

The Destruction of Democracy and Civil Rights in Germany 1933

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1 General Background

Germany was unified and the second German Empire was created by Bismarck in 1871. It soon became the strongest state in continental Europe both through its rapid expanding economy and its military capacity. The First World War started in August 1914. Together with the Habsburg Empire Germany thereby became involved in war with Russia, France, Great Britain, Italy (from 1915) and the United States (from 1917). At the start of the war public opinion in Germany was characterized by a strong nationalism and also by a sense of a common German solidarity between the classes of German society. The very special Common German Spirit of August 1914 became a well-known fact. Russia had two revolutions in 1917, the first in March and the second in October. Through the latter the Bolsheviks under Lenin's leadership took over power in Russia. Germany finally defeated Russia and imposed on her a victor's peace at Brest Litovsk in March 1918, thereby trying to fulfil its ambitions to establish itself as an imperialistic world power.¹

Having fought a two-front war up till then, Germany was now able to transfer considerable military forces from the Eastern to the Western Front. The German military leadership consisting of Field Marshal Paul von Hindenburg and Quartermaster-General Alfred Ludendorff, had in fact functioned as a sort of military dictatorship since late 1916, an ominous precedent for the future. The German Supreme Command started several offensive actions on the Western Front and at times the situation in France became critical for the Allies; still the Front held. At the beginning of August 1918 the tide finally turned. The German army in France and Belgium had to start a slow but decisive retreat; Hindenburg and Ludendorff internally admitted first to the civilian government, then to the other political leaders in parliament that Germany had lost the war in the West. This fact, however, did not become commonly known; for the time being the war went on and the military leaders tried to sound out the preconditions for a cease fire and a peace based on president Wilson's Fourteen Points. At the same time the other powers that were allied to Germany and taking part in the First World War, the Habsburg Empire and the Ottoman Empire (Turkey) were clearly about to be defeated too. The Allied blockade of trade with Germany had also led to widespread hardships and lack of foodstuff within Germany.²

When finally the war was impossible to win for Germany, some nationalistic and military diehards within the Imperial Navy wanted to make a final stand against the British Royal Navy. Such an effort was evidently doomed to failure and it is therefore understandable that there was a mutiny among the sailors in Kiel at the beginning of November; subsequently a general revolution broke out in Berlin and in many other places all over Germany.³ The Kaiser, William II, on the explicit advice of the German High Command (Hindenburg and Ludendorff's successor general Wilhelm Groener) resigned from the throne and fled to Holland, and the Empire was dissolved and replaced with a republican

1 Fischer, Fritz, *Griff nach der Weltmacht*, Düsseldorf 1961.

2 Evans, Richard, *The Coming of the Third Reich*, New York 2004, p. 59.

3 Evans op. cit., p. 61.

type of government, after a historic compromise between the old German Army and the Social Democratic Party leaders that took political control over the new system of government. Hindenburg and Groener temporarily stayed on as leaders of the German army.⁴

As the largest party in the German Reichstag the Social Democrats (SPD) had to take over governmental responsibility and also quite unfairly and wrongly the responsibility for the lost war. The new Government demanded and got an armistice with the Allies on 11 November 1918. For a short period the Social Democrats had a chance to basically change the structure of German society but for various reasons they refrained from doing so. The old military leadership and the civilian civil servants stayed on – silently accepting a republican system of government, although in their hearts many of them remained emotionally indebted to the fallen Empire.

The military leadership never admitted publicly – then or later – that Germany had been militarily beaten. At the time of the Armistice the German forces were still standing in France and Belgium and no foreign forces had yet reached German territory. Quite early there spread a legend that the fighting German army had been stabbed by a dagger in the back. This false theory was expressed a year later by Germany's great war hero Hindenburg in a hearing before a parliamentary committee of inquiry.⁵ It was also accepted by many nationalistic Germans (including Adolf Hitler), who never in their hearts could accept that their country had been militarily defeated. The responsibility lay, according to this perspective, with the leftist political parties, the Social Democrats and the Communist party (KPD). This claim became a heavy political burden for the Weimar Republic to bear. Members of these parties were by the nationalistic groups denominated the "November Criminals". During the next few years the Republic became ridden with political upheaval, up till 1924. There were a number of political coups or coup attempts, both from forces on the left and from the right, including Hitler's Beer Hall putsch in Munich in November 1923.

As mentioned above, the Social Democratic Party had to take over the thankless burden of leading Germany's affairs, although its leaders were ill prepared for this unenviable task. SPD had already before the war been the largest party and still remained so. In the first general elections to parliament in 1919 the SPD received close to 45 percent of the votes cast. The new government had to accept harsh peace conditions and to sign the Versailles treaty in July 1919; up to this time the Allies kept on the economic blockade against Germany, something that contributed to prolonged hardship for the German civilian population. The Versailles Treaty became a victor's peace, imposed on Germany and despised by all Germans, irrespective of other political views. In the nationalist vocabulary it was subsequently named the "Versailles Diktat". Even the French Commander in Chief Marshal Foch, as he heard the

4 Wheeler-Bennett, John, *Wooden Titan: Hindenburg*, New York 1936, p. 207 f. and Shirer, William, *The Rise and Fall of the Third Reich*, London 1959 (1959), p. 53 f.

5 Shirer op. cit., p. 31.

peace terms, stated that the Versailles Treaty did not mean a peace but an armistice for twenty years.

The large German army, based on conscription, was dissolved and replaced by a small professional enlisted army of 100.000 men (the Reichswehr), that was considered sufficient for keeping internal security but without danger for Germany's neighbours. Germany was prohibited to have specific types of instruments of war: tanks, airplanes and submarines.

Germany had to give up territory to France and to the newly established state of Poland in the Versailles Treaty. But the country was also forced in the Versailles Treaty to accept that it was responsible for the First World War and consequently that it had to pay reparations to the Allied countries, mainly to France and Belgium due to economic damages caused by the war and the German occupation of the latter country and of the occupied parts of France.

2 **The Weimar Constitution and the German Political System**⁶

After the revolution in Germany a new Constitution was adopted in Weimar in 1919. This was the first republican Constitution on a national level in German history. The most important federal organs of State were the President (Reichspräsident), the Reich Government (Reichsregierung), the Parliament (Reichstag) and the Federal Council (Bundesrat). The federal character of the Constitution meant that the Local States (Länder) had the right to make decisions on many issues and the Bundesrat was kind of a First Chamber, on the national level representing the Länder. There were a number of articles in the Constitution that regulated the system of separation of powers and also a number of articles regulating civil rights.

There were altogether fourteen Länder, of very different size and political importance. The largest was Prussia, in which more than half of the population in Germany then lived. Another important and large state was the Roman-Catholic Bavaria, which constantly showed separatist tendencies to go it's own ways. During the entire Weimar period (up till March 1933) there existed an imminent threat that Bavaria would break loose and form an independent country of its own.

The Reich President was elected for a period of seven years and he could be re-elected (Article 43). The President nominated the head of the Reich Government, the Reich Chancellor and on his suggestion then the other Reich Ministers. He had also the right to discharge the Reich Chancellor and the Reich Ministers (Article 53). The Reich Government had to enjoy the confidence of the Reichstag and the latter could vote it out of power (Article 54). The parliamentary principle was thus inscribed in the Constitution. If the Government lost its support in parliament, the Reichstag could be dissolved through the decision of the President and new elections be called within sixty days. This could, however, only happen once on the same issue (Article 25). The lawmaking powers lay exclusively with the Reichstag (Article 68). The

⁶ The Weimar Constitution is easily reached through the Internet, also in English translation.

Constitution also regulated a number of classical civil rights and also social rights (Articles 109-118, 123-125 and 153). The members of the German Reichstag enjoyed parliamentary immunity (Article 37).

