



Volume 5. Wilhelmine Germany and the First World War, 1890-1918 A Constitution for Alsace-Lorraine (1911)

The province of Alsace-Lorraine had no constitution and was subject to direct Prussian administration. This situation was unsatisfactory for the local population and also helped preserve French animosity towards Germany, which had annexed the province after its victory in the Franco-Prussian War. In the early years of the twentieth century, sentiment grew in favor of granting Alsace-Lorraine a constitution and integrating the province into the German Empire [*Reich*]. This memorandum from the Prussian Ministry of the Interior outlines the possible modalities of this development.

Berlin, February 19, 1911

Upon deliberation on the reform of the constitution for Alsace-Lorraine, the commission of the Reichstag has decided, with a majority of 17 votes, that Alsace-Lorraine is to form an autonomous federal state, and, with 28 votes to 4, that Alsace-Lorraine shall be represented in the Bundesrat with 3 votes.

As to the shape this future federal state is to take in terms of state law, the Commission has decided so far that it shall be headed by a governor [*Statthalter*], who, at the recommendation of the Bundesrat, will be appointed for life by the Kaiser, with the countersignature of the Chancellor, and that he can be relieved only by a decision of the Bundesrat. The thrust of this decision is that while the Kaiser, as the hereditary representative of the totality of the federal states, formally remains the bearer of state power, his right is limited to the appointment of the governor. According to motions put forth by the Center Party, the adoption of which by a majority of 17 votes is a certainty (Center 8, Liberals and Social Democrats 4 each, the Poles 1 vote each), the exercise of state power in its entirety, including the right of legislating, shall belong to the governor, for whose orders and decrees a ministry independently appointed by him shall assume responsibility, while he himself remains free of any responsibility. According to this, the Kaiser would be robbed of any influence in shaping conditions in Alsace-Lorraine. The Bundesrat would play a part only in the appointment and recall of the governor appointed for life. Any possible influence of the Reich Chancellor on politics in Alsace-Lorraine would be removed. With the exception of the appointment and recall of a governor endowed with the most far-reaching sovereign rights, all activities of the Reich organs would thus be eliminated. Such a setup appears equally unacceptable both in terms of state law and politically.

The granting of Bundesrat votes to Alsace-Lorraine was demanded in the general assembly by the members of parliament Vonderscheer, Emmel, Bassermann, Naumann, Preiss, von Hertling, Böhle, Grégoire, Dous, and Höffel, and in the Commission, the representatives of all the parties – including the Liberal Conservatives [*Freikonservative*] and with the sole exception of the Conservatives and the Economic Association [*Wirtschaftliche Vereinigung*] – supported

this. There is, therefore, no doubt that the Reichstag will not accept the constitutional reform without the granting of Bundesrat votes. On the other hand, it is obvious, given how public opinion in Alsace-Lorraine has developed, and the attention that foreign countries – especially France – are devoting to the matter, that a complete failure of the bill could have unpleasant political repercussions.

In order to obviate these difficulties, Prussia is willing to make sacrifices, in that it has put forth the following proposal, on the condition that the stipulations in the draft concerning the position of the Kaiser and the governor remain unchanged:

1. The following provision is inserted into the Reich Constitution as Article 6a: As long as the stipulations in §1, §2, Section 1, and §25 of the law on the constitution of Alsace-Lorraine of [. . .] 1911 are in effect, Alsace-Lorraine will have 3 votes in the Bundesrat.

– The Alsace-Lorraine votes will not be counted if the presidential vote would acquire the majority only with the inclusion of these votes, or would tip the balance in the sense of Article 7, Section 3, Sentence 3. The same holds for the vote on constitutional amendments. Alsace-Lorraine is considered a federal state in the sense of Article 6, Section 2 and Articles 7 and 8.

2. §25 of the draft of a law on the constitution of Alsace-Lorraine will take the following form:

The delegates of Alsace-Lorraine to the Bundesrat will be appointed and instructed by the governor.

