Comments on Marcus Kreuzer's Article

Jonathan Sperber

MARCUS Kreuzer's vigorously-argued essay on the progress of parliamentarization in Imperial Germany is an innovative intervention into a long-running scholarly debate about a central assertion of the *Sonderweg* thesis, namely the power or powerlessness of the democratically elected Reichstag of Imperial Germany. Plausibly dividing historians who have studied the topic into three groups: "optimists," who perceive a steady increase in parliamentary power and a move toward democratic and parliamentary government, particularly in the Wilhelmian Era; "pessimists," who deny the power of the Reichstag vis-à-vis the executive increased at any point in the history of the empire; and "skeptics" who point toward an increase in the power of the Reichstag, once again primarily in the Wilhelmian era, but deny that such an increase in power was leading toward democratic or parliamentary government. Kreuzer points out that underlying all three arguments is an implicit assumption of what a powerful parliament should be. Blinded by the "Westminster model" of British parliamentary government, he suggests, pessimists and skeptics have condemned the imperial Reichstag for not resembling the House of Commons. Yet the British governmental system represented just one possible form of parliamentarization. By systematically comparing the powers of the Reichstag with those of today's West European and North American legislatures, Kreuzer ascertains that the Reichstag was a politically influential parliament, thus demonstrating that the optimists have had the better of the argument about parliamentarization.

Kreuzer's systematic comparison demonstrates the potential of universalizing social science approaches to disputed historical questions. His account of significant, but little considered (by historians at least) aspects of parliamentary proceedings, such as the Reichstag's right to set the legislative agenda, offers new perspectives on the functioning of government in the German Empire. At certain points, though, Kreuzer's argument seems to be carried along by a number of empirically questionable statements, dubious comparisons, and contradictory assertions. These weak points can be grouped together under three broader rubrics: (1) the powers of the Reichstag; (2) the role and position of the

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Bundesrat; (3) the nature of political culture and political norms in Germany as compared with those of other Western countries.

Powers of the Reichstag

Kreuzer himself asserts the great importance of "a legislature's control of government formation," as an indicator of parliamentary power.[1] Dividing this power into three aspects, nomination, investiture, and censure or dismissal, he notes that on the first two criteria the imperial Reichstag ranked very low. For the third, he maintains, by contrast, that it was very high. This assertion is based, primarily, on the "compelling argument" put forth by Werner Frauendienst in a 1957 article, asserting the "Reichstag's growing willingness to censure the chancellor and his ministers."[2]

Even stating the argument this way is cause for skepticism, since in formal legal and constitutional terms, as is well-known, the imperial government had no ministers, just senior state servants (Staatssekretäre) to assist the chancellor. Reading the article in question, one sees that Frauendienst did analyze a considerable parliamentary influence on the appointment and dismissal of ministers during the Wilhelmian Era — but not in the imperial government. Rather, he suggested there was a large and growing influence of the conservative majority in the Prussian Landtag on the composition of the Prussian government, a de facto parliamentarization of Prussia "not as the concept is usually understood in a liberal fashion, but rather in a conservative one."[3] Frauendienst did mention parallel developments in the imperial government, but could show relatively little in the way of similar influence on the part of the Reichstag. To be sure, Admiral Hollmann, Staatssekretär in charge of the Imperial Naval Office resigned following the defeat of a naval budget bill by the Reichstag in 1897. However, this resignation was at the express wish of the emperor — not entirely a sign of parliamentary censure power.[4] A similar point could be made about the resignation of Bernhard von Bülow as chancellor following the defeat of his tax proposals by the Reichstag in 1909, which was at least as much a result of

1. Marcus Kreuzer, "Parliamentarization and the Question of German Exceptionalism: 1867–1918," 335.

2. Ibid., 339.

3. Werner Frauendienst, "Demokratisierung des Deutschen Konstitutionalismus in der Zeit Wilhelms II," *Zeitschrift für die gesamte Staatswissenschaft* 113 (1957): 721–46. Quote from 729 and on the topic, 729–38.

4. Ibid., 736. Kreuzer's other example of a parliamentary vote of censure turns out to be a rejection by the Reichstag of budget authorization for several new diplomatic posts proposed by Bismarck in conjunction with his colonial policy in 1884 on the second reading. The Reichstag reversed itself on the third and definitive reading of the bill — not exactly evidence of great powers of censure or dismissal from office. Hermann Butzer, *Diäten und Freifahrten im Deutschen Reichstag* (Düsseldorf, 1999), 180–81.

