

Electoral Law for the Reichstag of the North German Confederation (May 31, 1869)

Abstract

After excluding Austria from Germany in 1866, Prussia achieved virtual hegemony over the North German Confederation. By the end of 1867 Germans had already tramped to the polls twice to elect members to the North German Reichstag. A flood of legislation soon followed, beginning with a new constitution and followed by many liberal reforms. Yet a formal electoral law was not passed until May 31, 1869. This suffrage was described in shorthand as “universal,” though it explicitly excluded women of all ages and men under 25. It was also described—with varying degrees of accuracy—as equal, direct, and secret. The law fixed the number of seats in the Reichstag in proportion to the member states’ populations, but it did not provide for the reapportionment of constituencies as the result of population shifts. The provisions of this law were extended to the German Empire in 1871, and they remained in effect until 1918.

Source

Art. 1. An eligible voter for the Reichstag of the North German Confederation is any North German of at least twenty-five years of age. Such person is eligible to vote in the federal state where he resides.

Art. 2. For enlisted men in the army or navy, eligibility to vote is suspended for as long as they are in active service.

Art. 3. The following persons are excluded from the right to vote:

- 1) Persons under legal guardianship;
- 2) Persons against whose property insolvency or bankruptcy proceedings have been initiated;
- 3) Persons who receive poor relief from public or municipal funds or have received such relief during the year preceding the election;
- 4) Persons whose full citizenship rights have been revoked according to due process of law, for the time of revocation, provided these rights have not been reinstated.

If the full enjoyment of civil rights was revoked because of political offenses or crimes, the right to vote is reinstated as soon as the sentence has been carried out or remitted through a pardon.

Art. 4. Any North German of at least twenty-five years of age who has lived in any state within the Confederation for at least one year is eligible for election as deputy in the entire territory of the Confederation, provided he is not excluded from the right to vote by the stipulations of Art.3.

Art. 5. In each state, one deputy is elected for every 100,000 persons, based on the number of inhabitants on which the elections of the constitutive Reichstag was based. Any surplus of at least 50,000 persons is rounded up to a full 100,000 persons. One deputy is elected in any state whose population does not reach 100,000 persons.

Accordingly, the total number of deputies is 297. Prussia receives 235, Saxony 23, Hessen 3, Mecklenburg-Schwerin 6, Saxony-Weimar 3, Mecklenburg-Strelitz 1, Oldenburg 3, Braunschweig 3, Saxony-Meiningen 2, Saxony-Altenburg 1, Saxony-Coburg-Gotha 2, Anhalt 2, Schwarzburg-Rudolstadt 1, Schwarzburg-Sonderhausen 1, Waldeck 1, Reuß older line 1, Reuß younger line 1, Schaumburg-Lippe 1, Lippe 1, Lauenburg 1, Lübeck 1, Bremen 1, Hamburg 3.

Any increase in the number of deputies due to population growth is determined by the law.

Art. 6. Each deputy is elected in a specific district.

For the purpose of voting, each district is divided into smaller wards that should, if possible, coincide with the local communities, provided no subdivision is required in more populous towns.

With the exception of exclaves, all constituencies and election districts have to be spatially demarcated and, if possible, rounded off.

A federal law will determine the boundaries of the constituencies. Until such time, the current constituencies will be retained, with the exception of those that are not currently geographically defined and rounded off into a spatially coherent ward. These have to be formed for the next elections in accordance with the stipulations of article number three.

Art. 7. Anyone wishing to exercise the right to vote in a particular ward has to have his domicile in that community or, if a community is divided into several wards, in one of the latter at the time of the election.

Each voter may cast his vote in one place only.

Art. 8. For the purpose of the elections, lists have to be compiled in each election district, in which are entered the eligible voters' last names, first names, ages, occupations, and places of residence.

At least four weeks before election day, these lists have to be made available for everyone to consult, and this has to be made public with reference to the deadline for objections. Objections to the lists have to be lodged with the authorities responsible for publication within eight days of the lists being made available; the complaint has to be completed within the following fourteen days, after which time the lists are closed. Only those who have been included in the lists are eligible to vote.

When special new elections or re-votes take place within one year after the last general election, a new compilation and publication of election lists is not required.

Art. 9. The act of voting as well as the determination of the election result is public.

The functions of supervisor, observer, and secretary for voting in the election districts, and those of the observers who determine the election result, are voluntary honorary offices and can only be carried out by persons who do not hold state office.

Art. 10. The right to vote is exercised in person by means of secret election ballots, put in a ballot box without signature.

The ballots have to be made of white paper and must not have any external markings.

Art. 11. The ballots have to be marked with the name of the candidate to whom the voter wishes to give his vote, outside of the polling station in handwriting or by means of duplication.

Art. 12. The election is direct. It takes place through absolute majority of all votes cast in the constituency. If an absolute majority is not reached in an election, only the two candidates receiving the most votes will stand in the run-off election.

In case of a tied vote, the election is decided by drawing lots.

Art. 13. Subject to scrutiny by the Reichstag, the validity or invalidity of the ballots is decided upon

exclusively by the supervisor of the election district according to the majority of votes cast in that district.

Invalid ballots are to be included with the election protocol for the purpose of scrutiny by the Reichstag. Those ballots deemed valid have to be kept sealed by the supervisor of voting in the respective election district until such time as the Reichstag definitively declares the election valid.

Art. 14. The general elections are to be carried out across the entire territory of the Confederation on the same day specified by the Presidency of the Federal Council.

Art. 15. The Federal Council organizes the election procedure, as far as it has not been determined by the current law, by way of uniform election regulations valid for the entire territory of the Confederation.

These regulations may only be altered with the consent of the Reichstag.

Art. 16. The costs of the printed forms for the election records and for the determination of the election result in the constituencies are borne by the member states; the remaining costs of the election procedure by the municipalities.

Art. 17. Eligible voters have the right to form associations to handle matters relating to the Reichstag elections and to hold, unarmed, public meetings in closed rooms.

The stipulations of the state laws concerning the notification of the authorities about assemblies and parties as well their surveillance remain unaffected.

Art. 18. The current law comes into force upon the first elections to the Reichstag that take place after its proclamation. From that point onwards, all previous election laws concerning the Reichstag, in addition to all accompanying executive laws, decrees and regulations, lose their validity.

Source: *Bundesgesetzblatt des Norddeutschen Bundes*, 1869, p. 145; reprinted in Ernst Rudolf Huber, ed., *Dokumente zur deutschen Verfassungsgeschichte*, 3rd revised and enlarged ed. Stuttgart: W. Kohlhammer, 1978, vol. 2, pp. 307–9.

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