The judges in the law courts were independent and were subject only to the law (Article 102). They were nominated for life, year limits might, however, be set for their compulsory retirement.

The paragraph that became the most important one of the Weimar Constitution was Article 48, section two. This stated: "The Federal president might, if public safety, law and order are seriously disturbed or endangered, take the measures necessary for restoring public safety, law and order, and if necessary act with force of arms. For this purpose he might temporary annul completely or in part the civil rights regulated in articles 114, 115, 117, 118, 123, 124 and 153." Article 114 dealt with personal liberty, article 115 with the right of the citizen to make his home where he wanted, article 117 guaranteed the secrecy of letters, post and telegraph, article 118 the right of expressing opinions, article 123 the right of meeting in public, article 124 the right to form associations freely and article 153 guaranteed the right of property. All these civil rights were thus in principle protected in the Weimar Constitution, but they might also be breached in emergency situations. Article 48, Section 2 was often used by the first President, the social democrat Friedrich Ebert, during the first turbulent years of the Weimar Republic, but then in principle only as a temporary emergency measure limited to short periods of time. It was not supposed to be used under normal political conditions, when civil rights were to be strictly respected.

The Weimar electoral system was strictly proportional and lacked barriers against small parties from being represented in the Reichstag. This caused problems with regard to the representation of too many small parties. A more basic serious problem was that many of the parties represented in parliament did not have any feeling of basic solidarity with the Weimar political system. This particularly applied to the Communists and the Nazis. Although these parties were deadly ideological enemies, they had their hate against Weimar democracy in common. It also happened that they collaborated with one another on specific practical issues, for instance they both supported an extensive traffic strike in Berlin in November 1932.

There were four political parties that formed the backbone of the Weimar political system, the Social Democrats, the Catholic Center Party and its Bavarian sister party, the Bavarian People's party and the liberal German Democratic Party. These parties were called the "Weimar coalition". But it was only in the very first general election in January 1919, that they combined received a clear majority of 76,2 percent of the vote. Later on they polled between 40 and close to 50 percent of the vote. The Social Democrats were for a long time the largest party, up till the summer of 1932. They also had a leading position and consistently headed coalition governments between 1920 and 1932 in the largest state Prussia. "If any one party deserved to be called the bulwark of democracy in the Weimar Republic, it was the Social Democrats."⁷ The Centre

7 Evans, *op. cit.*, p. 89.

Party and the Bavarian People's Party (Catholic bourgeois parties) consistently polled around 5 million votes and had around 90 representatives in the German Reichstag. The Liberals, that in the beginning had considerable political influence, on the other hand became successively weaker and after the general election of 1930 they ceased playing an important political role any more. In a sense the Weimar constitution also most unfortunately became something of a political system that was felt to be more or less enforced on the Germans. In many peoples' mind it became identified with the loss of the First World War.

Weimar Germany was on the other hand also uniquely creative in the cultural sphere and produced in many respects the first truly modern culture. In many ways it was a case of radical experimentation regarding architecture, the cinema, the theatre and many other fields of culture. In certain respects it was also the first permissive society but at the same time it saw the first major attack against modernism and "Kulturbolshevismus".⁸

3 The Reparations Issue

The Germans were thus defeated in the First World War. The trench war in the West was fought in Belgium and in parts of northern and eastern France. This meant that a lot of destruction was caused through military action, to a considerable part through acts committed by the German military forces. On the other hand Germany itself was undamaged. After the war it was in itself a natural thought that the Germans should contribute to the reconstruction of the war damaged parts of Belgium and France. There was also originally a willingness on the part of the Germans to do their part in the reconstruction. But the problem was that the issue of Reparations was attached to the issue of German War Guilt. In Article 231 of the Versailles Treaty it was stated: "The Allied and Associated Governments affirm and Germany accepts the responsibility of Germany and her Allies for causing all the loss and damage to which the Allied and Associated Governments and their nationals have been subjected as a consequence of the war imposed upon them by the aggression of Germany and her allies." This Article meant that Germany - and her Allies - were solely responsible for causing the First World War, a statement that was highly debatable already at the time and naturally very hard to accept for all Germans, who felt that they had had no choice but had been forced into the war. From a later, more historical perspective it might be stated that no single state or people can be found to be alone guilty of causing the major disaster that became the First World War.

From Article 231 that stated the German War Guilt there also followed that Germany had to pay Reparations to the Allied Governments (mainly France and Belgium) and this was also in principle included in the Versailles Peace Treaty, although it was not there specifically decided how much Germany should pay and for how long time. In 1921 a total sum of Reparations was fixed at 132 billion Gold Marks, payable in 30 years. The problem was that some of the

⁸ Cf. Laqueur, *Weimar, A Cultural History 1918-33*, London 1974.

victors, particularly France, wanted not so much Reparations in itself as a method to get even with Germany and along with the disarmament that was enforced on Germany to hold down the old enemy indefinitely. When the Germans had difficulties paying Reparations the French occupied the Ruhr district in 1922, something that in the end was of no use to anybody but which only served to increase German bitterness and to stimulate German nationalistic feelings.

In the long run probably everybody, not only Germany, lost due to the foolish way the Reparations issue was settled. Several times there were plans being made by international committees headed by American financial specialists, the Dawes Plan in 1924 and the Young Plan in 1928 on how to deal with the Reparations as a practical problem. In both cases efforts were made to make the demands for Reparations more reasonable and more attuned to Germany's capacity to pay the sums required. The Dawes Plan did not fix a total sum for Reparations and also left the question of a limitation in time hanging. The Dawes Plan functioned reasonably well for a couple of years in the mid 1920s, during times of general economic prosperity in the world, Germany included. The Young Plan presupposed a total sum of 112 billion Gold Marks, of which every year Germany was supposed to pay 2 billion Marks for a period of no less than 59 years. (!)⁹

Germany had also lost its colonies and territories to France and the newly established state Poland in the Versailles Peace Treaty. These losses were heavy but they were still possible to accept for reasonable Germans in themselves. "But these were intellectual grievances: things to grumble over in the evenings, not the cause of sufferings in every day life," as the famous British historian A. P. Taylor has stated the problem.¹⁰ But Reparations was another matter. It remained a festering sore. It stayed on in the Germans' consciousness, it never healed and the Reparations were felt to be deeply unfair. The effect was also that this bad feeling spread to all other for Germany negative clauses of the Versailles Treaty. It was therefore not surprising that the issues of German War Guilt and of Reparations played an important part in paving the way for the emergence of an unsound German nationalism. All Germans, including those on the Left, felt that the Reparations were deeply unjust, the thought of leaving a debt to be paid by the present generation's grandchildren was considered (not unreasonably) to be an impossible idea. The Reparations also became, directly and indirectly, a contributing factor both with regard to the Great Inflation in Germany in 1922-23, and later also during the Great Depression in the early 1930s. It also formed a blocking for all efforts towards a reconciliation between Germany and France. More than anything else the Reparations cleared the way for the Second World War.¹¹

9 Mannes, Astrid Luise, Heinrich Brüning. *Leben-Wirken-Schicksal*, Munich 1999, p. 61.

10 Taylor, A. J. P., *The Origins of the Second World War*, London 1964, p. 73.

11 Taylor op. cit. p., 70 f. In the Summer of 1932 there was finally reached an international agreement in Geneva to abolish the Reparations altogether – but by then the damage had already been done.

