

Reinterpretation of the German Chancellors: Focusing on the Drafters of the Weimar Constitution

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要 旨

この論文では、ワイマール時代の憲法史を概観し、憲法起草者が意図した首相の役割について再検討する。既存の研究がドイツ国大統領と議会の対抗関係に焦点を合わせてきたとすれば、首相の職位がその関係を理解するための鍵であることをこの研究は明らかにする。憲法の起草者たちにとって、大統領職は事前に想定されていたわけではない。議会に対する共通の懸念が、彼らに国家元首として大統領を選ばせ、大統領に幅広い権限を与えさせたのにすぎなかった。その代替措置として、彼らは、政治の基本的な政策を主導する専門知識を持つ首相に、政治的妥協と紛争を終わらせるための役割を見いだした。しかし、彼らの意図に反して、シュトレゼマンは、ドイツ国大統領と議会の間で、実際の専門家としてではなく、行動的な政治的主体としての自身の役割を実現したのだった。ワイマールの権力構造の主要な問題は首相の職位であると言えるのである。

Keywords: Chancellor, Freuß, Power Structure, Stresemann, Weimar

1 Introduction

Weimar research has long been engulfed in a negative and deterministic perspective due to its world historical and political topography, but it has undergone a “cultural turn” and its perspective has been broadened and its understanding has increased accordingly.¹ However, it seems that the habit of forcing a certain choice still remains among scholars. Whether or not there was an inherent problem in the constitution, whether the problem was the Reichstag or the Reich president, and whether the Article 48 or Article 53/54 of the constitution contributed the most to the downfall are central questions of this study. In front of the research topic of Weimar, scholars are overwhelmed by its conclusion and fall into the magic of seeking a 'cause'. In this process, often what is critical becomes important.

There are also some characteristic analytical tendencies in Weimar political studies. It is a fact that the structure of power was concentrated on the subjects of the Reich president and the Reichstag, and a fact that both were easily made into the opposite. The core question of Bracher², which is evaluated as an excellent

analysis of the power structure in Weimar, is 'how the imperial parliament lost its power'. Here, the opposite-frame between Reich president and Reichstag appears, as well. It is said that it is parliamentary instability that had put pressure on the increase in power of the Reich president. His main thesis was that the Reichstag was incompetent and failed to fulfill its role. In particular, the role of the Reichstag in Article 48, that is, the limitation of the exception law and the consequent failure to protect the constitutional democratic order, resulted in the excessive power of the Reich president in contrary to expectation. Although there is no objection to the fact that he used a vast amount of historical data by combining History with political science, the extent to which the Reichstag exhausted its power specified in the constitution and what procedures the Reichstag carried out is only a part of the analysis of the power structure, and this makes us feel that he is hasty to accept the result as the cause.³

According to work of Kolb, a compilation of the Weimar research, there are two problem areas when discussing the constitution of the Weimar constitution: "When discussing the faults in the construction of the Weimar constitution, there are two crucial problem areas: the dualism of the power of democracy and the power of the president, and the ominous Article 48."⁴ This is also consistent with the two trends this study has pointed out.

It is true that the powers of the Reich president and the Reichstag were far stronger than the judicial and political parties. Not only comparative advantage, but also the power of the Reich president, which can be said in one word, Article 48, and the power of the Reichstag, which could properly respond to the constitution, were absolutely superior to the rest of the powers, especially to political parties and the judiciary.

In *Parties in the Weimar Constitutional System*, Radbruch(1930) explains that the reason why parties are ignored in Weimar stems from the ideology of the traditional government state. The legitimacy of a constitutional state is bound to be inferior to the democratic legitimacy obtained from the majority of parliaments. They must constantly remind the people that there is a nonpartisan existence or legitimacy. For this reason, the Weimar constitution does not mention political parties. The motto, state precedes political parties, shadows from the Reich Empire to Weimar. Nonpartisanship is also used negatively for the emphasis on ethnicity. As one emperor put it: I know no party anymore. I only know German.⁵

However, if Weimar has a parliamentary system and an electoral law, Article 1⁶ explaining the source of that power should be as follows: Sovereignty emanates from the people who consist of political parties. Weimar's proportional representation system was infamous, and parliamentary democracy and political parties continued to face controversy throughout the Republic. The Reich president, who was supposed to be politically

neutral and nonpartisan, was virtually incompatible with the parties and this affected his relationship with the Reichstag.

The judiciary did not perform its role properly. Not a single law was declared null and void from a federal constitutional court [Reich Staatsgerichtshof], although many laws were questioned about their constitutionality. Under the constitution, the federal constitutional court was capable of a very wide range of activities, but it did not have the courage to oppose the Reich government, and not only distorted the Constitution to favor the Reich government, but also acted as a guide for the government's arbitrary interpretation. Some criticized that the institutionalization of the judicial system is not advanced.

