misreading the European-wide antiparty sentiments as a distinctly German antiparliamentarism.

The Reichstag's alleged unwillingness to assume governmental responsibility constitutes in the eyes of skeptics and pessimists a third normative obstacle to Germany's full parliamentarization. As prime evidence for this alleged governmental timidity, historians cite the 1908/09 Daily Telegraph Affair, the 1913 Zabern Affair, and the 1917 July Crisis. These three episodes each involved important constitutional conflicts pitting the Reichstag against the imperial government and shared a similar political dynamic. In the opening phases, the Reichstag — buoyed by public support — united in condemning the actions of the government and thereby gained politically the upper hand. In the middle and closing phases, the Reichstag merely contemplated, either rhetorically or via draft legislation, expanding parliamentary control, but failed to use its erstwhile political advantage to secure actual constitutional changes. Skeptics especially, read these three conflicts as tipping points on which Germany’s constitutional order could have tilted toward full parliamentary government but did not because of the Reichstag’s lack of desire to assume full political power. Sheehan echoed this sentiment when he wrote “it seems equally clear that there was not a comparable increase in the parliament’s ability or willingness to assume the political initiative or to view itself as the proper source of authority.” Germany thus was at the brink of full parliamentarization but the


Reichstag intentionally failed to cross the finishing line, preferring the certainties of the known status to the uncertainties of parliamentary government. The general gist of these arguments then is that the Reichstag could have pushed for full parliamentarization but the majority of its members did not want to do so.\(^\text{77}\) I find the argument about the Reichstag's alleged governmental timidity flawed, or at least incomplete, for four reasons. First, judging political victory and defeat narrowly in terms of formal constitutional changes treats political development in a far too one-dimensional fashion. We already saw how ministerial censure evolved through informal practices rather than constitutional changes. In the Zabern Affair, David Schoenbaum showed that the army's constitutional transgressions were redressed to a considerable extent even as the Reichstag's bill to expand civil law over the military failed to pass. Moreover, the political outcry over the Zabern Affair exerted an important demonstration effect that led the army to act with more circumspection in the future.\(^\text{78}\) Margaret Anderson also showed how the Socialist Law, the restrictive association law, and the absence of the secret ballot did not prevent high levels of party organization and electoral participation.\(^\text{79}\) Institutional effects in short are indeterminate and thus provide an imperfect benchmark for assessing political development.\(^\text{80}\) Second, the Reichstag's alleged executive stage fright leaves unexplained why the very deputies who allegedly opposed full ministerial responsibility in the Reichstag lived with it quite happily in most state legislatures.\(^\text{81}\) For as Ritter has pointed out, very often Reich- and state deputies were one and the same person.\(^\text{82}\) It makes little sense that political actors wanted the power to govern at the state level but be content to leave this same prerogative at the federal level to the emperor and his underlings.

Third, the Reichstag's alleged governmental trepidations ignore that full popular sovereignty is achievable through multiple constitutional arrangements and not just the Westminster model. In his stimulating article, Christoph Schönberger makes the compelling case that, while Germany's constitutional order was unlikely to transmogrify into a parliamentary system, it could readily have developed into a so-called consociational democracy or even a presidential system.\(^\text{83}\) Similarly, as early as 1911, Walter Shepard, following Max Weber,

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\(^{77}\) I would like to thank Christoph Schönberger and Margaret Anderson for insisting that I address this point more clearly.

\(^{78}\) Schoenbaum, *Zabern*, 175–83.


\(^{80}\) On the indeterminacy of institutions and their interaction with noninstitutional factors, see Kreutzer, *Institutions*, 8–14.

\(^{81}\) Rauh, *Föderalismus*, 136; Shepard, "Tendencies," 69.

\(^{82}\) Ritter, ed., *Der Berliner Reichstag*.