The following shall be noted to explain this proposal:

If the draft law refrained from granting Alsace-Lorraine representation in the Bundesrat, the decisive reason for this was the concern that any granting of Bundesrat votes would lead to a shift in the balance of power as established by Article 6 of the Reich Constitution, in particular, that Prussia's influence would be enhanced. To avoid the latter, while at the same time giving Alsace-Lorraine a voting right in the Bundesrat, the motions from the Center Party seek to set up the position of the governor in such a way that it would no longer be that of a representative of the Kaiser in the Empire, but rather that of a lifetime president of a republic. The proposal that the Royal Prussian State Ministry – with His Majesty's approval – has decided to put forth in the interest of bringing about the reform of the constitution of Alsace-Lorraine should offer a satisfactory way out of these difficulties to all of the non-Prussian governments.

The justification for why Alsace-Lorraine is to have no voice in constitutional amendments is that it did not participate in the agreement on the Federal Constitution and is not a member of the federal state. To the extent that the presidential power has a veto right according to Articles 5 and 37 of the Reich Constitution, no importance is attached to the votes of Alsace-Lorraine. Accordingly, the proposed introduction of a voting right will have a material importance for all those matters on which the decisions of the Bundesrat are made with a simple majority. According to existing law, the presidential power tips the scale even if it does not have the majority on its side, but only 29 votes, that is, in case of a tie vote (Art. 7 Section 3, Sentence 3 of the Constitution), whereas a motion put forth or supported by it is rejected only when at least 30 votes are cast against it. The introduction of 3 votes for Alsace-Lorraine would alter the balance, since a tie vote is no longer possible if all votes are cast, and the majority would be 31 votes. Hence, in the future, Prussia, in order to prevail with its opinion, would have to win two more votes than is presently the case, whereas a motion put forth or supported by it could be brought down if only one vote more than at present is put on the scale against it. To rule out the

possibility that the presidential power, by influencing the Alsace-Lorraine votes, makes the governments that are part of the minority into a majority, which is otherwise not possible, the Alsace-Lorraine votes shall not be counted if Prussia could tip the balance only with them. Whether they go for or against the Prussian position when all votes are cast will matter only – as the attached table shows – if the votes are 31:30. The practical consequence of this arrangement would be that whereas the Alsace-Lorraine votes would be available to the non-Prussian federal states to form a majority against the presidential power, they would not be available to the latter to form a majority. They can tip the balance only if they are cast against the Prussian position. Thus, with these provisos, the introduction of 3 votes for Alsace-Lorraine would merely result in a diminution of the influence of presidential power.

The Prussian government can justify the proposed arrangement with the consideration that the governor, if his instructions to the Alsace-Lorraine votes create a serious conflict with the presidential power, would be in a position, at most, to request his dismissal. For that reason, it must be explicitly stipulated through a law protected by the guarantees of Article 78 of the Reich Constitution that the proposed granting of voting rights shall be valid only as long as the position of the Kaiser and his governor, as it currently stands under state law and is maintained in the bill, remains unchanged.

Even if the Alsace-Lorraine votes, in view of the proposed restrictions, will not be completely equal to the votes of the federal states, the granting of this voting right will result for Alsace-Lorraine in an extraordinary increase in its influence within the Reich. There will be a compelling necessity to pay greater heed to the wishes of Alsace-Lorraine than is currently the case. Above all, Alsace-Lorraine, by virtue of its participation – with voting rights – in the committees of the Bundesrat, the detailed regulation of which can be reserved to later considerations, will be put in a position of exercising influence on the shape of Bundesrat decisions already in their formative stages.

There is thus reason to expect that the granting of Bundesrat votes to Alsace-Lorraine under this arrangement will be received with satisfaction, and will prompt the Reichstag to set aside more far-reaching demands.

Source: *Denkschrift des Reichsamts des Innern zur elsass-lothringischen Verfassungsfrage* [Memorandum from the Ministry of the Interior on the Question of a Constitution for Alsace-Lorraine] (1911), Hauptstaatsarchiv Stuttgart, E 74 Bü 163.

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