2 Chancellor between the Reichstag and the Reich president

2.1 The constitutional tradition of the chancellor

It is necessary to check how the chancellor first appeared and changed in the German constitutional history. The name of the chancellor had already been used before, but the formation of the chancellor's political role to the level it was can be seen for the first time in the Constitution of North German Confederation [Verfassung des Norddeutschen Bundes] in 1867. An important part of the chancellor's identity is his responsibility for imperial policy, a principle enshrined in the 1867 Constitution.

To briefly review the context of the Constitution of the North German Confederation, Bismarck, who was appointed chancellor of Prussia in 1862, worked with Austria to achieve German reunification and defeated the Danish. Austria and Prussia jointly ruled the new countries that had joined the German Confederation [Deutscher Bund] due to the war. In 1866 Prussia, however, occupied Holstein and declared the dissolution of the German Confederation. Instead, he sought to form an alliance with the 17 states of northern Germany and establish this alliance as the cornerstone of a new federal state to keep Austria in check. It can be seen that a strong chancellor was required in the midst of the continuing crisis of war.

The Constitution of North German Confederation has a strange coincidence in this regard. A chancellery was established, but the cabinet was eliminated. Ministers remained administratively subordinate to the chancellor. It seemed as if the chancellor has risen against the existing cabinet. At the beginning of the 19th century, Germany held the first Council of Ministers meeting, at which time the ministers of the cabinet were independent of each other and not hierarchical. They also had direct access to the king and were the king's ministers. And they assumed the role of administrators who were heading the entire government. Those who were direct ministers of the king were subordinated to the chancellor, not the king, through the constitution of

the North German Confederation.⁷ In other words, the composition of horizontal and independent ministers under the king left one powerful chancellor under the king. It is a huge change, and if one keeps in mind that the drafter of the constitution of the North German Confederation was Bismarck, the intention would be found as a clue.

The successor to this constitution was the Constitution of the German Empire⁸ in April 1871. In other words, the Reich chancellor [Reichskanzler] of the Constitution of the German Empire originated from the Federal chancellor [Bundeskanzler] under the Constitution of the North German Confederation. In the semi-authoritarian regime of the German Empire at that time, the Federal chancellor was dependent on the Kaiser who appointed him without the approval of the parliament, and he was only responsible to the Kaiser. This Reich chancellor only had to respond politically to the emperor, so the chances of gaining power as a subject of power increased. It was only after the October Revolution of 1918 that the Reich chancellor needed the confidence of the Reichstag.

The Constitution of 1871 put a lot of effort into perfecting the federal system. It is interesting to see the contrasting developments of the Bundesrat, which represented individual member states of the Federation [Mitglieder des Bundes] and the people of those states, and the Reichstag, the constitutional institution that represents the German people and the German Kaiser Empire as a federation. The Bundesrat is a consultative body made up of representatives from the member states of the Federation. Although it seems to be the role of the upper house, it assumes not only the legislative power but also the executive power and the judiciary. Bismarck, who vehemently avoided parliamentarization of the constitution, did not allow the majority of these powers with legislative power to structure a cabinet which is responsible for the parliament. It was intended to prevent the formation of a separate federal cabinet by the Bundesrat having executive powers. In addition, the reason why the Bundes[rat] has Federation [Bundes] in the name rather than the Imperial Senate [Reichsrat], corresponding to the Reichstag, was to prevent the parliamentarization by acquiring the function of the Senate.

The Reichstag was granted significantly less power than the Reich president. According to the constitution, it was limited to assume the right of the legislative and the petition (Article 23) and the finance (Article 72). As the German Kaiser Empire was stably established and federal powers gradually expanded, the Bundesrat gradually lost its power by being subordinated to the chancellor. In contrast, the Reichstag played the role to control the federal government. Despite Bismarck's obsession to avoid parliamentarism, it had little success with the Bundesrat, and the Reichstag's power grew out of control.

Behind this unexpected growth lies the political and social reality of the time. After the economic crisis of

1873, the government gave up its policy of free market economy and began to actively intervene in the market. The increase in government intervention resulted in the encouragement of private individuals to become more involved in politics. With the interest groups that were popping up one after another, political parties became increasingly popular. The strengthening of the political party also strengthened the imperial parliament, which eventually grew to a level that would have a huge impact on the federal government. Although the German Emperor still exercised the right to appoint the Reich chancellor according to the constitution, due to the tendency of parliamentarization in the late Kaiser Empire, the chancellor and his cabinet could not carry out their duties without the cooperation of the Reichstag.

