

# Max Weber and federal democracy

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## Abstract

This article challenges the received view of Max Weber as a supporter of unitary centralised state presided over by a plebiscitary leader. His wartime writings on Germany's political situation demand the end of Prussian hegemony and the abolition of the three-class voting system. Democracy in the mass age means that all citizens of the state have equal voting rights, political parties can freely compete for votes and parliamentary representative democracy, argued Weber, is superior to all forms of direct democracy. Weber strongly supported federal democracy and argued for the division of executive, administrative and political functions between the Reich and the separate German states, not unlike the constitution of today's German federal state. Weber advances a number of process arguments about how large states within a confederation are able to exert control that is insufficiently accountable to parliaments. It is suggested his views on federal democracy can be used as a critique of hegemonic and undemocratic features of today's European Union.

## Keywords

Bismarck, confederation, equal manhood suffrage, European Union, federal democracy, parliamentary democracy, Prussian hegemony, World War I

Hinnerk Bruhns in his article (for the Potsdam seminar) has commendably reminded us that 'Politics as a Vocation' is above all a lecture about the organisation of parliament, elections, political parties and their leaders so that German citizens can at last become the masters of the fate of their nation. These themes are entirely consistent with Weber's two magnificent tracts on democracy, parliament and suffrage which he wrote in 1917. These were *Suffrage and Democracy in Germany*, published as a brochure in 1917, and the longer *Parliament and Government in Germany under a New Political Order*, which was first published as a series of articles for the *Frankfurter Zeitung* over April to June 1917 and then published in revised form in 1918. By 1919, Germany had fallen into

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chaos following the signing of the Armistice with armed uprisings of both the political left and right, and the constitutional and political collapse of the German Empire following the abdication of Wilhelm II. Weber's main concern in 1919, as Bruhns argues, was that democratic reforms were not subverted by bureaucratic tendencies and the politics of interests groups. Winding the clock back to 1917, Weber espied a real possibility of a negotiated peace and the electoral reform, both of which had been broached by the Chancellor. Weber went full pelt into the arguments for the full democratisation of voting and of parliament and attacking the many critics in every social class who were preventing such reforms.

The democratic Weber and the 'liberal in hope' may come as a surprise to those readers of Weber who take their bearings from his 1895 inaugural lecture 'The National State and Country's Economic Policy' (*Die Nationalstaat und die Volkswirtschaftspolitik*). There Weber's theme is the power interests of the national state, which are paramount, and no social class – the agrarian Junkers, the middle-class philistines, or the badly led working class – should place its own interests over the ultimate desiderata: reasons of state (Weber, 1994 [1895]: 16–17). 'The aim of our socio-political activity is not to make everybody happy but the social unification of the nation, which has been split apart by modern economic development, and prepare it for the strenuous struggles of the future' (Weber, 1994: 26–27). National unification of the state had been achieved under Chancellor Bismarck's leadership, but little subsequent progress had been made in forging an internationally respected and stable national state.

On democracy, little is said. Weber candidly admits he is middle class and a liberal, but nothing is said about a liberal parliamentary model, other than the aristocratic Prussian class should relinquish their political monopoly of the nation.

There is a second surprise in the 1917 political writings. Weber argues fiercely for German federalism, one based on full manhood suffrage and parliamentarisation. Weber is that rare political theorist, a proponent of democratic federalism. The prospect of a strong *unitary* state of Weber's 1895 lecture has been replaced by a federation of states and the breaking of Prussian hegemony over Germany. Andreas Anter claims,

... the idea of a unitary federal state, that has led to the creation of a unique form of state, ... has only developed in the Federal German Republic. We have to think of the Federal Republic as a Weberian state. (JCS: cross reference Bruhns' ms, p. 6)

What, we may ask, is a 'unitary federal state'? And can we also bring to bear Weber's thinking on this singular form to federal and confederal systems like the European Union (EU)?

In *Suffrage and Democracy in Germany* and even more so in *Parliament and Government in Germany under a new Political Order*, Weber conducts a sustained critique of Bismarck – basically, that in creating a national parliament (the *Reichstag*) he neutered its ability to mature as the political centre of the nation. However, rather than travel with Weber on this line of attack, we need to first step back and appreciate Bismarck's role as an architect of federalism.

The German Empire was in fact created as a *confederation* of states. This needs to be briefly outlined and explained, and in doing this, I will bring forward some passing

comments on the EU. Again, it is not commonly appreciated that the EU is a *confederal* construction. A defining feature of a confederal structure is that a member state can choose to leave the federation. Weber noted the persistent tendency of Bavaria to disassociate from the German Empire, and as Weber (1994 [1918]) warned, no state has successfully withdrawn from an existing customs union (p. 249). The United Kingdom's current Withdrawal from EU Act of 2016 also reveals the same legal freedom to withdraw – and the same insurmountable difficulty of leaving a customs union. In a true federal state, this is impermissible, as evidenced in Catalonia's 2017 bid for independence from the Spanish federal, and unitary, state.