4 The Rise of the Nazi Party

After World War I there was considerable political unrest in the defeated Germany. The National Socialist German Workers Party (NSDAP) was formed in 1920 in Munich. Its first (and only) leader became Adolf Hitler, who had been an Austrian subject but had served as a volunteer in the German Army during the War, although never promoted to more than a corporal. NSDAP was a strongly nationalist and virulently anti-Jewish movement. In November 1923 the Nazis made an unsuccessful coup in Munich, that was suppressed through the action of the local police and the military in that city. Hitler learned an important lesson from this experience; he would never again try to take power without either the co-operation or the silent assent of the civilian and military authorities. It was of great importance to the ordinary German that a transformation of society took place in an orderly manner; the Germans were used to obey orders, not only from military but also from civil authorities. From then on Hitler decided to try to gain power through sticking to a formal legality, and respecting the existing Weimar Constitution, putting stress on the formality of this “legal” approach.

During a political trial in September 1930 Hitler was called as a witness and testified to the German Supreme Court (Reichsgericht) at Leipzig on the legality issue in the following manner: “The Constitution prescribes just the basis of the struggle, but not the goal. We [the Nazis] will enter the legal organizations and will make our Party a decisive factor in this way. But when we do possess constitutional rights, then we will form the State in the manner which we consider to be the right one.”¹² It was thus clear that the Nazis would create a new kind of political order if they ever came to power.

This Hitler’s formal policy of legality was, however, combined with a policy of often violent confrontation with what the Nazis called the Marxist parties, the Social Democrats and most intensely the Communists. Both in order to protect themselves and also in order to attack and intimidate their political opponents the Nazis built up a party army, the mass movement the SA (the Stormtroopers), and a smaller elite unit the SS. Successively more and more violent acts were committed by mostly the Nazis against their adversaries but also occasionally by the Communists against their opponents. All the major parties organised political armed and uniformed groups, that often clashed with another; the Nazis’ SA soon becoming by far the strongest. Political violence between uniformed political groups successively got steadier worse and at times with street battles took on a character approaching a civil war.

After the financial crash in Wall Street in October 1929 the Great Depression spread around the world. The effects soon became particularly severe in Germany due to the extensive loans that American banks had given to German business firms. Unemployment increased steadily. It had actually been a severe problem in Germany already before the Depression set in, during the winter of 1928-29 unemployment in Germany was in fact over 3,2 million.¹³ During the

12 Strenge, Irene, *Machtübernahme 1933 – Alles auf legalem Weg?*, Berlin 2002, p. 27., Bullock, Alan, *Hitler, A study in Tyranny*, London 1990 (1952), p. 166.

13 Reuth, Ralf Georg, *Goebbels*, Munich 1990, p. 146.

winters of 1931-32 and 1932-33 unemployment in Germany rose to six million. If you included short time workers and hidden unemployment the total figure was 8.754.000 in October 1932. Almost half the work-force was at this time either partially or fully unemployed.¹⁴

Up to the September 1930 elections the Nazis still remained a political force in the margin. But now they increased their vote from 800.000 (2,6 percent) to 6.4 million (18.6 percent of the national vote), and raised the number of their seats in the Reichstag from 12 to 107, thereby becoming the second largest party, next to the Social Democrats. Hitler was never a member of parliament himself, being stateless since 1925. The Nazi deputies never tried to play a constructive part in the German parliament's normal work, instead they in various ways tried to sabotage everything being done there.

Although the Nazi Party still was excluded from power after September 1930, there were five important objective factors that worked in it's favour. 1) The Great Depression that steadily grew worse and worse.¹⁵ 2) The lack of a real co-operation between Reich Chancellor Brüning of the Catholic Center Party and the Social Democrats. This meant that the parties in the middle who had accepted and supported the Weimar republic, its political system and its Constitution had great difficulties in co-operating with one another. 3) The lack of a normal conservative party, prepared to work for its objectives within the Weimar Republic; instead there was the rising antagonism of all the rightist parties (not just the Nazis) against the "Weimar System", i.e. the Republic, 4) The increasing political role of the old President Hindenburg (who in his heart was a monarchist, strongly conservative and if possible wanted to restore the Hohenzollerns on Germany's throne) and of the scheming circle of persons around him (the Kamarilla) and 5) the role of the leadership of the German Army, the Reichswehr, embodied particularly by the political "desk general" Kurt von Schleicher.

Hindenburg had become a national hero, due to his assumed part in the magnificent German victory at Tannenberg in August 1914. In February 1925 the President of Germany the Social Democrat Friedrich Ebert suddenly died. Although he then was nearly eighty years old, Hindenburg was then elected president; his electors belonged to the bourgeois part of Germany, most of them were strongly nationalistic and politically conservative. Hindenburg had been hesitant about the idea of becoming a republican President, since he was in his heart a monarchist and loyal to the Hohenzollerns, although he had played a decisive role in making the Emperor William II resign in November 1918. After having been elected Hindenburg functioned reasonably well as President for a long time after he was elected.

14 Kershaw, Ian, *Hitler 1889-1936*: Hubris, London 1998, p. 404.

15 Ibid.

5 Brüning Becomes Reich Chancellor

The Governments during the Weimar Republic were constantly Coalition Governments, seldom lasting more than a year, often less. The last of these normal Weimar Governments was the Grand Coalition Cabinet, that was led by the Social Democrat Hermann Müller between 1928 and March 1930. During the developing economic crisis President Hindenburg wanted to turn the political line to the right. He insisted on excluding the Social Democrats from taking part in the Reich Government, although their party was still the largest in Germany. The new Chancellor Heinrich Brüning of the Center party (sworn in on March 30 1930) got a mission from the President to try to turn the Government's policy in a more rightist direction. The most important political actors around President Hindenburg after this were Brüning, his Minister of Defence - and later also Minister of Interior - the earlier general Wilhelm Groener, who belonged to the liberal party, and Groener's protégé and closest military adviser general Kurt von Schleicher, who was head of the ministry section of the Reichswehr.¹⁶ These three individuals were also seen as the most important obstacle to the Nazis gaining power as Goebbels' diary on February 4, 1932 shows: "Groener must fall, then Brüning, then Schleicher. Else, we are never going to gain complete power."¹⁷

From the start Brüning obviously did not enjoy the confidence of the parliament. When he tried to get his wide-ranging finance bill passed by the Reichstag on 16 July 1930, his Government was voted down. He then drew up an emergency presidential decree on the very same day in order to transform the bill into law. This had never been done before and was a measure of highly doubtful constitutional legality. On 18 July the Reichstag rejected Brüning's measure, arguing that an emergency decree could never constitutionally replace a law, that earlier had been voted down by parliament. In that situation Brüning made President Hindenburg dissolve the parliament on the very same day and call for new elections, that were to take place on September 14, 1930. On 26 July Brüning made Hindenburg sign a decree, that formally was new but in fact had the same content as the one that Parliament had disapproved of on 18 July. As Parliament was dissolved there did not exist any constitutional body that could present a motion to reject this decree of 26 July. Such a possibility would exist only after that the newly elected parliament met in September. During the interval between the date for the decision to dissolve parliament and election day (about six weeks) Brüning was consequently able to govern through decree by the President through the clause in Article 42, Section two of the Weimar Constitution. Brüning's political actions in this respect was highly dangerous, both with regard to the very doubtful constitutionality of his measures and with respect to the likely results at the coming elections. It was actually a kind of a

16 For the relations and the role of the above mentioned persons see Eschenburg, Theodor, *The Role of the Personality in the Crisis of the Weimar Republic: Hindenburg, Brüning, Groener, Schleicher* in Holborn, Hajo (edit.), *Republic to Reich. The Making of the Nazi Revolution*, New York 1972, p. 3 ff. (originally published in German).

17 Goebbels, Joseph, *Vom Kaiserhof zur Reichskanzlei*, München 1934, p. 40.

limited period of dictatorship that he thereby initiated and this action would have serious prejudicial consequences in the long run.¹⁸

The calamitous political results of the September elections have already been mentioned.