A prime example of this is the resignation of the imperial chancellor Bülow in 1909. This is because he did not have parliamentary support on fiscal policy. It seemed that the mechanism for the imperial parliament to issue a motion of no confidence for the imperial chancellor was devised by itself.

The Weimar constitution of 1919 expanded their sphere of responsibility. The chancellor's duties now included facilitating interactions between ministries and the Reich chancellor and contributing to the balance of coalition government.⁹ It is important to note this developmental history, but according to Löwenstein, “The Weimar constitution in Germany tried out a new power configuration. On traditional parliamentarism – of which the German were wholly ignorant – a popularly elected president was grafted. As a power holder independent of the government and the parliament, he was intended to be a counterweight against the popularly elected the Reichstag and the cabinet supported by its majority.”¹⁰

2.2 The intention of the drafters for the position of chancellor

It would be a priority to look at the power structure and its distribution in the constitution, but the Weimar constitution was ambiguous and unregulated where political decisions were required. As a matter of course, it did not allow all of the political subjects to understand the roles of the power subjects, and it was not possible to properly lead to conflicts and cooperation between the subjects. Some consider this to be the product of an evasive compromise. Moreover, even the application of such a constitution had many difficulties. Although there were technically various checks against Article 48 of the Weimar constitution, these were nullified due to president's wide-ranging powers. In the middle of the background of this era, there is a debate on “the law of the state” [Staatsrecht]¹¹. The trigger point and the key question is which one takes precedence, the state or the constitution.

Jacobson exposes the outcome of the national law debate by comparing Germany, which questioned the

legitimacy of the constitutional government itself, to the United States, which had the opposite experience. In the United States, the constitution precedes the state logically and temporally, and the nation is created by the representatives of the people through the constitution. In contrast, however, in Germany the state takes precedence over the constitution. The constitution is understood not to constitute the state, but to form and limit the unlimited powers of the state. As a result, in Germany, a national crisis can challenge the constitutional discourse and present a new competitive discourse. Furthermore, in the context of a national crisis, the political crisis in the United States reinforces constitutionalism, but makes Germany doubt the preconditions of a constitutional government.¹²

The study of the constitution by national law scholars, which started out of doubt, quickly turns destructive. A tendency that many scholars dug into the constitution without hesitation in expanding their own thoughts was wide-spread. They began to summon the drafters of the constitution. Already, in the Weimar study, in order to confirm the original intention of the constitutional provisions, the study of not only Preuß, the drafter of the constitution, but also Redslob and Weber, who influenced him, became a genre.

There are two opposing figures analyzing the drafters of the Constitution. Condon(2010) brings forward that the drafters recognized the abuse of the president's broad executive powers and might actually have desired a semi-authoritarian outcome. On the other hand, Stirk asserts that such a presidency was "a product of subsequent reinterpretation of the role of the president, which was contrary to Preuß's intentions."¹³ He defended that Preuß's goal was to reconstruct a pluralistic and constitutionally-integrated society. What this study suggests in this debate is a reductionism to a dichotomy between the Reich presidency and the Reichstag, regardless of whether they are at the extremes of interpretation. It repeats the conflict of the Reich president and the Reichstag again.

The essence is that Preuß and his colleagues understood the partisanship of parliamentarianism as a major culprit. In fact, he cited no alternative as a reason for supporting a directly elected presidency. According to Stirk, his support for an elected head of state was not a result of his admiration for the Bismarck regime, but merely the result of being faced with limited options. They said they considered different types of heads of state. But Preuß only had a very strong target to check. His concern was the astonishing influence of the Bundesrath representing the Land, which was used to consolidate Prussian hegemony and avoid their responsibility. What he had contempt for was "the rhetoric of the stance above party politics and the disparagement of political motives, which he found on both the right and the left."¹⁴

Preuß instead defended professional politicians. Lauth says that his goal is to select a minister who will end

the parties' disputes and will outperform them on the basis of professionalism and competence. This so-called civil servant cabinet [Beamtenkabinett] is meaningful when it is largely outside the influence of parliament.¹⁵ Carl Schmitt earlier said that what Krabe, Preuß, and Kelsen have in common is that they remove all personalities from the concept of the state.¹⁶ That is, Preuß's answer is empowering the Reich chancellor and his government for the realization of meritocracy. Concentrating on the power of the president rather than the parliamentary power was only peripheral, and his preference for minimizing conflicts led to the selection of the president with a unilateral decision rather than the parliament of 'eternal dialogue'.