In referring to Weber as the originator of a federal conception, Andreas Anter also says this is a 'neuralgic point of the constitutional order'. Changing the metaphor, there is a continuous friction between a confederal and a federal order, because confederal arrangements develop within them federal, centralising tendencies, or in Weber's language, rationalisation processes in key institutions like a national legal code, a national currency, a national fiscal system.<sup>1</sup> The National Liberals leading role in the establishment of the North German Federation in 1867 envisaged a future unitary state with centralization of the executive, the legislature and the civil service. Similarly, today Guy Verhofstadt with his call for a 'United States of Europe' belongs in the same liberal political tradition. And of course the founders of the EU clearly had in mind the evolution to a full federal system.

The politics of foundation played a large part in the 1871 constitution of the German Empire. Bismarck was quite aware that his closest allies in scaling up from the North German Confederation to the German Empire were the National Liberal party and that they expected a national legislature that would exercise parliamentary control over the executive. In launching the German Empire in the martial, and bloody, shadow of the victorious war over France's Third Empire, the National Liberals had to give way to the actuality of Prussian force of arms. The National Liberals got their legislature (the *Reichstag*), and universal, equal, direct manhood suffrage was introduced across the Empire. But Bismarck neutered its powers by creating a confederation of states, which was constituted in a 'federal' council (the *Bundesrat*). The titular heads of the German states maintained their previous constitutional position as the kings, princes, grand dukes and notables of Bavaria, Baden, Wuerttemberg, Hesse, Saxony, Hesse, Lippe, Reuss, and so on. And the largest of these states, with the greatest economic and political power, was the Kingdom of Prussia.

As explained by Wolfgang J. Mommsen, 'Bismarck's overriding idea was that the business of the Empire should essentially be conducted from Prussia, with the Bundesrat serving in an intermediary role as the representative of the governments of the federal states' (Mommsen, 1995: 30). Bismarck stipulated that sovereignty was vested in the 'Confederated Governments'. (We should note in passing the persistent habit of translating *Bund* as federation when in fact its operational significance is *confederal*.) Bismarck argued that sovereignty was vested in the kings and grand dukes of the constituent territories, a *Fürstenbund* as he termed it.<sup>2</sup> So formally the German Empire was not a 'unitary federal state'. The separatist-minded Bavaria did not secede from the Bund because whenever this threat emerged Bismarck deployed the black of politics (bribery and coercion) to stop any such breakaway move. 'Bismarck stuck stubbornly

to his original intention of governing the North German Confederation, and then the Empire, essentially on the basis of subsidiarity – in practice, from Prussia – and of dispensing with the formal Reich ministries altogether ...’ (Mommsen, 1995: 30). The national executive ministries that should have been allocated to the Reichstag were subsumed within the governing institutions of Prussia.

Mommsen here is in line with Weber’s own critique of Prussia – that the whole edifice was kept in line through Prussian hegemonic power, but Mommsen rather preempts the complexity of the circumstances of the period 1867–1871. There was an indeterminacy of outcome in this period and into the 1870s because Bismarck was offsetting the National Liberals against conservative and authoritarian Prussia and the Prussian military. Also he had not completely turned his back on his previous National Liberal allies, who had backed him throughout the 1860s. It was a dangerous game offsetting two very powerful forces. The National Liberals themselves, as Mommsen notes, believed that power would come to them eventually.

The other point is what might be called the ecology of federalism. The individual states had their own monarchs/grand dukes, their own civil service, their own parliamentary-type assemblies and their own traditions and cultures. The principle of self-determination (*Selbstverwaltung*) had taken root and, encouraged by the revolutions of 1848, had flourished. This perhaps is the better sense of ‘subsidiarity’, that people should order their own affairs at the level of the town and city and county. City mayors had important powers of taxation, spending and administration, as did the states themselves. The Baden Ministry of Education could run its schools and universities very much differently to that of Prussia. (This was one of Weber’s running themes on the politics of universities.) We assume with Weber that Prussian hegemony was thorough, but in fact imperial decrees had to be adopted by the federal states and implemented according to the state’s own ‘style’ – a feature Nipperdey (1993) terms administrative federalism (pp. 85–86). States ran their own budgets and they had a monopoly of direct taxation. State federalism meant legislative autonomy. Bismarck could not exercise police powers outside Prussia, and the intricacies of state budgets within a confederal construction are as well recognised in Brussels today as they confounded Bismarck in Berlin then.