Brüning continued his stringent deflationary economic policies (with the tacit assent of the Social Democrats, who thereby proved their political weakness; to them Brüning was the lesser of two evils), but without any positive concrete results. Instead the economic crisis worsened during the years of 1931 and 1932. Brüning's Government carried on without a majority in parliament and governed through the President's constitutional right to rule by emergency decree, according to Article 48, Section 2 of the Constitution. Brüning was trying to gain time until the Reparations might be solved in Germany's interest and until the economy would be better again. This, however, presupposed that Hindenburg would stay on as President for a couple of more years and that Brüning would continue to have his support. But the President's elected time in office approached its end at the beginning of 1932. Brüning wished to avoid an election campaign and wanted instead that the parties in parliament should decide to prolong the President in office for as long as he lived. This meant that a change in the Constitution was necessary. But Hindenburg himself was personally opposed to this measure, he wanted to leave office in order to have a few more years to live as a private citizen. After all, he was eighty-four years old at the time. The compromise that he finally accepted was that his Presidency should be prolonged for only two years.¹⁹ But the political parties would not agree to Brüning's proposal, and as a result there had to be a new presidential election. Reluctantly Hindenburg accepted being nominated as a candidate in the coming election. In practice Brüning took over responsibility for Hindenburg's re-election, the latter limited himself to a radio message to the German Public.

During the spring of 1932 there were two presidential elections. In the first round a large number of candidates presented themselves. Hindenburg won clearly, with Hitler (rapidly being made a German citizen in order to qualify as a candidate) coming in as second, but the majority was not absolute as the Constitution prescribed, instead just short of 50 percent of the votes cast. In the second round Hindenburg got a clear majority of 54 percent of the votes cast (19 million votes against 13 million for Hitler). But this time Hindenburg had been re-elected by votes coming from the Left, mainly the Social Democrats, who did not present a candidate of their own. This in itself was a clear sign of political weakness within the democratic Left and of the entire Weimar political system.²⁰ Hindenburg's old voting supporters from the election of 1925 had largely abandoned him. He felt bad about having been pressed to stand for the presidency for a second time and even worse about the fact that he had been elected through votes cast from the political Left.

18 Kershaw op. cit., p. 324 f., Strengé op. cit., p. 65 f.

19 Fest, Joachim, *Hitler. Eine Biographie*, Berlin 1973, p. 437 f.

20 Mann, Golo, *Deutsche Geschichte des 19. und 20. Jahrhunderts*, Frankfurt am Main 1975 (1958) p. 780.

Hindenburg now clearly cooled versus both Brüning and Groener. The latter had shortly before, on the urging of the Governments in several Länder (Bavaria and Prussia), banned the SA from appearing publicly in their uniforms and he was therefore bitterly hated by the Nazis; a sick man he had to resign at the beginning of May after making a poor showing in the Reichstag.²¹ Shortly after general von Schleicher also turned against the Chancellor and Hindenburg withdrew his support from Brüning; in a normal political situation this would not have mattered much but as Brüning governed through the President's decree-making powers and not through the support from a majority in parliament, this meant in fact that he was dismissed from his position as Chancellor at the end of May 1932.²²

This was an important turning-point. Because after that the Weimar democracy was in serious trouble. What would succeed it was still not clear, but obviously it had to be some sort of authoritarian regime that would be established. But quite apart from the political scheming that went on between the politicians there was also a general feeling spreading within German society as a whole that the Weimar political system had reached a dead end: there was a general loss of confidence in the rulers of Germany, through the steadily worsening economic crisis and the increasing unemployment, through the fear of proletarianization on the part of the middle classes and the fear of downright starvation on the part of the labouring classes. "Better an end with horror than horror without end."²³

Schleicher handpicked Franz von Papen, nominally a member of the same Center Party that Brüning belonged to, to be the new Chancellor. Papen was supposed to play a role as a front man, while Schleicher would make the real decisions behind the curtains. But Papen soon showed that he wanted to play an independent role in the political game on his own. He succeeded in gaining Hindenburg's ear, who personally liked and trusted him. His Cabinet consisted of very upper-class people, it was jokingly called the "Barons' Cabinet" and was regarded widely as quite reactionary and it was supported by less than 10 percent of the members of parliament. Papen tried to get support from the Nazi party through lifting the ban against the SA and also through dissolving parliament and call for new elections to the Reichstag for July 31, 1932. But in fact he could not get any real support from the Nazis; they felt that they had to carry the thankless burden of being made responsible in the people's mind for Papen's unpopular decrees.²⁴ Hitler also rightly regarded his government to be weak politically speaking.

The ensuing election campaign became a messy one, characterized by a lot of violence. During the five weeks up to mid July there were nearly 500 clashes in Prussia, that led to 99 dead and 1.125 injured. A particularly nasty incident took place in Hamburg on July 17, when the Nazis staged a march through a working-class district that led to a street battle with barricades raised between

21 Bullock, Alan, *Hitler, a study in tyranny*, London 1990 (1952), p. 203 ff.

22 Mann op. cit. p. 782.

23 Laqueur op. cit., p. 254.

24 Goebbels op. cit., p. 121 (Diary July 1 1932).

them and the Communists, resulting in eighteen deaths and more than a hundred injured. Von Papen used this incident as a pretext for removing the legal Coalition Government in Prussia from power, consistently dominated by the Social Democrats since 1920, and putting himself in as Reich Commissioner to take over Government in Prussia.

Papen started to cleanse the well organized police force in Prussia that earlier had been under strict republican control. He thereby paved the way for Hitler half a year later.

He also for a short period put Prussia under a state of military siege, where the ultimate power would lie on the local German military commander. The Social Democrats and the Trade Unions closely aligned to them seriously discussed launching a General Strike as a counter measure (they had once through such a strike in 1920 broken the back of a rightwing coup) but they finally declined such an action,²⁵ preferring to bring the matter to the Constitutional Supreme Court, that partly sided with them in a verdict in October. This fact did not, however, play any important part in the ensuing political power game. In hindsight it becomes obvious that their loss of nerve and unwillingness to take drastic action was a serious mistake and showed the world that they had ceased to play an important political role in Germany any more.

The elections on 31 July 1932 resulted in a great victory for the Nazis. They doubled their vote from 6,4 to 13,1 million and this result made them indisputably the largest party in the German Reichstag with 230 seats, nearly a hundred more than the traditional largest one, the Social Democrats, who lost heavily in the election and got 133 seats in the new parliament. Instead the Communists increased their numbers from 77 to 89. The election victory led to great expectations among the leading Nazis, as is shown in the diary of the future Propaganda Minister Goebbels: "The Führer holds fast to the demands for being Chancellor and to the post of Prussian Minister President, for the Ministries of Interior in the Reich and in Prussia, a new-founded Ministry of Popular Education and Propaganda... A Cabinet of men. If the Reichstag rejects an Enabling Act demanded by the Führer, it will be sent away. Once we have the power we will never give it up unless we are carried out as corpses from the ministries."²⁶

Hitler demanded as the leader of the largest party to get full power and become Reich Chancellor, but this request was firmly rejected by President Hindenburg during a meeting on August 13. He received Hitler standing up, leaning on his cane and did not allow his visitor to sit down. The President asked whether Hitler was prepared to support Papen's Government, which the latter denied. Hindenburg then stated that he was ready to accept Hitler as Vice-Chancellor and the Nazis to take part in a Coalition Government but that he could not agree to transfer power to such a new party that did not command a majority and that was noisy, undisciplined and intolerant. He added that there

25 Matthias, Erich, *The Downfall of the Old Social Democratic Party in 1933* in Holborn, Hajo (edit.), *Republic to Reich. The Making of the Nazi Revolution*, New York 1972 p. 56 ff.