It is time to reinterpret Article 56: "The Imperial chancellor determines the guiding political principles and bears the responsibility therefor over against the Reichstag. Within these principles every Imperial minister conducts his Department independently and under his own responsibility as against the Reichstag."¹⁷ In the first sentence, what the chancellor can determine is "the guiding political principles." Its German "die Richtlinien der Politik" means additionally instruction or directive of politic. For Preuß, political leadership is not built on compromise and turmoil like the way of parliament, nor does it suit a president who promulgates, orders, and executes.¹⁸ It is a work perfectly suited to those who have expertise in the field and are equipped to do administrative rather than political activities. Politics should be controlled by the administration. The political actors expected to successfully accomplish this are none other than the chancellor and his cabinet. This can be said the missed one from the existing study of the drafters of the Weimar constitution. They have interpreted the drafters' intentions by reducing them to a power confrontation between the Reichstag and the Reich president.

Weber saw the beginnings of constitutional reform during his stay in the United States, and in 1917 he published his pamphlet "Parliament and Executive in a Reformed Germany."¹⁹ He proposed that a year later he replaced the defeated monarchy with a president with more powers than the general head of state had. He believed at the time that he had to transform the German social structure under the enormous burden of debts from war, and the implementation of such reforms was mostly possible by experts and government officials and left to their effectiveness. "Only a president elected by the people was likely to live up to this twofold task of protecting the integrity of bureaucracy and of its political course of action. Such a president was to achieve what in Weber's opinion was the precondition of political democracy, namely a larger measure of social equality."²⁰ Weber was convinced that the role of trained government officials was important, and their functions were administrative, not political, so that they did not conflict with democratic leadership. Furthermore, it is only the president elected by the people that can protect the bureaucracy's political course of

action.

Against the threat to the stable operation of the government, it would have been expected that the opposition of the Reichstag rather than the Reich president would work more strongly. Furthermore, “the Imperial Chancellor and the Imperial Ministers need for the conduct of their offices the confidence of the Reichstag (Art. 54),” and “the Imperial Chancellor bears the responsibility therefore over against the Reichstag (Art. 56)” dealing with “the guiding political principles.” Especially Article 54 is well-known for the dilemma between Art. 53-54. Löwenstein has pointed at this sharply: “These two requirements were mutually compatible only so long as the Reich president and the parliamentary majority—under multipartism always a coalition—agreed on the person of the Reich chancellor and his policies. Once they parted ways, an irreconcilable conflict arose between the Reich president and majority of the Reichstag in which both contestants, because popularly elected, could claim to speak on behalf of the people.”²¹

It is unclear whether Weber and Preuß expected the outcome of this clash or not.²² Our observation is supposed to anchor ourselves in the drafters' intentions and find out about a few people who fit their blueprints.

3 Pendulum movement between the Reichstag and the Reich president - Cuno and his government: to the Reich president

In Weimar, there were many exceptionally nonpartisan chancellors, but its first chancellor Cuno can be interpreted under this meaning. Ebert, the first Reich president, felt that foreign policy achievements were essential to the stabilization of the young Weimar Republic, which makes Ebert appoint Cuno as a chancellor (Pyta, 2009, p. 24). He believed that with the unresolved reparation issue still hampering Weimar at the Versailles Peace Treaty, only the United States was the political key to overcoming it. As a result, Ebert supported Cuno, the director of HAPAG²³. The company's business relationships maintained a contact with the United States and paved the way for ministers to become professional.²⁴

Compiling a striking overview of the modern constitution, Löwenstein states that all variants of parliamentary rule have six common structural elements (Löwenstein, 1957, pp. 87-89). These six types will be applied to the Cuno government, and the significance of the types will show how vulnerable the Reichstag is.

First, members of the government or cabinet are at the same time members of parliament. Today, the rule applies to all ministers and is said to be adhered to in the majority of parliamentary countries. However, the exception that Löwenstein introduces is the chancellor Cuno of Weimar. As you can see above, Cuno is a businessman with no political experience. In Weimar Germany, as well as the chancellor, non-parliament

members appointed as 'professionals' were not uncommon. Löwenstein sees the implication of this system as the control of the government by parliament: "The assembly has greater control over its own members than it has over outsiders and can subject them to political responsibility by making them stand up in its midst and account for their conduct of office."²⁵ Cuno was one of Ebert's plan appointments, and interference of parliament in his filling the cabinet with such businessmen²⁶ as he was also a businessman was limited.

Second, the government or cabinet consists of the leaders of the majority party in the parliament or the coalition parties that form the majority. According to Löwenstein, the government can be fused with the parliament because the cabinet has the characteristics of a parliamentary committee due to this type, and it is to lay the foundation for interdependence by integration. As with the first characteristic, almost half of the cabinet members formed by the Reich chancellor Cuno was non-members. This also shows numbers that Weimar did not have before. It caused the impediment of a flexible communication and an integration between the Reichstag and the Reich cabinet.