We should also remember that Weber (1994 [1918]) himself was a long-term resident of Baden, and in 1920 he became a citizen of Bavaria, although in 1917 he admits to holding on to his Prussian citizenship (p. 239). There was certainly a touch of the boy from Berlin in his inaugural lecture of 1895, telling the soft south-west liberals about the realities of national power. But well before 1917 (certainly by 1907<sup>3</sup>), he had reverted to the Heidelberg tradition (pioneered by his grandfather George Friedrich Fallenstein in the revolution of 1848) of anti-Prussian politics and the liberal autonomy of smaller states.

## The Prussian regime

In his political writings of 1917, Weber makes two conjoined arguments: first, that Prussia exercised a hegemonial power through the Federal Council (the *Bundesrat*); second, the Prussian voting system had to be democratised.

The Federal Council was not democratic, and one might as well term it ‘imperial federalism’. In EU terminology, it was intergovernmental. The hereditary rulers of the individual states sent plenipotentiaries (*‘Bundesratsbevollmächtigte’*) to speak for them in the Council. Although Prussia had been allocated only 14 seats out of the 56, it obtained its majority by cajoling the minor north German states to vote with it, since they fell within its political and economic forcefield.

The Reichstag did not possess parliamentary sovereignty in what used to be called the English model. While it could initiate policy, it could not summon the chancellor to account, it did not possess power over execution of policy and its main power was giving assent to bills that originated from the Federal Council and the chancellor’s office, where the chancellor was ministerial-president of Prussia.<sup>4</sup> If the Reichstag refused assent, as it did several times over military budgets, it was dissolved by the emperor on the instruction of the chancellor. The Reichstag was excluded from foreign policy, trade policy and tariffs, and control of the armed forces.

How Prussia itself was ruled is a key part of Weber’s critique. Like any other state it had a state assembly, a *Landtag*. This had two chambers: a house of lords, which had a highly conservative appointed membership, and a lower house, which was the legislative assembly. The executive – the minister-president, foreign secretary, minister for war – was the seat of power in Prussia and, operating behind the screen of the Federal Council, the power in the empire. The famous Prussian bureaucracy acted as the unfailing instrument of the Prussian executive. There was scarcely any ideological difference between the deputies in the Landtag, the executive and the civil service.

Christopher Clark (2007) in his history of Prussia speaks of a ‘conservative-agrarian establishment, a network connecting the world of the rural estate with that of the officers’ mess and the ministerial corridor’ that was only swept away in 1918–1919 (p. 614):

It was the agrarians and their conservative allies who succeeded in imprinting their interests and, to an extent, their political culture, on the system itself, laying claim in the process to ownership of the very idea of a unique and independent Prussia.

(Clark, 2007: 561)

This of course is very familiar to those who know their Weber, for Weber cut his critical teeth on the agrarians, the detested Junkers – how they distorted Germany’s trade policy towards protectionism and how they diluted the Germanness of the eastern border through their use of casual immigrant labour.<sup>5</sup>

In early 1917, the reform of suffrage was a major issue, with many competing schemes being debated. The main focus of Weber’s critique was Prussia’s voting system. Voting classes were divided according to taxable income so that the top 5 per cent accounted for a third of the electors, the next class of around 12 per cent would account for another third, with the remaining 80 per cent or so returning the last third of electors. The electors formed a college, which then selected the deputies for the Landtag. Extensive gerrymandering went on to the detriment of the urban populace, and voting stations were located in rural districts forcing urban voters to trudge across the countryside to cast their vote. Voting was not secret – it was vocal – and large landowners exerted pressure on voters

towards the conservative parties. In the Reichstag, voting participation was high (68% in 1898). The Reichstag enjoyed equal, direct and secret ballots, and where, despite limitations on its institutional power, party politics and party political organisation flourished, whereas, for example, in 1893 only 15 per cent of the third class of voters turned up to vote in the Prussian state elections (Clark, 2007: 561). The rigged voting system kept the conservative party in power, which in its turn acceded to the directive leadership of chancellor and emperor, with the Prussian civil service (the largest public employer of its day) running an administrative state.

This was especially pernicious because it has to be remembered that Prussia was *the* progressive modernising state. Our image, via Weber, is of agrarian Junkers stomping around the ministries and barracks of Berlin in high riding boots and tunics. But Prussian territory stretched to the Rhineland in the West. This was the economic industrial powerhouse of the North German plain with the Ruhr district and the great cities of Frankfurt and Cologne, not forgetting that Berlin was the most cosmopolitan city in the Empire, very much a city of immigrants. The Prussian agrarian *fronde* was able to subvert the progressive half of Prussia and deflect its structural morphogenesis away from liberal representative democracy. The North German Customs Union, which took off rapidly from around 1830, was based on the economics of *laissez-faire*. Its successor was the North German Confederation, with the aspiration of a liberal Prussia setting the tone in a national parliament.