\(^{83}\) Schönberger, "Die überholte Parlamentarierung." Consociational democracy refers to the governing institutions and practices employed at varying times in Austria, Switzerland, the
argued that the greater priority parties gave to democratizing the state franchise, rather than pushing for full parliamentary sovereignty at the imperial level, should not automatically be read as political timidity. He points out that a widened state franchise would automatically also have expanded parliamentary sovereignty, albeit via the Bundesrat rather than the Reichstag. The Reichsregierung thus would have become accountable to democratically elected state governments. What made this strategy particularly attractive was that state governments already were fully responsible to their legislatures. These alternative developmental paths open the possibility for achieving full popular sovereignty without achieving full parliamentary control over government formation. In other words, the Reichstag's unwillingness to assume full ministerial responsibility demonstrated its specific unwillingness to opt for a parliamentary system, but it does not necessarily prove its general lack of political desire to push toward full popular sovereignty. Furthermore, the multiplicity of developmental paths also may have contributed to disagreements among political parties in which direction to tip the political order when the opportunity offered itself. Parties could have shared a desire for full popular sovereignty but were prevented from achieving it because of their disagreement on what constitutional order to adopt. In this case, parties would have wanted to change the status quo but could not because of disagreements.

Fourth, skeptics and pessimists fail clearly to specify the underlying causes for the Reichstag's unwillingness to govern. The frequent reference to monarchical deference, lack of esprit de corps, antiparliamentarism, and bureaucratic norms imply a degree of cultural determinism that either ignores or underestimates the role political calculations played, particularly with the Liberals and the Center Party. These parties' opposition to parliamentary government was less principled than it was contingent on fears about how it might increase the socialists' political influence. Schoenbaum clearly recognizes this point. "The crucial argument was that parliamentarization threatened a net loss to non-socialist parties . . . Assumption of executive power was therefore opposed by a majority of parliamentarians." Whether opposition to full parliamentary sovereignty is principled or contingent is of considerable consequence for the

Netherlands, and Belgium. These democracies are characterized by proportional interest representation, checks and balances, oversized coalitions and extraconstitutional elite bargains aimed at securing consensual decision-making. Lijphart, Patterns of Democracy; Lijphart, "Typologies."

88. Schoenbaum, Zahn, 41.
prospects of further political development. Contingent opposition is a much smaller obstacle to political development than is principled opposition, since it can be reduced through various constitutional protections. Gerard Alexander has compellingly shown how the Right's opposition, to liberal democracy is a direct function of how effectively constitutions secure property rights, preserve clerical prerogatives, and create antimajoritarian checks and balances.\(^9\) In short, opposition to or support for liberal democracy owes less to internalized norms than it does to the political costs and benefits that various democratic constitutional configurations bestow on different groups.

### Developmental Sequencing

Skeptics and pessimists offer numerous reasons why Germany's early electoral democratization impeded subsequent parliamentarization, as well as regime change to parliamentary government. Blackbourn, Puhle, and Wehler argue that the imperative to win votes in the absence of having to assume governmental responsibility led to electoral demagoguery, while the advent of mass politics polarized and deepened existing political divisions. This demagoguery and polarization, in turn, impeded parliamentarization. The former did so by discrediting the Reichstag's public standing and contributing to a rise in antiparliamentary movements, while the latter prevented parties from effectively cooperating to wrest further political reforms from the government.\(^9\) In a similar vein, Fraenkel argues that Germany's early establishment of a professional, highly autonomous civil service removed logrolling and patronage from party control, thus leaving deputies to concentrate on abstract, dogmatic turf battles. The resulting aloofness and divisiveness of party politics once again impeded their ability to push for further political reforms.\(^9\)

There is little doubt that Germany's electoral democratization fundamentally transformed its party system. Yet, I would claim that the consequences of this transformation for Germany's parliamentarization are far more indeterminate than pessimists and skeptics claim, thus opening their assertions to several challenges. First, the reverse sequencing of democratization and parliamentarization seems overdrawn to me. The Reichstag enjoyed considerable decision-making prerogatives from the moment universal manhood suffrage was introduced in 1871. Moreover, the franchise's male universality was compromised by the absence of a genuinely secret ballot, lack of parliamentary salary, the restrictive

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association law, and the anti-Socialist laws. If anything, the sequencing seems more parallel than reverse.