Third, it is said that the government or the cabinet has a pyramid structure with the Reich chancellor as the leader. The Reich chancellor must have a firm superiority over other members within the collective constructing of the government, and the governing power must be concentrated in his hands. It can be said that the hierarchy between the Reich chancellor and the minister is not tight but pyramidal, but it is questionable whether the Reich chancellor can make strong policy decisions by himself. Under the shadow of Ebert, he exerted his powers as a professional minister.

Fourth, the government can maintain its position as long as it secures the support of a parliamentary majority. This type is not generally applied in Weimar's cabinet. The Social Democrats, which continued to be the majority party except in the end of Weimar, hardly participated in coalition governments and were not favorable to the cabinets they created. Worse still, the Social Democrats as the majority did not quit their participation in the cabinet, questioning the legitimacy of government rule. This is one of the main criticisms of the Social Democrats, and I suggest that their passive opposition (or opposition for opposition) since the time of the German Empire made the relationship between the Reichstag and the Reich government more chaotic.

Fifth, policy making is, in principle, divided between the parliament and the government. As Löbenstein said, however, the government and the Parliament make policy decisions by referring to what is being implemented in the parliamentarism prevalent in a specific state. In the case of Weimar, the largest and most powerful Prussia took the initiative. Otto Braun, Prime Minister of Prussia for the entire period of Weimar, with the exception of two brief interruptions, led to stable administrative reforms.

Sixth is whether political control, which can be said to be the most important element of the parliamentary system of governance, is properly equipped. The two power holders, the government and the parliament, are ultimately in a position of mutual checks. The parliamentary means is the holding the government politically responsible, and the ultimate means is a resolution of no confidence. Conversely, the most important means of government political control are the right to dissolve parliament and to announce new elections. Weimar had a terribly high number of votes of no confidence and dissolution of parliament compared to its short lifespan. The average life expectancy of the Weimar government is eight months. The reconciliation of the Reich government and the Reichstag became unattainable and in the case of their deadlock, the last resort depended on the prerogative of the Reich president. In this type, however, Löwenstein says, the power struggle must ultimately be decided by the sovereign electorate. Based on having confidence in the election and acknowledging the electorate as the mediator, the results of an election must be accepted as the answer to the struggle for power. However, electoral decisions have a drawback that is only clearly visible under a two-party system. Weimar did not even have that system, and their troublesome proportional representation system that led to a multi-party system was another of Weimar's stinging systems.

Winkler, the German historian of modern times, once said that the Cuno cabinet was a secret cabinet.²⁷ The secretiveness of the non-parliamentarian Cuno cabinet should be seen as suggesting a break with or inconsistency with the parliament.

It is true that the drafters were skeptical of the power of a parliament and tried to limit it somewhat. However, as a result of applying with the elements of Löwenstein's study for parliamentary system, it proves that the very existence of a "professional cabinet" is what separates government from parliament.

4 Stresemann: gradually to the middle as a balancer

4.1 Start the movement ...

Following Cuno's performance, this study will introduce the chancellor and the Foreign Minister [Reichsminister des Auswärtigen] Stresemann. As the founder of the German People's Party [Deutsche Volkspartei, DVP], Stresemann became an important helper in the early crisis of the republic. When the first cabinet was formed in 1919,²⁸ the coalition of the three parties, the Social Democratic Party [die Sozialdemokratische Partei Deutschlands, SPD], the Center Party [Die Deutsche Zentrumsparthei, Z], and the Democratic Party [Die Deutsche Demotratische Partei, DDP], occupied a total of 76 percent. However, the following year, it fell to 48% in 1920,²⁹ and the German People's Party, led by Stresemann, was forced to join

the 23-year coalition government.

But Stresemann did not fully support the republic from the beginning. It has been said that he had a deep respect for one of the German royalty Hohenzollern [Hohenzollemmonarchie] and maintained a close relationship with the crown prince until his death. However, many consider Stresemann to have the ability to learn from his mistakes and pursue politics without anger. After the murder of Rathenau, he was determined to defend the Weimar constitution against the organized violence on the right. To prevent the polarization of politics with a coalition government, he made his party join the coalition by unanimous consent. The changes in his external environment and his reflective thinking implied a sign of his status as one of the German's favorite politicians in the future.