A particular target of Max Weber's ire was that the wealthy middle class did well out of the three-class voting system, since it led to an exclusive focus on their economic interests. The wealthy middle class kept the agrarian conservatives in post and in power and kept the industrial working class out of power. It was a system that exacerbated class division and created stasis within the political structure at a time of a rapidly modernising society.

This refusal to change and adapt led to the catastrophe of World War I. Mommsen speaks of the German Empire becoming ungovernable by around 1909 when Chancellor Bülow was dismissed, by the emperor, after failed financial reforms:

1909 marked the beginning of the death-agony of Bismarck's constitutional structure, and this in turn eventually helped to drag Europe into war. It was only under wartime conditions that long-overdue changes were made to the constitution, to adapt it to a society that had profoundly altered. By that stage, however, it was too late to prevent the collapse of the Empire altogether.

(Mommsen, 1995: 40)

## What, then, is democracy today?

In a lecture entitled 'Socialism' given to Austrian officers in June 1918, Weber (1994) provided this definition of democracy: 'What, then, is democracy today? Democracy can mean an infinite variety of things. In itself it means simply that no formal inequality of political rights exists between the individual classes of the population' (p. 275). He demanded of the Prussian voting system that each citizen of a political community has a vote and each vote counts equally. Weber was opposing not only the conservatives but also large sections of the middle classes who wished to retain privileged voting rights on occupational lines. It would

be politically impossible to give the returning soldiers less advantageous voting rights than people who have maintained or improved their social position, their wealth or their clientele during the war years while the fighting men shed their blood defending them.

(Weber, 1994 [1918]: 233)

If the Prussian three-class structure were to remain in operation the entire mass of the returning *fighting men* would find itself in the lowest class, bereft of influence, whereas membership of the privileged classes would fall to *those who stayed at home*.

(All emphases are Weber's unless stated otherwise.)

Under the existing arrangements, industrialists could buy estates with a title, so leading to the enormity of 'ennoblement of war profits' (Weber, 1994 [1917]: 82).

The last arguments are justifications based on fairness, a substantive value. The formal justification is as follows: 'The *ultima ratio* of all modern party politics is the voting or ballot slip' (Weber, 1994 [1917]: 99). 'There is no way of getting away from the fact that the real and approximate *counting* of votes is an integral and essential element both of modern electoral contests and the conduct of business in parliament' (Weber, 1994 [1917]: 102). Against those who sought a higher cultural mission in parliament, Weber thought it was an 'impertinence' for them to slander equal suffrage as the mere 'democracy of numbers'. This *was* the basis of democracy. 'In purely political terms, it is no mere coincidence that equal "number suffrage" is on the advance everywhere, for the mechanical nature of *equal* voting rights corresponds to the essential nature of today's state'.

In representative parliamentary systems, the conduct of a government is ultimately determined by numbers. A government has to get its business voted through the legislature by a majority of members of parliament. If the governing party fails to do this on major issues, then it has to call an election to ascertain which party or parties can obtain a majority. Weber is attempting to educate his German audience that the novelty of equal suffrage and party politics in a parliament is, indeed, just numbers. The most important task for a parliament is control over the budget (Weber, 1994 [1917]:128). In a parliament, the prime minister, and his or her party, is held to account for the actions of the civil service:

Everyone probably wants to see them [parliaments] continue to exist as an authority which can compel *openness of administration*, the fixing of the *budget* and finally the discussion and passing *legislation*, functions for which they are indeed irreplaceable in any democracy.

(Weber, 1994 [1918]: 224)

For Weber, democracy does not rest on the natural rights of man, as it did for Thomas Paine. Nor does it rest on the liberty of property rights of Thomas Jefferson. Weber (1994) at one point in *Suffrage and Democracy* says, 'the Germans are a *plebian* people' (p. 121), recalling that the Roman pleb was initially a propertyless citizen and his German counterpart a person of no great educational standing or status. 'The modern state is the first to have the concept of the "*citizen of the state*" (*Staatsbürger*)' (Weber, 1994: 103). At root, citizenship is inseparable from membership of a political community.<sup>6</sup> Any

intermediation of the citizen from the state must be reckoned as a weakening of its meaning. Kari Palonen (2010) has noted the formal requirement of fairness in parliamentary debate. Similarly, the predicate for this is that each citizen has equal voting rights. Palonen (2017) also has long argued that Weber's professional politician is situated within the parliamentary arena (ch. 5).

There is also a freedom argument about the superiority of parliamentary deliberation and decision-making over an unaccountable civil service. Freedom flows from the base upwards. Voters elect politicians, citizens can join political parties and are also free to join and create associations to propagate their views. '... parties on the one hand and interest groups on the other are both based on the legally *free* recruitment of their adherents, whereas bodies formed by the state are *not*' (Weber, 1994 [1917]: 98). As Hinnerk Bruhns in his article shows, Weber defines the role of the politician is to hold to account the behaviour and actions of the civil service, and if he fails in this duty, he can be voted out by the electorate.