Second, skeptics and pessimists focus almost exclusively on the electoral, sociological consequences of democratization and overlook its organizational consequences, that is the fact that it also gave rise to well-organized and disciplined mass parties, which are a key requisite for parliamentarization. The switching of deputies among parties that continuously break up, merge, and even vanish is a central problem in the establishment of effective parliamentary sovereignty in many post-Communist and Latin American democracies. Germany’s early democratization solved this problem and hence contributed to a key requisite for parliamentarization. It did so by making individual deputies increasingly dependent on parties for their logistical resources and collective brand name without which they had bleak electoral prospects. This increasing logistical dependence of politicians on their parties translated into growing party discipline, which made it easier for individual parties, although not necessarily for the entire party system, to pressure the government for further political reforms. It is important to consider these organizational consequences of democratization because undisciplined political parties would have impeded Germany’s parliamentarization just as much as a segmented and polarized party system. Closely tied to the parties’ organizational institutionalization is Roberto Michel’s point about the politicians’ growing careerism and subsequent deradicalization. This point was especially apparent in the SPD and contradicts the claim about the party system’s increasing polarization. Furthermore, Jonathan Sperber’s analysis shows an electorate far more fluid than Rainer Lepsius’s influential account about the highly compartmentalized and

92. The association and Socialist laws were suspended during electoral campaigns, thus limiting their infringement on the freedom and fairness of elections. Anderson, *Practicing Democracy*, 289–94. Still, they constituted a significant obstacle to parties’ organizational effort between elections.


polarized socio-moral milieus, while Margaret Anderson points to the growing ability of legislators to cooperate with one another.  

Finally, skeptics and pessimists regularly argue that the polarizing effect of democratization impeded the formation of parliamentary majorities necessary for both a regime change and the functioning of parliamentary government. This argument seems weak because it does not explain why parties were able to form regular majorities to pass legislation. Moreover, it implies that governing majorities emerge automatically out of a coalition-bargaining process and that failure can automatically be attributed to their divisiveness or lack of esprit de corps. Political scientists have extensively studied the formation of governing coalitions. In light of this literature, the failure of German parties can be readily explained by far more proximate causes than the polarizing effects of democratization. Besides stressing the inherent difficulties of forming governing coalitions, this literature points out that parties' bargaining strategies are decisively shaped by the existing institutional constraints. Kaare Strom, for example, demonstrates that the centrality of legislative committees in Scandinavia allows smaller parties to participate in the governing process without actually having to be part of the actual government coalition. As a result, minority governments are a common occurrence in Scandinavia. Thus, given the close link between institutions and parties' willingness to participate in government, it hardly seems surprising that the inability to participate in government removed an important incentive for parties to form governing coalitions. In other words, given the constitutional realities, Germany's parties would not have formed governing majorities even if they had not been divided by profound ideological differences.

Conclusion

If placed in comparative perspective, the development of Germany's governing institutions appears far more advanced and far less hampered by obstacles than skeptics and pessimists assert. In terms of its constitutional prerogatives, the Reichstag was far more than a reactive legislature and, in terms of its noninstitutional obstacles, it was hardly stalled and incapable of silently tipping toward full popular sovereignty. In using a comparative approach, this article departs from the historians' convention of challenging historiographical interpretations.

100. Strom, "Minority Governments."
by presenting new research on the same subject and using instead existing knowledge on the same subject in different countries. The impetus for such a comparative approach comes from the recent historical turn in the social sciences. This renewed interest in history is partly a reaction against the bland and ahistorical grand theorizing of many sociologists and political scientists as well as the concomitant reductionism and method-driven problem selection. But it also is motivated by skepticism about the historians' exceptionalist explanations that strike social scientists as overdetermined. Such excessive determinism can take the form of path-dependent arguments (e.g., the Sonderweg argument) or anthropological-like, thick description that emphasize multiple and contemporaneous contextual factors. Historically informed social scientists do not a priori reject exceptionalist accounts, but they emphasize that uniqueness has to be demonstrated just as systematically as do generalizations. They contend that comparisons are the best way for sorting out exceptional from nonexceptional elements.\footnote{This article tried to show how skeptics and pessimists have insufficiently considered this requirement when reaching their historiographical conclusions.} This article tried to show how skeptics and pessimists have insufficiently considered this requirement when reaching their historiographical conclusions.

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