One of Weimar's tragedies in relation to parties is that liberal democracy was not represented from one strong and cohesive party: There were two liberal parties. On the left side of the center party, the DDP represented political and social freedom, while on the right side, the DVP combined liberal economic theory with nationalism and authority. The two parties never participated in a coalition government together, but Stresemann accomplished this during his tenure. The division of both parties impeded a support from the middle-class. They should have appealed to "diverse social and economic interests," but they failed. After joining Stresemann's party, these moderate parties took the lead to secure the first decade of the republic: in 1920-1923 they overcame grave threats to the republic, and in 1923-1929 presided over a period of stability and prosperity. After 1925, the foreign policy led by Stresemann was able to strengthen relations with France and Britain.³⁰

He served as the chancellor for three months from the 13rd August to the 23rd November 1923. The 100-day era of his chancellorship has literally become a noun: Die hundert Tage Stresemanns. It took only one day for Stresemann to reach an agreement justifying a coalition in the formation of a cabinet. Here one can see how much he prepared in advance. The year of his appointment was also the year of a crisis, with disturbances in Saxony and Thuringia towards a communist insurrection and SPD retreating from the coalition government. But the desperate situation made a great coalition possible. Stresemann as well as the leaders of SPD shared that a coalition is the last chance for protecting a constitutional government and that the failure of coalition might leads to civil war and dictatorship. Their cabinet with this solemnity left several important achievements in spite of its short life. Passive resistance in parties ceased, a new currency was introduced and entered a period of stability, the constitutional government survived, and a solution to the Ruhr conflict was being discovered. In the following years, the republic was able to lay the groundwork for a relative stability and instilled some

confidence in the faithful implementation of the treaties.³¹

Stresemann's foreign policy started from within the Dawes Plan. At the beginning of the stage for signing, he once said: "In a speech in Elberfeld on 17 February he referred to the work of the Dawes committee as a gleam of light on the otherwise dark horizon"³² He followed this gleam of light, which eventually resulted in successful foreign policy: "the Dawes plan and evacuation of the Ruhr, Locarno and entry into the League, a new framework of trade treaties, the Young plan and agreement for evacuation of the Rhineland and negotiations on the Saar, the prospect of further progress towards European economic integration."³³ Who would have guessed that this could be achieved by one political subject in five years?

4.2 ... to the middle

Stresemann and his family left for vacation on Norderney in the North Sea after the carefully elaborate plan for Dawes was voted on in the Reichstag. There he wrote an autobiographical short story called 'The Bar', which tells the story of a sandbar that defended Norderney from the powerful attack of the sea. In this book he wrote his exhaustion by the need to compromise until he didn't feel like the same person. In other words, the book 'The Bar' was a way of his expressing frustration to compromise as a successful politician. The painful experience he had as the chancellor and the Foreign Minister led him to accept that he had to be a true politician. From this point on, Stresemann strongly reveals his political inclinations. Pyta³⁴ expresses this changed appearance of Stresemann as a type: "Because Stresemann embodied the type of party politician who saw himself as a counterweight to presidential power and therefore did everything in his power to strengthen the position of the parties and thus also that of the ministers sent by the parties to the respective governments vis-à-vis the Reich president. As a consistent continuation of this attitude, Stresemann pulled out all the levers in the first popular election of the Reich president, due after Ebert's term of office (which had to be brought forward by a few weeks due to the sudden death of the incumbent), to keep the candidate selection process from the hands of the parties and especially to give to his party."³⁵

In the first popular election after Ebert's death, Stresemann used all measures he had. He put everything on the line to ensure that the election process for the presidential candidate controlled by his party DVP. On March 29 in 1925, he energetically supported his friend Jares to the first presidential election of the organizing committee of the right-wing party. He got 38.8% of the vote, resulting in a 10% lead over the second-place candidate. Stresemann tried to influence Hindenburg personally by all means available, which led to his temporary withdrawal of his candidacy. What Stresemann was trying to implement is a competitive system of

party leadership that is essential to the power [Gewalt] of parliament and to balance the power of the president.

But Hindenburg was elected. He was famous as ignorant of the constitution. One of his anecdotes is that when he first read the constitution of the republic after becoming the Reich president, he underlined all passages concerning the rights of a parliament with a red pencil and the passages concerning the authority of the president with a blue one.³⁶ It must be said that there was a problem with his understanding of the constitution and his acceptance of the roles of the president and parliament under it. He also morbidly hated a parliament and promoted the appointment of a nonpartisan candidate to the cabinet, so the so-called his 'Presidential cabinets' consisted exclusively of no members of the parliament. The number of parliamentary sittings was reduced to 94 in 1930, 41 in 1931, and 13 in 1932.

Stresemann limited Hindenburg's maneuvering space under his political mission. Stresemann's privilege as a specialized minister was able to express his official authority in the field of personnel as well as foreign policy. This was sustained from his award of the Nobel Peace Prize together with Briand of France. From the conclusion of the Locarno Treaty, Stresemann's international diplomatic achievements have come to fruition. His speech, in commemoration of his Nobel Prize³⁷, sought to take this opportunity to increase the understanding of the hardships that Germany faced after the war and to give the German people confidence in their recovery. The extremes of the left and right gradually collapsed and united in the will for peace and mutual understanding. A representative objector to the republic, Hindenburg seemed to be also influenced by this ambience.³⁸

5 Conclusion - Reinterpretation of chancellor

Stresemann's achievements soon faded away. When Weimar was on the verge of stabilization, the Great Depression broke out and all efforts were in vain. In addition, his achievements were rather poisonous. The Dawes plan made reparations more realistic and allowed credit inflows from abroad, which made Weimar highly dependent on the economic conditions of creditors during the Great Depression.