A final substantive ground behind Weber's theory of democracy is a process argument. An undemocratic state is an authoritarian state ruled through an administrative apparatus. In this model, the citizen is reduced to an *Untertan*, a passive rule-taker. Innovation does not occur, initiatives are stifled and the authoritarian state can suppress deep conflicts, though not indefinitely. When a democratic government meets an insoluble problem, it has to give way to a new election and a new government. Fully democratic parliamentary government is the process that allows society to change. As we have seen above, this is the basis for Wolfgang Mommsen's claim that the authoritarian bureaucratic Prussian state led Germany into the disaster of the Great War. (Whether this was an 'adequate cause' has to be set against the complex of forces at work, which Christopher Clark brings forward in *The Sleepwalkers, 2012* [Clark, 2012]).

Finally, it is important to note that in the 1917 political writings Weber places representative democracy as clearly superior to direct democracy. The latter operates through referendums, which, for Weber, can only deal with simple yes/no decisions. In a complex society, differentiated socially and economically, only parliaments and political parties can agree the necessary compromises required in respect to matters of trade policy or taxation and expenditure:

In a mass state the specific instrument of purely plebiscitary democracy, namely direct popular elections and referenda, and above all the referendum on removal from office, are completely unsuited to the task of selecting *specialist* officials or of criticising their performance.

(Weber, 1994 [1918]: 226)

Weber also criticises the other main feature of direct democracy, the plebiscite. This leads to Caesarism and demagogy. A plebiscitary leader has to excite the masses by alighting on a theme that will spark an emotional reaction. Where presidents are elected directly, as in the United States, the existence of a strong legislature ensures continuity of politics and administration within a tripartite division of powers (Weber, 1994 [1917]: 126–129, 1994 [1918]: 226–233).

(Considerable sections of Weber's wartime writings are given over to the influence of economic interests and the lobbying of economic cartels and how parliamentary



democracy is the best means of minimising these forces. Space does not permit exploration of this dual theme in Weber's political economy, but see Whimster, 2019.)

The historian Thomas Nipperdey shows that contemporary opinion opposed to Bismarck, which of course included Max Weber, referred to his aggressive acts against the parliamentary Reichstag as 'plebiscitary Caesarism'. If Bismarck could not get one of his measures approved by the Reichstag – a representative body with considerable freedom of conscience exercised by its members – he used his Chancellor's power to dissolve it and call new elections. In order to expedite this process, he would work up a demagogic theme beforehand and launch it in the press. Just like the press campaign launched in November 2016 against the judges in the United Kingdom's Supreme Court (*Miller v Secretary of State for Exiting the European Union*) as 'enemies of the people', Bismarck would stir the masses with the phrase 'enemies of the empire'.<sup>7</sup>

## Hegemonic processes

Weber provides us with a fine-grained analysis of how Prussia was able to exercise hegemony. If we consider this as arguments of process, they then become applicable to other federal political arrangements. The institutional fix engineered by Bismarck gave the Federal Council (*Bundesrat*) the ability to veto, or – under Bismarck – to simply ignore, any legislation coming from the Reichstag. And 'the Prussian Landtag had no misgivings from using the powers at its disposal' (Weber, 1992: 235, 1984: 554–555):

Thus, it [Prussia] is *not* responsible to the *German Reichstag*, but rather to the *Prussian Landtag* which, according to the constitution, always determines the attitude of the casting vote held by the presidency of the Bundesrat, and thereby also determines the policy of the Reich

(Weber, 1994 [1918]: 235)

This 'astonishing state of affairs does not exhaust the privileges of Prussia' (Weber, 1994 [2018]: 236). The chancellor of the German Empire, Weber continues, has responsibilities to the Reichstag. But he sits on the Bundesrat as a minister of the Prussian government and as a deputy of the Prussian Landtag. He does not act with a mandate from the Reichstag. The Prussian government/executive in its turn is responsible to the Prussian Landtag 'which therefore has the decisive say in every serious political action of the Reich as soon as it decides to exercise its power' (Weber, 1994 [1918]: 237). The most grievous illustration of this massive bias to Prussia was when the Eastern front generals Ludendorff and Hindenburg forced Eric von Falkenhayn out of his position as chief of the general staff. Ludendorff and Hindenburg had pressured the emperor to make this move. The then chancellor Bethmann Hollweg was unable to resist the Prussian government, and civilian government at this point succumbed to the military rule of Ludendorff and Hindenburg, who had no interest in a negotiated peace. They also forced the emperor to dismiss chancellor Bethmann Hollweg in July 1917 when he presented plans for the reform of the Prussian suffrage. The military took over control of large areas of civilian life mobilising the economy for total war. 'Germany remained under what was

effectively a military dictatorship until the last days of the war' (Clark 2007: 610). This is the background and the spur to the furious energy that drove Weber to write a new blueprint for government in Germany.