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the loss of confidence in him on the part of Wilhelm II as of any censure by the Reichstag.[5]

In view of these considerations, it would seem that the censure and dismissal power of the Reichstag was rather less than Kreuzer asserts. Since this power was the sole basis for Kreuzer's claim that the Reichstag had a major role in the crucial parliamentary function of government formation, this would suggest that the Reichstag's power, overall, was less than Kreuzer makes it out to be. If perhaps not to quite so great an extent, there are similar limitations on some of the Reichstag's other powers as Kreuzer interprets them.

Passage of a law required approval of the Bundesrat, which, as pessimists often note, limited the Reichstag's lawmaking power and generally put it in a position of reacting to proposals on the part of the imperial government. Kreuzer disagrees with this assertion, pointing to the Reichstag's expansion of its constitutional powers by "veto bargaining," i.e., by refusing to pass legislation desired by the executive, unless the government agreed to introduce other legislation. Unfortunately, of the two examples he offers, the Center's efforts to repeal the anti-Jesuit law in 1903 as compensation for supporting finance and trade reform and the conservative majority's call for a value-added tax on land in 1909, the latter did not come to pass, and the former did only fourteen years later, during the First World War. Kreuzer also asserts that the Reichstag acted proactively, pressing the Bundesrat and the chancellor for legislation. However, two of the examples he offers, the blocking of the government's antisocialist measures in the 1890s, were reactive rather than proactive.[6]

If the Reichstag refused to grant the wishes of the imperial government, the latter always had the option of dissolving it and calling for new elections. Kreuzer states that such a power is "a very standard, and thus hardly exceptional, prerogative of virtually every parliamentary government."[7] True, but the imperial government was not a parliamentary government and enjoyed no parliamentary or democratic legitimation. Even a very powerful contemporary chief executive, such as the president in the French Fifth Republic, who can dissolve the National Assembly and order new elections, is elected to office in democratic fashion. The same cannot be said of Bismarck or Wilhelm II.[8]

Kreuzer concludes his section on parliamentary powers by citing Thomas Nipperdey to the effect that "the monarchy was constrained by the constitution, the legal norms and the participation of parliament . . ."[9] In other words,

5. Katharine Lerman, *The Chancellor as Courtier: Bernhard von Bülow and the Governance of Germany 1900–1909* (New York, 1990), 210–47 and passim.

6. Kreuzer, "Parliamentarization," 343–44.

7. Ibid., 342.

8. More plausible on this point is Kreuzer's adoption of Margaret Anderson's argument that repeated dissolutions eventually backfired on the government.

9. Ibid., 344–45.

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the German Empire was not an absolutist regime. There are passages in Hans-Ulrich Wehler's *Das Deutsche Kaiserreich* that could be interpreted as describing the imperial government as an example of absolutism, although other passages admit of different interpretations. Other "pessimists," such as Volker Berghahn, make no such extreme claims about the power of the imperial executive and Wehler himself, in more recent writings, would not describe it in that light either.[10] Perhaps the "pessismists" have become "skeptics" or perhaps this description does not entirely do their position justice.

The Bundesrat

The Bundesrat, with its distinct combination of formal executive power and federalist composition has often been seen as a barrier to parliamentary government, a point that Kreuzer, following his comparative analysis, would wish to dispute. He observes that the prohibition on Reichstag deputies to hold a position in the executive was no barrier to parliamentary power, since this is the case in a number of contemporary European countries.[11] However, as observed in his assertions about the power of dissolution, these executive governments in today's Europe all enjoy parliamentary legitimation in a way that the executive in Imperial Germany did not.

Kreuzer makes a very apt and appropriate distinction between the two components of liberal democracy, namely popular sovereignty and liberal constitutionalism. The latter involves the creation of institutions that are "'meant to curb state authority.'"[12] Kreuzer counts the Bundesrat as such an institution. One might argue (although this could be disputed) that the Bundesrat had the power to curb the authority of the King of Prussia and German Emperor, but as the creature of the rather authoritarian governments of the German *Länder*, it certainly did not act to curb the exercise of state authority in civil society, against the labor movement, for instance, or against the Catholic Church in the 1870s. Indeed, as noted above, Kreuzer himself praises the Reichstag for rejecting the Bundesrat's antisocialist proposals of the 1890s as an example of standing up for "liberal democracy," in antiauthoritarian fashion.