Unlike the United States, which had an academic tradition that does not question its legitimacy as a given constitution, the Weimar constitution is an inscription and expression of actual and social power relations. At that time, the Weimar constitution was consistently criticized for its structure as a dirty, formless and erratic compromise between a monarchical and liberal state governed by law and a political and social democracy.³⁹ But that is de facto the reality of Weimar power relations. The Kaiser was expelled due to the result of the defeat of the war. It is a product of state-maintaining integration with the specific purpose of preventing radical

tendencies and temporarily reestablishing order, rather than a result of the revolution.⁴⁰ Thus, the study of the constitution is the starting point for confirming the map of power during the founding of Weimar.

The drafters of the constitution, represented by Freuß and Weber, insisted on the expertise of the chancellor and the cabinet to avoid partisanship in the parliament. However, it functioned differently from the practicality [Sachlichkeit] of public officials. It needed a political authority. Stresemann's conversion is significant in that sense, realizing that the chancellorship leading the cabinet does not depend on his own professional abilities but is a position where he has to constantly lead compromises. There is no need to repeat Carl Schmitt's criticism of parliamentarism here, but this study suggests reminding the readers of the essence of parliamentarism. It is said that parliamentarism developed organically and empirically, unlike the artificial assembly government and the presidentialism that emerged from political theory. For example, after the monarch was removed by the revolution, the monarch's government would need parliamentary support. At this time, the principle that the political responsibility of the cabinet to the parliament is best realized when members of the cabinet are also members of the parliament was gradually formed.

The implication of placing the power of the chancellor between the Reich president and the Reichstag is as follows. The establishment of the Weimar constitution was considered to have devised a new power structure at the time: the Reich president functions as a balancing force as a power holder independent of the government and the parliament.⁴¹ However, the enlargement of the power of the Reich president due to various factors reduced the power of the parliament and subjugated the government to him. This study rather discovered the possibility of resolving the asymmetry of power by the chancellor. Starting again with this triangle, I would like to leave to follow-up studies whether the chancellor exhausted the powers enshrined in the constitution and how he expanded it. The threshold at which Hitler could attain supreme power in the position of the chancellor would not be revealed to us without the Weimar power history in this triangle.

Endnote

¹ Storer, C. (2013). *A Short History of the Weimar Republic*. Bloomsbury Publishing. p.2

² Bracher, K. D. (1971). *Die Auflösung der Weimarer Republik: Eine Studie zum Problem des Machtverfalls in der Demokratie*. Schriften des Instituts für Politische Wissenschaft.

³ Conze criticizes Bracher's political conceptual categories for being in error. Refer to: W. Conze. (1957) Review Artikel für K. D. Bracher, *Auflösung der Weimarer Republik*, in: HZ, p.380.

⁴ Kolb, E. (2008). *The Weimar Republic*. Routledge. p.262

⁵ Gustav, R. (1930). *Die politischen Parteien im System des deutschen Verfassungsrechts*. Handbuch des Deutschen Staatsrechts. Tübingen: Mohr. p. 285-294

⁶ The German Empire is a Republic. Sovereignty emanates from the People.

⁷ Müller-Rommel, F. (1997). Federal Republic of Germany. A System of Chancellor Government. Cabinets in Western Europe, p.171–191.

⁸ The official names of the German reunification state and constitution formed in 1870/71 are the German Reich (das Deutsche Reich) and the German Reich Constitution (die Verfassung des Deutschen Reichs), respectively. However, since these names were also used in the constitution enacted in 1849 (commonly known as the Paul Church Constitution) or the state and constitution formed in 1919 (commonly known as the Weimar Republic and the Weimar Constitution), in this article, the state and constitution of 1870/71 are referred to as the Kaiser Empire in Germany. It will be referred to as the Constitution of the German Kaiser Empire.

⁹ More details in Lauth, H. J., & Leuerer, T. (2020, November). Die Reichsregierung. In *Aufbruch zur Demokratie* (pp. 547-598). Nomos Verlagsgesellschaft mbH & Co. KG. p.11.

¹⁰ Loewenstein, K. (1957). Political power and the governmental process. The University of Chicago. p.95.