From its dominant position, Weber complains, the Prussian authorities intervene constantly, not only in vital concerns of the Reich but also in those of other states of the federation and their citizens. Where other states, like Baden or Bavaria, showed unwanted signs of independence within their own territory, the Prussian government could force compliance on those states through their membership of the Federal Council. This was termed mediatisation (Weber, 1994 [1918]: 239).

Weber concedes that Prussia has to take account of the party political composition of the Reichstag. And the Reichstag government could draw upon a bureaucracy independent of Prussian officials, even though it had limited resources. But consider the passage of a bill. It is drafted in the offices of the Reich, and the draft goes to the Federal Council, where the first task is to canvass the Prussian ministries and then of Bavaria as the second largest state. 'As a rule, all other states in the Federation are confronted with the bill in the Bundesrat as a *fait accompli*' (Weber, 1994 [1918]: 243). At the top level – the Reich and Prussia – there is reciprocal influence whose outcome depends on the issue and the peculiar crossovers of officials in the two bureaucracies. But when it comes to the policy of the individual states, it is 'the Greater Prussian character of the leadership of the Reich [that] generally predominates' (Weber, 1994 [1918]: 244).

As a process argument that can be critically deployed in contemporary federal systems, the method of investigation would be to see how a bill is generated within a bureaucracy. In the context of the EU, this could be the Commission or it could be among the national officials of the Council of Ministers. Canvassing between member states would, in many cases, be determined by the role of the big states – Germany, France and the United Kingdom – and then sold on to other member states. The exact linkages between officials could also be presumed to have a decisive influence. And as has been frequently noted, the European Parliament has, until recently c. 2008, little active participation in this process, only an approving one. In terms of the European Parliament's supervisory role of the executive, 'problems arise from the blurring of roles between the Commission, the Council and European Council' (Nugent, 2017: 206). At the time of writing (February 2019), we may well see European voter dissatisfaction in the May 2019 elections. The dominant European People's Party may well lose ground, precisely because it was unable to hold the administration and the executive to account for its deflationary economic policies and its ad hoc refugee policy. In Weber's view of parliamentary parties, the ballot box is the final arbiter. But his critique of the Reichstag goes further: it should exercise its supervisory role in real time, as events and crises unfold.

Another Weberian line of critique would be to ask whether there is a 'Greater German character' in play in the European Council. The Council is composed of the prime ministers of the confederal states of the Union, and in this respect the Council operates as an indirect democracy with prime ministers exercising full executive power on behalf of their countries. To what extent is confederal decision-making apparent in the face of the

northern bloc countries? In the case of the Eurozone crisis, the president of the European Council, Herman von Rompuy, later reflected, ‘From crisis summit to crisis summit, we were rewriting the basic rules of monetary union’ (quoted in Nugent, 2017: 196). In fact, much of the decision-making was referred to the Eurogroup Finance Ministers whose emergency decision-making put in place the obligatory financial and fiscal measures across the Eurozone. The collective ‘we’ in decision-making often came down to the doctrinal view of Germany’s Finance Minister Wolfgang Schäuble (see Black et al., 2018: 127–131). The democratic deficit in this crisis has received huge attention, and we may ask with Weber whether greater openness and accountability is still required of the European Council and its ad hoc committees.

### *The insurance institute*

In this process, argument federation has a regressive democratic effect on the individual states. The formation of the Reich diminished the competence of the bureaucracies of the former kingdoms and principalities of the Reich. ‘The princely courts and the administrations in the individual states were tempted to regard the Reich above as an *insurance institute* (*Versicherungsanstalt*) protecting their own position, to regard their thrones as prebends guaranteed by the Reich and to view their relationship with Prussia as a way of maintaining uncontrolled bureaucratic rule in all the other states’ (Weber, 1994 [1918]: 244).

This strengthened the executive and weakened state parliaments:

Very soon after the foundation of the Reich the bureaucracy of the individual states proceeded to eliminate as far as possible the scrutiny of their work by the parliaments of the individual states, so that they could govern ‘by virtue of princely prerogative’...

Thereby, they succeeded in causing the importance and hence the intellectual quality of most parliaments in the individual states to fall, much as happened in the Reichstag.

(Weber, 1994 [1918]: 245)

Contemporary examples of this process are not hard to find, the standout case being Berlusconi’s plebiscitary rule in Italy. Under the general umbrella of federal rule in Brussels, Italian politicians were able to put off reform to both their political system and other economic reforms. However badly Berlusconi behaved in cutting back legal and democratic safeguards in Italy, he always enjoyed the general insurance of the Brussels bureaucracy and the specific support of fellow leaders in the European Council.<sup>8</sup> This is not just the hegemony of a big state within a federation, it is the mutual reinforcement of national leaders able to parlay federal insurance into an anti-democratic defence of their own position.