26 Goebbels op. cit., p. 139 (Diary 6 August 1932).

was a widespread feeling that a Nazi Government would make ill use of its power and would suppress all other viewpoints and gradually eliminate them. The old President stated that he did not feel responsible towards his conscience and to his obligation to his Fatherland to transfer the entire governmental power to the Nazi movement, that wanted to use this power in a one-sided manner.²⁷ There was also an element of social contempt in the attitude of Hindenburg, Schleicher and von Papen towards the upstarts in the Nazi party, something that Hitler felt intensely angry about.

Hitler left the audience with the President furiously and later stated in a public speech on September 4: "I know what these gentleman have in mind. They would like to provide me with a few posts now and silence us. I did not form the party to haggle, to sell it, to barter it away...Do you really think you can bait me with a couple of ministerial posts? Those gentlemen have no idea how little I give a damn about all that. If God had wanted things to be the way they are, we would have come into the world wearing a monocle. Not on your life! They can keep those posts because they don't belong to them at all."²⁸

During the autumn of 1932 the crisis of the Weimar Republic deepened. There was no resolution in sight. A small number of individuals held central political power, Papen, Schleicher and Hindenburg, but without a real clear opinion of what to do with it and in which direction to turn. There was also no consent between them on how to solve the political crisis. Behind them there were powerful lobbies such as Big Business, the Prussian estate owners and also the Reichswehr. For a time the Papen Cabinet toyed with the idea of excluding the masses indefinitely from all involvement in the decision making process. The dilemma, however, for all non-Nazis looking for an authoritarian solution was how to bring one about without Hitler. For him the opposite held; how to get the power if those holding power continued to refuse to give it to him.

The complicated political game led to that the newly elected parliament almost at once was dissolved again in September and new elections called for November 6, 1932. The Nazi Party had great problems fighting this election campaign, due to a lack of money. The elections led to a considerable expected setback for the Nazi party: a loss of votes and the number of seats for the Nazis in the Reichstag were diminished from 230 to 196. It now seemed like the irresistible Nazi tide had turned. Hitler had all the time insisted that he should be Chancellor; this policy seemed to be a final failure. (In the end his stubbornness turned out to be a total success.) An influential Nazi, the Party organizational leader Gregor Strasser, had long recommended a compromise with the power holders. Through an internal intrigue by von Schleicher as Minister of Defence Papen was forced to resign and was succeeded as Chancellor by the former on December 2. Schleicher tried to get support through a collaboration with the trade unions (normally close to the Social Democrats) and also with a compromise-willing group in the Nazi party, that was headed by Gregor Strasser.

27 Shirer op. cit., p. 168, Reuth op. cit., p. 233.

28 Bullock, Alan, *Hitler and Stalin*. Parallel Lives, New York 1991, p. 248.

This led to a sudden violent crisis in the Nazi Party in early December, as this was totally against Hitler's demand for total power. Hitler even thought about committing suicide ("If the party once falls apart, then I will end it in three minutes with the pistol", so he confided to Goebbels²⁹) but in the end Strasser did not want to contest Hitler's leadership of the party and as he suddenly abandoned the political struggle entirely, Hitler could re-establish total authority within the party. Still, at the turn of the year 1932-33, the fortunes of the Nazis were at an all time low, as Goebbels noted in his diary on December 23: "This year has brought us everlasting bad luck... The past was sad; and the future looks dark and gloomy; all chances and hope have quite disappeared".³⁰

But only a few days later a new opening in the political game appeared. Hitler and von Papen met in secret for (still unconcluded) negotiations at the house of a banker in Cologne; but news of the secret meeting leaked out at once. Now the Nazi party leaders put all their efforts on getting a good election result at the coming elections in the tiny state of Lippe (only 173.000 inhabitants) in mid January.³¹ They succeeded in this, getting more votes than in the November general election but less than they had got in July. This fact was important mostly for psychological reasons, showing that the reverse in November was temporary and that the Nazis could still win an election.³²

6 The Takeover of Power on 30 January 1933

Schleicher had reached a political dead end, all his efforts to create a broad political consensus for his Government had failed; he now demanded to receive total governmental power without taking the majority in the Reichstag into consideration but Hindenburg refused to accept this request and instead gave von Papen the job to form a broad Coalition Government with all the nationalist political parties represented in this, now also including the Nazis. The President was prepared to accept Hitler as Chancellor. The question of why he now could accept Hitler as Chancellor when he had refused him in August has been much discussed. There are intimations that Hindenburg was under a certain pressure and threatened with a sort of blackmail regarding his estate Neudeck in East Prussia, whose ownership he had transferred to his son Oscar in a morally, perhaps even legally debatable manner.³³ But there is another explanation: the President feared that the Nazis would try to impeach him for presumed breaches of the Weimar Constitution. The President also feared a Civil War either being started by the Nazis or alternatively (and his eyes even worse) by the Communists. A Civil War would probably lead to an uncontrolled take over of power by Hitler and the Nazis.

29 Goebbels op. cit., p. 220 (December 8 1932).

30 Goebbels op. cit., p. 229.

31 Cf. several entries in Goebbels' Diary for January 1933.

32 Kershaw op. cit., p. 416.

33 Strenge op. cit., p. 92, Fest op. cit. p. 501.

Under these circumstances Hindenburg tried to take what he thought was a middle road. His nomination of Hitler as Chancellor was for him the only way out. That meant no Civil War and no impeachment of him in front of the State Supreme Court but instead a Chancellor under the control of trusted conservative politicians, who would constitute the majority of the members of the new government.³⁴ The President also personally selected the new Defence Minister general Werner von Blomberg, of whom he felt certain that he would safely guard the independence of the Reichswehr from undue political influence.³⁵

The compromise being worked out between Papen, Hitler and the head of the German Nationalist Party Alfred Hugenberg led to the forming of a broad Coalition Government, but the Nazis only got three Cabinet posts, with Adolf Hitler as Reich Chancellor, Wilhelm Frick as Minister of Interior and Hermann Göring as Minister without a Portfolio. Von Papen became Vice Chancellor and also head of the Provisional Government in Prussia. Of vital importance was the fact that Göring became Acting Minister of Interior in the largest state Prussia, because thereby he could control the police. The other seats in the Cabinet were filled with different bourgeois politicians, mostly affiliated with the German Nationalist Party. But these men (apart from Hugenberg) regarded themselves foremost as experts on their specific areas of responsibility, not as politicians on the general national scene. Papen now believed to have the Nazis under firm conservative control in the National Government; some critics voiced their scepticism about this and warned that he would be placing himself in Hitler's hands, to which Papen replied: "You are mistaken. We have hired him."³⁶

The first move of the new Government was negotiations with the Center party, in order to explore the possibility of forming a common majority in the Reichstag. When these negotiations immediately failed (as they probably were supposed to), Hitler made President Hindenburg dissolve parliament and call for new elections on 5 March 1933. During the period up to Election Day this also meant that the earlier parliament was powerless and without any means to intervene in the power struggle. There were two important power groups in Germany that the new Government either had to pacify or to use for its purposes, the Business Leaders and the military leadership of the Reichswehr. Some twenty Business Leaders were told at a meeting on February 22 by Hitler and Göring that they should give considerable economic contributions to the election campaign as a support in the fight against Marxism, as this election would be the last one of its kind for the foreseeable future. The participants were encouraged to come up with 3 million Marks to the Government's election campaign, of which the most part went to the Nazi Party.³⁷

The leading generals met Hitler in a closed meeting already on February 3, where he told them of his plans of rearming Germany and to give them the leading role in this process. He also stressed the necessity for the Reichswehr to keep out of political life and leave politics to the existing National Government.