¹¹ The debate of the “law of the state” has been deeply developed by German public law scholars that it is challenging to even briefly explain just one aspect of the debate. Unfortunately, I would like to replace it with an introduction to one of the key words, ‘legal positivism’. Legal positivism, which has reigned as a mainstream theory since the era of the German Empire, viewed the state as the law, and argued that politics cannot exist outside the law, and that the constitutional state can and should standardize all political situations as legal norms. On the other hand, researchers who were critical of legal positivism saw the state as a pre-law and not entirely retroactive to legal norms. in Oh, Hyang Mi(2011), The Subject of sovereignty and its limit within the Weimar sovereignty debate, p.105

¹² Jacobson, A., & Schlink, B. (2002). Weimar: a jurisprudence of crisis (No. 8). Univ of California Press.

¹³ Stirk, P. (2002). Hugo Preuss, German political thought and the Weimar constitution. *History of political thought*, 23(3), 497-516, p.1

¹⁴ Ibid. p.510

¹⁵ Lauth, H. J., & Leuerer, T., op.cit. p.549

¹⁶ Schmitt, C. (2005). Political theology: Four chapters on the concept of sovereignty. University of Chicago Press.

¹⁷ PDF generated: 29 Aug 2019, 18:12 in Constituteproject.org

This is original version in German: “Der Reichskanzler bestimmt die Richtlinien der Politik und trägt dafür gegenüber dem Reichstag die Verantwortung. Innerhalb dieser Richtlinien leitet jeder Reichsminister den ihm anvertrauten Geschäftszweig selbständig und unter eigener Verantwortung gegenüber dem Reichstag.” In *Weimarer Reichsverfassung* on 11 August 1919

¹⁸ Especially in the Articles that specified with the presidency in Weimar Constitution.

¹⁹ It is also an important document to study the influence of the United States in the development of the German constitution.

²⁰ Holborn, H. (1938). The Influence of the American Constitution on the Weimar Constitution. In *The Constitution Reconsidered* (pp. 285-296). Columbia University Press.

²¹ Loewenstein, K., op.cit., p.95

²² In case of conflict the people, at the behest of either one of them, should act as final arbiter. An elaborate system of weights and counterweights was designed to make government, parliament and people share political power. In Loewenstein, K. (1949). The presidency outside the United States: a study in comparative political institutions. *The Journal of Politics*, 11(3), 447-496. p.488

²³ Hamburg-Amerika shipping line. More details about the relation to Cuno. In Rupieper, H. J. (1979). *The Cuno Government and Reparations 1922–1923: Politics and Economics* (Vol. 1). Springer Science & Business Media. p.16

²⁴ More details. In Pyta, W., op.cit. p.20

²⁵ Loewenstein, K., op.cit., p.88

²⁶ Rupieper, H. J. (1979). *The Cuno Government and Reparations 1922–1923: Politics and Economics* (Vol. 1). Springer Science & Business Media. p.23

²⁷ “The first, secret presidential cabinet of the Weimar Republic[das erste, wenn auch verdeckte Präsidialkabinett der Weimarer Republik].” In Pyta, W. (2009). *Die Präsidialgewalt in der Weimarer Republik* (pp. 65-96). Oldenbourg Wissenschaftsverlag. p.70. My translation

²⁸ Wahl zur Nationalversammlung. (n.d.) Das Deutsche Reich. <http://www.gonschior.de/weimar/Deutschland/NV.html>.

²⁹ Ibid.

³⁰ Lee, S. J. (2013). *The Weimar Republic*. Routledge. p.22

³¹ Wright, J. (2002). Gustav Stresemann. *Weimar’s Greatest Statsman*, New York, pp.212-220

³² Ibid, p.271

³³ Ibid, p.501

³⁴ Pyta emphasizes the central role of the powers of the Reich president in Weimar studies. He argues that the constitution gave the Reich president a wealth of power, as well as a set of political framework conditions that made the Reich president play a more important role in the institutional structure of the Weimar Republic. Stresemann emerged as a balancer in the development process.

³⁵ Pyta, W. (2009). *Die Präsidialgewalt in der Weimarer Republik* (pp. 65-96). Oldenbourg Wissenschaftsverlag. p.79.

³⁶ Boldt, H. (1971). Article 48 of the Weimar Constitution: Its Historical and Political Implications. *German Democracy and the Triumph of Hitler*, (pp.288-309), p.95

³⁷ It is published on 29 June 1827 under the title ‘Der Weg des neuen Deutschland’: Bernhard(ed.), *Vermächtnis*, iii. 460-73; Harttung (ed.), *Schriften*, 373-83.

³⁸ Wright, J. (2002). Gustav Stresemann. Weimar's Greatest Statsman, New York, pp.406-7

³⁹ Heller(1929), Die Justiz, Monatsschrift für Erneuerung des deutschen Rechtswesens

⁴⁰ Bracher organized the revolution into 3 different stages. Refer to: Bracher, op.cit.

⁴¹ Loewenstein, K., op.cit., p.96

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