Somewhat peculiarly, Kreuzer then suggests that the Bundesrat might have been the vehicle for the creation of the other component of liberal democracy, popular sovereignty. Here, the federalist character of the Bundesrat comes into

10. Hans-Ulrich Wehler, *Das Deutsche Kaiserreich 1871–1918*, 2nd ed. (Göttingen, 1975), 60–72; cf. 62–63 with 67 and idem, *Deutsche Gesellschaftsgeschichte 1849–1914* (Munich, 1995), 361–76; Volker Berghahn, *Imperial Germany 1871–1914* (Providence, 1994), 190–96.

11. Kreuzer, "Parliamentarization," 347. The author does not mention it, but there is a similar prohibition in Article I Section 6 of the U.S. Constitution as well.

12. Ibid., 347–48.

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play. It was composed of representatives of the governments of the *Länder*, who were subject to "full ministerial responsibility." With the introduction of a more democratic franchise for the election to state legislatures, the resulting *Länder* governments would then create a democratically chosen executive.[13]

This argument, although ingenious, both contradicts other assertions made by Kreuzer and also seems empirically incorrect. In emphasizing the power of the Reichstag to censure the chancellor and his Staatssekretäre, Kreuzer notes that in the Wilhelmian Era the Bundesrat became an increasingly feeble body. Actual, as opposed to legal-constitutional executive power lay in the hands of the *Reichsleitung*, the chancellor and his aides, who were subject to censure from the Reichstag.[14] It is unclear how such an enfeebled institution as the Bundesrat could become the vehicle of parliamentary government.

Moreover, the assertion that there was "full ministerial responsibility" in the state governments of Wilhelmian Germany is rather wide of the mark. Many state legislatures did have the formal right (rarely if ever exercised) to impeach ministers, but not to remove them from office. While there may have been some parliamentary influence exerted on the ministers of the *Länder*, their appointment and dismissal remained the prerogative of the German monarchs.[15] Kreuzer's speculations about the potential for "backdoor" parliamentarization of the imperial government via the *Landtage* and the Bundesrat are thus vitiated in part by his own previous arguments and in part by empirical findings on the governmental structures of the German *Länder*.

Political Culture and Political Norms

In his discussion of the powers of the Reichstag and the place of the Bundesrat, Kreuzer targets his arguments primarily at the pessimists, his accounts of political culture and political norms seem more aimed at the "skeptics." Early in his essay, Kreuzer describes as a skeptic's position the idea that legislative norms were changing "but incompatible with parliamentary government." Yet his own comment that "Parties could have shared a desire for full popular sovereignty but were prevented from achieving it because of their disagreement on

13. Ibid., 352–53.

14. Ibid., 338–39.

15. A good survey of state governments in the Wilhelmian Era in Thomas Nipperdey, *Deutsche Geschichte 1866–1918*, 3rd edition (2 vols.) (Munich, 1995) 2: 609–20. On an earlier and failed attempt at parliamentary government in a federal state, there is the classic study by Lothar Gall, *Der Liberalismus als regierende Partei: Das Grossherzogtum Baden zwischen Restauration und Reichsgründung* (Wiesbaden, 1968). Werner Frauendienst argues (cf. n. 3, above) that the Prussian Landtag exercised considerable influence on the choice of Prussian ministers, but that was far from "full ministerial responsibility," and, in view of the conservative domination of Prussian politics, hardly likely to be exercized in the direction of a democratization or parliamentarization of the imperial government.