Weber appends another step in the argument. Where rulers use the federal centre to prop up their own position, they will be less inclined to challenge the predominant powers in the central federation. It leads, says Weber (1994 [1918]), to a ‘tacit compromise’ (p. 245).

## Wie ist die Parlamentarisierung Deutschlands mit gesundem, dass heisst: aktivem, Föderalismus zu vereinigen?

‘How is the parliamentarisation of Germany to unite with healthy, which is to say, active federalism?’ (Weber, 1984: 570, 1994 [1918]: 247). Weber’s answer is (1) ‘the stream of parliamentarisation must be directed into the canals of the Reich; (2) the legitimate influence of the federal states other than Prussia must be strengthened’. This strengthening is to be achieved by the democratisation of the Bundesrat. Instead of the federal states each sending plenipotentiaries who speak on behalf of the state’s ruler, elected representatives from the parliaments in the federal states should be sent to sit on the Bundesrat. The Bundesrat at that point changes from being a Council to becoming a small chamber, or as Weber envisaged, becoming a collegial body. The elected representatives would have party political affiliations, and it would be the *leaders* of the various political parties who would be appointed to the Bundesrat.

Weber’s proposed reforms would not alter the underlying federalism and executive role of the Bundesrat; he is not sweeping away Bismarck’s constitutionalism. He is simply (!) demanding that appointments from the federal states are themselves democratically elected representative of state parliaments, and that those parliaments accede to universal, equal and direct suffrage. The officials who previously sat on the Bundesrat would be debarred, and the conservative Prussians taking orders from the emperor and the Prussian Landtag would be replaced by, one imagines, liberal and social democratic politicians reflective of western Prussia. When the three-class suffrage is abolished, ‘the great weight of Prussia will make itself felt much more keenly’ (Weber, 1994 [1918]: 247). Weber also envisaged transferring ministries and parliaments from Berlin to other cities (Bruhns, 2017: 62).

Dual membership of the Reichstag and the Bundesrat would be permissible. Under Article 9.2 of the Bismarckian constitution, no representative from the Reichstag could sit on the Bundestag, unless he resigned his seat and effectively said *adieu* to his political party affiliation. Such is the peculiarity of this arrangement, it is difficult for us to appreciate and comprehend. But it meant that the Reich chancellor did not, by law, sit in the Reichstag. Instead he was the chairman (*Vorsitz*) of the Bundesrat and appointed by the emperor (who was its president). Many pages of *Parliament and Government* are devoted to this bizarre constitutional arrangement, and the reasons and advantages for its immediate abolition.

The result of these reforms would create a ‘twin-peaks’ arrangement where both the Reichstag and the Bundesrat were democratic and each would exercise executive and ministerial powers in their respective fields of competence. The Bundesrat would stand for the rights of the federal states and their extensive powers of self-administration, the Reichstag for the powers of a unitary state. Unitary Reich powers, especially the budget, it was argued gave the Reichstag the ability to ‘strangle’ the singular rights of the confederated states, but Weber argues his reforms would give those states far greater power *in* the Reich.

Weber does not spell out what the division of executive powers and ministries would be between the Bundesrat and the Reichstag. By retaining the framework of the 1871 constitution, these presumably would remain as they were. A democratic Federal Council, as a full-time collegial body, would presumably have control over the

military, foreign policy, trade policy; the Reichstag over the budget, taxation and expenditure, economic policy, social policy, law and justice. The Bundesrat in retaining the right to determine foreign policy and the armed forces would federalize decision-making in what might be assumed to be critical sovereign competences. But it is salutary to remember that the Bavarian armies, whose oath of allegiance was to the king of Bavaria, were in fact under the military control of Prussian generals, and this was an extremely contentious issue at this point in the war. (Discussion of a European Army divides on this very point.) Weber's meta-argument is that the barrier erected by Bismarck between the two bodies was in itself pernicious and destructive, but its removal then allows political dialogue between the two bodies. They have to take account of each others' activities, and this is facilitated by the circulation of elected representatives with party affiliations between the various parliamentary assemblies – state parliaments, the Reichstag and the Bundesrat.

Weber makes claims for achieving equity (in the Greek sense of the word) in the political system, which does become a functioning system at this point:

If the Bundesrat is *also* to include representatives of the *Reichstag* parties, instead of members of individual state parliaments alone, the cohesion of these parties across the Reich will make it possible to neutralise these regional differences *within* the fold of the party.