34 Strenge op. cit., p. 115.

35 Kershaw op. cit., p. 420.

36 Kershaw op. cit., p. 421., Fest op. cit., p. 506.

37 Fest op. cit., p. 542, Kershaw op. cit., p 447 f., Shirer op. cit. p. 189 f.

He won their support by promising to destroy Marxism, reinstate conscription and overturn the Treaty of Versailles. Most of the generals present seems to have approved of Hitler's message and liked the prospect of staying out of political life. Thereby they could avoid being embroiled in a Civil War like the one that they had been forced to take part in ten years earlier.³⁸

Practically immediately Göring started to cleanse the Prussian police from the rest of its republican minded leadership that it had had previously. He thus ruthlessly fulfilled the job that Papen had started earlier after the take over in Prussia in late July 1932. The new Reich Minister of Interior Frick also made Hindenburg issue a decree on 4 February (For the Protection of the German People), that meant restrictions in the holding of political meetings and in the Freedom of the Press. The police got the right to confiscate printing material whose content was apt "...to jeopardize public security and order", whatever that might mean. Periodic publications could also be forbidden to come out, for up to four weeks.³⁹ This new decree was used mainly against the "Marxist parties", that is to say the Communists and the Social Democrats. Particularly in Prussia several opposition papers were stopped from publishing for a couple of weeks. Such decisions were sometimes later overturned in the law courts, but those decisions proved to be of no importance. The papers were indeed forbidden during the important weeks of the election campaign. The police in Prussia also stopped many political meetings arranged by political forces on the Left. It might here be added that during earlier years the Nazis had often been exposed to similarly temporary repressive measures, ban on public speaking for politicians like Hitler and Goebbels, temporary bans on newspapers, bringing legal charges against Nazi politicians making too virulent public verbal statements. The Nazis once in power paid back an old debt with high interest.

Göring also encouraged the police in Prussia to show a positive and friendly attitude to the parties that belonged to the Government during the ensuing election campaign, but at the same time to keep a strict control over the opposition and not to hesitate to use firearms in order to protect public order. "Police officers who in the execution of their duty use their firearms will be supported by us without regard for the effect of their shots; on the other hand, officers who fail from a false sense of consideration may expect disciplinary proceedings."⁴⁰ On February 22 Göring formed an auxiliary police, recruited to a large extent from the SA and the SS. This gave the Stormtroopers a free hand in Prussia to hunt down their victims, political enemies of the Government and also individual Jews.⁴¹ It became meaningless to call for support from the police if you were physically attacked, as the attackers became a subsidiary of the functioning police. The Rule of Law had more or less ceased to exist – at least for the Marxist opposition parties, but also for many of the Jews. The election campaign became very difficult for these parties to carry on. The rules regulating

38 Evans op. cit. p. 316 f., Kershaw op. cit., p. 441 f.

39 Strenge op. cit., p. 214.

40 Bullock op. cit., p. 308.

41 Fest op. cit., p. 541.

Civil Rights in the Weimar Constitution still existed on paper but less and less in reality.

During the final week of the election campaign the Nazis redoubled the force of their attacks on their Marxist opponents. Hitler declared his intention to stamp out Marxism and the Leftist parties without mercy. And Göring was brutally clear in a speech on 3 March: “Fellow Germans, my measures will not be crippled by any judicial thinking. My measures will not be crippled by any bureaucracy. Here I don’t have to worry about Justice, my mission is only to destroy and exterminate, nothing more. This struggle will be a struggle against chaos, and such a struggle I shall not conduct with the power of the police. A bourgeois State might have done that. Certainly, I shall use the power of the State and the police to the utmost, my dear Communists, so don’t draw any false conclusions; but the struggle to the death, in which my fist will grasp your necks, I shall lead with those down there – the Brown Shirts.”⁴²

In late February the Communist headquarters in Berlin, the Karl Liebknecht Haus was raided by the Prussian police several times and a lot of presumably incriminating printed material was said to have been confiscated there. The Haus had already been abandoned by the Communists but Göring announced that the seized documents showed that the Communists were about to start a revolution. The publication of the captured documents was promised in the immediate future but they never appeared.⁴³

7 The Reichstag Fire

The day after Hitler became Chancellor Goebbels noted in his diary: “In a conference with the Führer we lay down the lines for the fight against the Red terror. For the present we shall abstain from direct countermeasures. First the Bolshevik attempt at revolution must burst into flame. At the given moment we shall strike.”⁴⁴ It was obvious that the Nazi leadership was waiting for a suitable opportunity to strike at the “Marxist” enemies. Now this presented itself in an unexpected manner.

In the evening of February 27 the Reichstag building in Berlin was set on fire. When the police arrived on the scene, they apprehended a half naked workless Dutch ex-Communist, 25-year old Marinus van der Lubbe. There were a number of suspicious reasons attached to the fire. The police found that the vast Reichstag building had been incinerated on several places, consequently there rapidly arose suspicions whether van der Lubbe had been acting alone, being the sole perpetrator. Early on suspicions also arose that the Nazis themselves were responsible for the fire and that Lubbe only was a front man as the main suspect. Most historians accepted this opinion during the early post-war years but in 1962 a German specialist published a very thorough investigation of the matter and consequent to this study most serious scholars now accept that

42 Quoted from Bullock, Alan, *Hitler a Study in Tyranny*, London 1990 (1952), p. 264.

43 Kershaw op. cit., p. 457 f.

44 Goebbels op. cit., 31 January 1933, Cf. Bullock op. cit., p. 262.

Lubbe was right when he had claimed that he was solely responsible for putting the Reichstag building on fire.⁴⁵ But irrespective of who was responsible for the Reichstag Fire the Nazis used the golden opportunity presented to them on a silver plate through Lubbe's foolish act.

The Reichstag fire was portrayed by the Nazis as being the first phase of a Communist coup d'état. Hitler and Göring went to the place of fire and Hitler became absolutely wild with rage. The first head of the newly formed Secret State police (Gestapo) Rudolf Diels, who was a professional policeman of the old school, has given a graphic description of the scene in the burning Reichstag, when he entered: "Göring walked towards me...: 'This is the beginning of the Communist uprising! Now they'll strike out! There's not a minute to waste!'" As Göring could not continue, Hitler then turned to those present. Diels could see that Hitler's face was flaming red with excitement and from the heat in the Reichstag building. He shouted wildly: "There will be no more mercy now; anyone who stands in our way will be butchered. The German People won't have any understanding for leniency. Every Communist functionary will be shot where he is found. The Communist deputies must be hanged this very night. Everybody in league with the Communists shall be arrested. Against Social Democrats and Reichsbanner too there will be no more mercy." Diels tried to tell Hitler that the first interrogation with Lubbe seemed to show that the incinerator was a lone madman but to no avail. A little later Diels told one of his trusted assistants, that the whole atmosphere reminded him of that of a madhouse.⁴⁶ According to Goebbels' diary Göring saw to that no Communist or Social Democratic newspapers might be published in Germany any more.⁴⁷

On the following day (February 28) Hitler made president Hindenburg sign the Reichstag Fire Decree ("For the Protection of the People and the State"), that suspended "for the time being" the seven articles of the Weimar Constitution that guaranteed the citizens' civil liberties. Thus were introduced restrictions on personal liberty, on the right of the free expression of opinion, including Freedom of the Press, on the right of association and assembly, and permitting violations of the privacy of postal, telegraphic and telephonic communications, the issuing of warrants for house-searches, the ordering of confiscations as well as of restrictions on property rights; all these restrictions would thus be permissible beyond the legal limits otherwise prescribed. In a second paragraph the autonomy of the States in Germany might be overtaken by the right of the Reich Government in order to restore order.⁴⁸ Moreover, the Decree also gave the Reich Government in Berlin the right to take over power in the other German States, that in several cases still were being ruled by non-Nazi coalition Governments.

45 Tobias, Fritz, *Der Reichstagsbrand. Legende und Wirklichkeit*, Rastatt/Baden 1962. There are still different opinions on this matter in the scholarly debate.