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what constitutional order to adopt," seems to be an example of precisely the skeptical position he is criticizing.[16]

Another version of the skeptics' argument is, as Kreuzer puts it, "that the polarizing effect of democratization impeded the formation of parliamentary majorities necessary for both a regime change and functioning of parliamentary government. This argument seems weak because it does not explain why parties were able to form regular majorities to pass legislation."[17] One of the aspects of the lack of parliamentary government in Imperial Germany, though, was that the executive did not need a regular parliamentary majority to pass legislation, but could form ad hoc majorities from bill to bill, a practice very different from that of parliamentary governments. Kreuzer himself explicitly states this point in his own comments on the exceptional nature of the Bülow Block, when the chancellor worked with a progovernmental coalition of political parties in the Reichstag rather than, as was the case before and after Bülow, relying on "continuously rotating legislative majorities."[18]

Finally, there is the *Sonderweg* question itself, the comparison of governmental practice in Imperial Germany with contemporaneous practices in other countries of Europe and North America. Kreuzer does compare the composition of the Bundesrat with that of legislative upper houses in other European countries during the nineteenth century.[19] He goes on to suggest that the Bundesrat's record might not seem so bad in view of the French experience with "unfettered popular and parliamentary sovereignty during the 1789 Revolution, the Second Republic, and the Second Empire . . ."[20] This comparison is, in part, a flawed one, since the authoritarian Second Empire was anything but a regime of popular and parliamentary sovereignty. Quite the opposite, Louis Napoleon, as emperor, had full control over the armed forces and foreign policy, including the making of war and peace, and the conclusion of treaties and trade agreements. He appointed the government ministers, who were not responsible to parliament in any way. Consent of the democratically elected legislative body was required for the promulgation of new legislation, but the emperor had veto power over all laws. Legislation was drafted by the Conseil d'État, appointed by the emperor, and its promulgation also required the consent of the senate, whose members were appointed by the emperor as

16. Kreuzer, "Parliamentarization," 353.

17. Ibid., 356.

18. Ibid., 19. For a skeptical judgment on the Bülow Block as a step in the direction of parliamentarization, see Lerman, *Bülow*, 254–55.

19. Kreuzer, "Parliamentarization," 346–47. Whether this comparison with upper houses is appropriate, since the Bundesrat was, legally and constitutionally speaking, not an upper house, but the imperial governmental executive, is another matter.

20. Ibid., 347.

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well.[21] The government of the French Second Empire was much closer to that of the German Empire — albeit still more authoritarian — than to any parliamentary or democratic regime.

More broadly, though, Kreuzer does not compare the political institutions of the Kaiserreich with those existing elsewhere in Europe around 1900. It was not just England that enjoyed a parliamentary regime then; such governments had existed for longer or shorter periods of time in the Low Countries, Scandinavia, Italy, and, perhaps more precariously, in Spain. These governments, while parliamentary, were mostly not democratic ones, in the sense of emerging from parliaments elected by universal manhood suffrage. However, there were two democratic and parliamentary governments in Europe at the beginning of the twentieth century that had been active and effective for decades, the French Third Republic and the Swiss Confederation. The existence of these parliamentary and democratic/parliamentary governments does suggest basic differences between the institutions of the German Empire, for all the growing influence of its parliament, and those of the nations of Western Europe at the beginning of the twentieth century.

Conclusions

Employing the rigorous comparative procedures of political science and making effective use of the secondary literature, Marcus Kreuzer has convincingly demonstrated a number of points. He has shown that the Reichstag in Imperial Germany was never a rubber stamp on the decisions of an all-powerful emperor or chancellor, and that its members were making innovative and expanding uses of its constitutional powers, especially in the decades following 1890. The Bundesrat, particularly in the Wilhelmian period, was becoming less of an obstacle to movement in the direction of democratic and parliamentary government, although it is difficult to see that body as a vehicle for such trends. Nor were the constitutional institutions and political culture of the German Empire enormously different from those of Western Europe and North America. In all these respects, at least some of the positions of the historians Kreuzer calls the pessimists, do not seem entirely justified.

Kreuzer's assertions reach further than these. Following the historical optimists, he sees the Reichstag as a powerful parliament well on the way toward the implementation of parliamentary government by the outbreak of the First World War. In this respect, he would argue, if there were ever fundamental differences ("German exceptionalism," as he states in the title of his essay) between

21. Alan Plessis, *The Rise and Fall of the Second Empire, 1852–1871* trans. Jonathan Mandelbaum (Cambridge, 1985), 16–21. The reforms introducing the "liberal Empire" in 1869 kept many elements of this authoritarian constitution. Ibid., 165–68.

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the government of the German Empire and those of Western European nations, they had evaporated by the beginning of the twentieth century. For such far-reaching assertions perhaps some skepticism is in order, and the ideas of the historians Kreuzer labels the "skeptics" might still have something to say for themselves.

UNIVERSITY OF MISSOURI, COLUMBIA

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