(Weber, 1994 [1918]: 255)

Parliamentarisation contributes to this dialogue:

The stream of parliamentarisation will then have been channelled into the bed of Reich unity, while at the same time the living influence of the individual states on the course of the Reich's affairs will have been secured. *It is not true* that what is given to the Reich is thereby taken away from the individual states. Rather, what counts is how much weight the individual states are able to exert within the Reich.

(Weber, 1994 [1918]: 255)

Weber here turns Bismarck's argument on its head. Bismarck always polemicised against parliamentarisation at the centre as endangering the rights of the confederal state. This, though, maintained the conservatism of those states, the '*monarchisch-bürokratischen Obrigkeitstaaten*', above all Prussia (Nipperdey, 1993: 93). Democratization enables (con)federalism.<sup>9</sup>

On the predominance of Prussia,

if parliamentary government is fully implemented the course of politics in the Reich will still rest on compromises between the power of the Prussian votes in the Bundesrat, which have parliamentary support, and the power of the government of the Reich, which is supported by the Reichstag.

(Weber, 1994 [1918]: 258)

With equal suffrage, the composition of the Reichstag and the Prussian Landtag will 'grow increasingly similar in the future' (Weber, 1994 [1918]: 259).

These claims, supposition and hoped-for advantages cannot be tested. Weber's publications aroused considerable public interest and led to communications directly between Weber and sympathetic politicians (Mommsen, 1974: 191–195). With the military takeover of Ludendorff and Hindenburg, Weber's proposals went nowhere, and it is fortuitous that they were not censored. Weber himself feared a treason charge of *lèse-majesté*. His ideas can only be assessed against other analyses. The question of balances between dominant and smaller states, and centralization versus particularism, lies at the heart of the political science of federalism. What stands out clearly in Weber's thinking on federalism is that the complete democratisation and parliamentarisation and the removal of the rule by officialdom are key to an effective politics. And in all such reform proposals, it is the people themselves who must consider their future. 'Whether the nation feels ready to bear the responsibility which a nation of seventy million has towards its descendants, will be answered by the way we address the question of the internal reconstruction of Germany' (Weber, 1994 [1918]: 270).<sup>10</sup>

## Notes

1. The creation of the Eurozone – the Euro and the European Central Bank – started a process of irreversible federation within a political confederation. To be more exact, the European Union (EU) is a juridical construction, a dimension that allows it to gloss over the political realities of moving away from confederation. In EU terminology, the move to closer federation through rationalisation processes like a single currency and single market is termed 'functionalism' (see Black et al., 2018: 1–5).
2. Nipperdey (1993) holds that everyone knew that this was a fiction to obscure where sovereignty really lay (p. 87).
3. Weber attended the party conference of the National Liberals in Heidelberg in 1907. He called for the replacement of the German imperial dynastic rule by parliamentary government on English and Belgian lines. He wrote to his brother Alfred in 1907 on the theme of the parliamentarisation of the Bundesrat (Mommsen, 1974: 188–189). Bruhns finds an earlier stance for this in 1904 (Bruhns, 2017: 53).
4. Even non-Prussian chancellors, like Hohenlohe in 1894 (a Bavarian-Frankish prince), had to take the position of Prussian minister-president (Nipperdey, 1993: 96).
5. These writings start with the exhaustive *Die Lage der Landarbeiter im ostelbischen Deutschland* of 1892 through to the 'Agrarstatistische und sozialpolitische Betrachtungen zur Fideikommissfrage in Preussen' of 1904.
6. Alan Scott (2018) raises the issue of the linkage between nominal citizenship and a meaningful political entity in today's debates (p. 6).
7. Weber observed in 'Politics as a Vocation' the role the *Daily Mail* played in supporting Lloyd George whom he saw as a plebiscitary leader (Weber, 2004: 213). The Harmondsworth press was not always anti-German, for they supported the regime of the plebiscitary dictator, Adolf Hitler, in the 1930s.
8. The European Council finally blew time on Berlusconi in 2010 at the height of the Euro crisis.
9. Weber's position compares well with a leading contemporary proponent of federal democracy, John Pinder (2010):

... in order to understand the creation of a federal democracy, to focus on its representative institutions is not enough. They have to be seen as part of a system of government in which the rule of law is guaranteed by a federal judiciary; the citizens have direct relationships with

both the federal and the state institutions; and so both the federal and the state institutions have real substance, both have a critical mass of powers on which to base viable polities. [...] ...it is dangerous to give powers to institutions too weak to handle them: institutions need powers adequate to justify their existence; and citizens in the democratic member states must be satisfied that the emerging federal democracy is meeting their needs.

(p. 253)

10. Wolfgang Mommsen interprets democratic reconstruction as a bid for influence in the conflict of the world powers (Mommsen, 1974: 186). But Weber is arguing for responsibility for the future generations of the country after the savagery and slaughter of the war.

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