46 Kershaw op. cit., p. 458. Reichsbanner was an uniformed organization, closely affiliated with the Social Democrats.

47 Goebbels op. cit., p. 270 f. (27 and 28 February 1933).

48 Strenge op. cit., p. 216.

Although there existed capital punishment in German law at the time, this penalty was not applicable in case of arson, which of course was the relevant crime in the case with the Reichstag fire. When Hitler immediately demanded that van der Lubbe should be executed, the Ministry of Justice replied that this was to contrary to the Legality Principle, and presented reservations to such a measure, based on this Principle.⁴⁹ This did not prevent Hitler from publicly demanding in a speech in the German Reichstag on March 23 that the guilty perpetrator of the crime of putting the Reichstag building on fire should be publicly executed.⁵⁰ And shortly after the passing of the Enabling Act the Ministry of Justice gave up its opposition to this clear breach of the Legality Principle. Van der Lubbe was duly condemned to death and executed in January 1934.⁵¹

Oddly enough the Communist party was not outlawed directly after the Reichstag fire. The reason for this was the coming elections on March 5. In this way it was still possible for the Communist sympathizers to vote for their old party; if this had been forbidden to exist, it would have been likely that the Communist voters would have supported the Social Democrats instead at the polls. It was a policy of divide and conquer that Hitler pursued.

The result of the elections was that the Nazis received seventeen million votes, 44 percent of the votes cast (288 seats) and the German Nationalist party 3 million votes, 8 percent (52 seats), which meant that the Government got a majority of 16 votes in the Reichstag. The other political parties in opposition stood up reasonably well and largely held fast to their earlier electorates. The entire electorate numbered almost 45 million. More than 7 million voted for the Social Democrats, 5,5 million for the Center Party and nearly 5 million for the Communists. Although this election was not a free one in the normal sense that had been the custom during the Weimar period, the Nazis still did not achieve a popular majority of their own. A majority of the population voted against them even now.⁵²

Immediately after that the election had taken place the Reich Government utilized the possibility provided by the Reichstag Fire Decree and systematically removed the existing local Governments in the Länder during the next few days and instituted Reich Commissioners as local leaders in the States. Papen's example with Prussia from July 1932 pointed the way for the political development, irrespective of local popular opinion. No resistance was being raised against these measures, only some futile protests. As the future Propaganda Minister Goebbels noted in his diary, "We are the Lords of the Land and of Prussia; all the others have beaten fallen to the ground...In all of Germany the Swastika flags are flying."⁵³ The Reichstag Fire Decree was

49 Gruchmann, Lothar, *Justiz im Dritten Reich. Anpassung und Unterwerfung in der Ära Gürtner*, München 1987, p. 826 ff.

50 *Verhandlungen des Reichstags VIII Wahlperiode 1933 Band 457*, p. 26.

51 Gruchmann op. cit., p. 829 ff., Streng op. cit., p. 186.

52 Evans op. cit., p. 340.

53 Goebbels op. cit., p. 275 f. (March 5 - 6 1933).

supposed to be applied for a limited time period only, but in fact it remained in legal force during the entire twelve year period of the Third Reich. It also became the legal basis for the establishment of a totally uncontrolled and arbitrary police state.⁵⁴

Hitler's slim parliamentary majority would have been enough for normal day-to-day business in parliament but it was clearly short of the two-thirds majority that he needed in order to change the Constitution and thereby establish a new sort of political system in Germany through an Enabling Act, something that he had long planned.⁵⁵ According to the rules of the Weimar Constitution (that was never formally repealed during the Nazi era) the Reichstag was the sole lawgiver; Hitler wanted that future law-giving should also be possible through decisions made by the Reich Government alone. This right was supposed to last for a period of four years, so the bill stated. The positions of the Reichstag, of the Reichsrat and of the Presidency were not to be touched by the law-making authority assigned to the Government, in fact to Adolf Hitler as Chancellor and sole ruler of Germany. (Both the Presidency and the Reichsrat were abolished within two years, the Reichstag only remained as a sounding board for some of Hitler's more important speeches; so much for Hitler's promises to his opponents and to his people.) Such a change in the Constitution required a two thirds majority of the members of parliament that were present at the decisive vote. The composition of the Reichstag consequently presupposed support from at least some of the opposition parties in order to achieve the required two thirds majority decision. The defining moment came when the German Reichstag met on March 23 in order to decide on an Enabling Act, i. e. to decide on the Government's Bill on a "Law for Removing the Distress of People and Reich".⁵⁶

Most of the Communist Party's elected parliamentarians had already been seized by the police or fled the country and it would have been madness for the remainder to try to attend the parliamentary session. Although parliamentary immunity was supposed to be protected in the Constitution (Article 37), this rule was already a dead letter through the Reichstag Fire Decree. The remaining strong opponents were the Social Democrats; but a large part of the party's elected 120 parliamentary deputies were also for different reasons unable to attend the session, due to illness or the fact that they had been apprehended either by the SA or arrested by the police or even already had left the country. All the elected representatives had to walk to the parliamentary session in its provisional meeting place at the Kroll Opera House surrounded in the aisles by uniformed Nazis in brown or black. There existed a latent threat of violence for

54 Gruchmann op. cit., p. 535 ff.

55 Goebbels op. cit., p. 139 (6 August 1932).

56 A description of the debate in the Reichstag by an interested contemporary English onlooker in Wheeler-Bennett, John, *Knaves, Fools and Heroes. Europe between the Wars*, London 1974, p. 75 ff. Another account of the debate by an interested contemporary French observer in Francois-Poncet, André, *Souvenirs d'une ambassade à Berlin Septembre 1931-Octobre 1938*, Paris 1946 p. 107 ff. A detailed analysis from a German perspective in Meissner, Hans Otto – Wilde, Harry, *Die Machtergreifung. Technik des nationalsozialistischen Staatsstreichs*, Stuttgart 1958, p. 252 ff.

the parliamentarians. From outside could be heard on the street the Stormtroopers chanting: “We want the Bill – or fire and murder.” Behind the Speaker Hermann Göring (who oddly enough at the same time served as Cabinet Minister and as Speaker of the Reichstag) there hung a huge Swastika banner.⁵⁷

Hitler (in a brown SA-shirt) presented the Government’s bill in a long speech, that was fairly moderate in tone. He was particularly keen on getting a positive vote from the Center Party and the Bavarian People’s Party. The German Ministry of Foreign Affairs (headed by a Nationalist Minister) had obviously had a strong influence on the content of the speech. Hitler also dealt with legal issues in his speech, in which he clearly stressed his opposition to a liberal legal order: “The Government of the National Revolution regards basically as it’s duty, in accordance with the vote of confidence from the People given to it, to hold those elements apart from influence on the forming of the life of the Nation. The theoretical equality of law must not lead to a toleration of individuals, that basically despise the law and equality, to finally out of some sort of democratic doctrine to them deliver the liberty of the Nation.” He came back a little later to the sort of legal order that he had in mind: “Our legal system must preferably serve to preserve the people’s community. The elasticity of passing judgment on the one side must for the purpose of the preservation of society correspond with the irremovability of judges. Not the individual but the People should be the centre of the legal process!”⁵⁸. The Nazis’ anti-liberalism was even more clearly expressed a little later in a radio speech by the Minister for Popular Education and Propaganda Joseph Goebbels, dealing with the stated purpose of the Nazi revolution in Germany: “Thereby will the Year 1789 be obliterated.”⁵⁹

The Government disposed over a working majority in the newly elected parliament, that would guarantee the adoption of new laws. Why was it then necessary to have an Enabling Act? Hitler ended his speech by answering this obvious question in a very decided, even harsh manner. The number of cases when there would be necessary to use such a law would be limited, he stated. “Still the Government of National Rising insists on the passing of this Act. It prefers in any case a clear decision. It offers the parties in parliament the possibility of a calm development in Germany and of an initial agreement for the future; it is however also decided and prepared to receive the announcement of a rejection and consequently take a message of resistance. Gentlemen, it is up to you to decide on peace or war.”⁶⁰

The SPD leader Otto Wels held a very courageous and dignified speech, defending the record of the Social Democrats during the Weimar Republic and upholding principles of justice, freedom, humanity and socialism. “You might rob us of our freedom and our life but not of our honour.” He stated that the

57 Bullock op. cit., p. 270.

58 *Verhandlungen des Reichstags* op. cit., p. 27 f.

59 Radio speech on April 1, 1933 in Goebbels, Joseph, *Revolution der Deutschen*, Oldenburg 1933, p. 155, quoted from Bracher, Karl Dietrich, *Die deutsche Diktatur. Entstehung Struktur Folgen des Nationalsozialismus*, seventh edition, Kologne 1993, p. 8.

60 *Verhandlungen des Reichstags*. op. cit., p. 32.

Party would vote against the bill.⁶¹ But Hitler could not accept even this low-key criticism, but reacted violently. He immediately replied with a new speech much harder and cruder than his first one, directed against the Social Democrats. He specifically appealed to the German Reichstag "...to grant us what in any case we could have taken." Hitler ended with stating that he did not want the Social Democrats to vote for the Enabling Act: "Germany shall be free, but not through you!"⁶²

The Center Party had demanded a written promise from Hitler that he would respect the President's power of Veto. But although promised before the voting this presumed written document was never delivered to its recipient. After a long internal debate the Center Party (and the Bavarian People's Party) still voted for the Bill and the result was a clear two thirds majority, 441 for, and 94 (the Social Democrats) against.

The earlier recent Chancellors, Brüning, Papen and Schleicher, had all been dependent on the President's right to issue emergency decrees under Article 48 of the Weimar Constitution. The adoption of the Enabling Act meant that Hitler was free from all restrictions to govern Germany according to his own plans and with his own methods. President Hindenburg could no longer influence political events, even if he had wanted to – and most things indicate that he thus far seems to have been fairly pleased with developments in Germany, as far as he was capable to observe them at all from his lofty position. The Enabling Act and the Reichstag Fire Decree put together were to constitute the formal legal basis for the establishment of a totalitarian dictatorship in Germany, of a kind never before experienced in a modern European state.⁶³

During the spring and early summer of 1933 there followed a policy of coordination (*Gleichschaltung*) of all social and political life in Germany; practically all the many societies and federations of all sorts that existed in the country were systematically nazified. Finally this development resulted in first the dissolution of the free trade movements at the beginning of May and then of all political parties in June and July except the National Socialist Party, that through a separate law on July 14, 1933 became the only lawful party in Germany.

8 Why were Democracy and Civil Rights abolished in Germany?

The fundamental reasons for the death of democracy and the abolition of civil rights in Germany are many fold and indeed not easy to give. How much depended on deeper reasons and how much on pure chance? This is a question that was posed by the famous German historian Friedrich Meinecke already early, shortly after the end of World War II.⁶⁴ Was there a preconceived plan of

61 Ibid., p. 33.

62 Ibid., p. 36 f.

63 Gruchmann op. cit., p. 535 ff.

64 Meinecke, Friedrich, *Die Deutsche Katastrophe*, Zürich and Wiesbaden 1946, p 92 ff.

the Nazis of carrying through the transformation of Germany in much the way that later took place? On this second question it is obvious that it must be answered affirmatively. There was a carefully laid plan of driving through an Enabling Act⁶⁵ and particularly the lawyer Frick played an important part in framing this, using a formal legal approach.⁶⁶ Hitler was a much better politician and also more ruthless than his opponents and also than his co-players in the Coalition Government. Probably the social prejudices of the latter towards the social upstart from pre-war Vienna played its part in underestimating him and the political force of the Nazi movement. Anyway, they all relied too much on what he said publicly and on his promises and they underestimated both his political capacity, his williness and his willingness to deceive them.⁶⁷ Shortly stated: he outfoxed both his opponents and his non-Nazi colleagues in the Coalition Government. But what were the deeper reasons for what happened in Germany during the first few months in 1933?

Ever since the First World War the German people had been hit by a series of crises, heavy war casualties, lack of food during the war, first the victory over Russia, then the unexpected defeat in the West in the autumn of 1918, the demise of the monarchy, the November Revolution, the Versailles Treaty and the enforced acceptance of the German War Guilt and of the Reparations, the French Occupation of the Ruhr and the subsequent Great inflation at the beginning of the 1920s, then stabilization of the currency and a brief interlude of economic recovery and then the Great Worldwide Depression and mass unemployment. People were fed up with the political parties, their compromises and internal intrigues and the Weimar System was regarded as a fundamental failure. As Alan Bullock has expressed it, Hitler "...swept together in a comprehensive condemnation the November criminals, who had stabbed the German army in the back and had accepted the vindictive demands of the Allies; the Marxists who preached class war, internationalism and pacifism; the permissive pluralist society epitomized by godless Berlin and the *Kulturbolshewismus*, which mocked traditional values and treated nothing as sacred; and the Jews whom he portrayed as battenning on corruption and profiting from Germany's weakness."⁶⁸

Many Germans felt lost in life, without bearings in the present and without a clear hope for the future. Hitler offered them a rejection of all the evils of the past as well as a promise of a better future, not only in an economic sense but also through the building of a new national self-confidence, that Germany would recover a respected status as a power in the world and that Germans would be able to hold their heads high again. Many non-political Germans from all parts of society saw a Government that acted with confidence and decisiveness,

with an eye for the future, and also nationalistically reasserting traditional German virtues, such as a strong authoritarian rule, respect for traditional morality and even (seemingly) religion. Parallel with repression against political

65 Goebbels op. cit., p. 139, 6 August 1932, Strengé, op. cit., p. 205.

66 Cf. in particular Strengé op. cit., passim (p. 17 f.).

67 Bracher op. cit., p. 48 ff.

68 Bullock, Alan, *Hitler and Stalin, Parallel lives*, London 1991, p. 236.

adversaries (and Jews) the Nazis also in a very peculiar sense might be regarded to have stood for respect for security and public order for the ordinary non-political German citizen.

What happened in 1933 to many seemed a recreation of the Common German spirit from August 1914. Many felt (even among the critics of Nazism) that the Nazi movement represented the “Wave of the Future”. Many individuals also adjusted themselves to the new power holders. As the famous German historian Golo Mann, who lived in Germany in 1933, has expressed it: “...[A]nd many that up to now had held fast with the old order, hastened to make their peace with the new one. It is after all more certain and more pleasant to be in the victors’ camp rather than in that of the defeated.”⁶⁹ Opportunism lived high. It was a brilliant time, for instance, to be a young scholar, trying to get a full professorship, due to the fact that so many of the old academic stars either were Jews or political radicals that had to leave their top jobs. And the same fact applied to many other positions in the public sector.⁷⁰ The repression as a concrete threat to everybody was there too, for instance the newly created Concentration Camps (the first established at Dachau, near Munich in March 1933), although it initially mostly was directed at the Jews and upon political opponents. The Nazis’ victorious fight against Marxism also meant that the formation of a new classless national community of all good “Aryan” Germans was seemingly more important than the loss of democracy and of the fundamental civil rights that had been protected by the Weimar Constitution. Very few Germans probably thought or expected in 1933 that the politics of the new Nazi Germany would lead to a catastrophic Second World War and to the dissolution of the German state.

69 Mann op. cit., p. 819 f.

70 Cf. Evans op. cit., p. 389ff. and Haffner, Sebastian, *Defying Hitler: A Memoir*, London 2002, p. 111, 114.