

Julius Jolly, Former Prime Minister of Baden, on the Rights and Influence of Parliament in the System of Constitutional Monarchy (1880)

Abstract

By the end of the 1870s, Bismarck's increasingly autocratic style of government had made it clear that the Reichstag would continuously have to fight for influence vis-à-vis the Reich and Prussian executives. In this commentary from 1880, Julius Jolly (1823–1891), former prime minister of Baden (1868–1876), argues that in the long run no government can afford to rule against a solid parliamentary majority. Jolly does not refer explicitly to the Prussian constitutional conflict of the early 1860s, which pitted the advocates of parliamentary rights against the monarchy. Nor does he ascribe his own preference for tolerance to Baden's strong liberal traditions. However, Jolly's analysis illustrates that Germany's constitutional system rested on earlier compromises, including those struck between Bismarck and liberals in the Reichstag in the period 1867–1871. In Jolly's opinion, good judgment and respect are required on both sides if the German Empire is to survive.

Source

Within the framework of constitutionalism as it has developed in this country, government can be virtually independent vis-à-vis parliament; nevertheless, it cannot (and ought not to) relinquish all consideration for parliament's views. According to the nature of the system, the rights to which parliament is entitled suffice even in their narrowest definition to force the government to allow for parliament's participation in legislation and the approval of state expenditures (not to mention revenues as well). Government may be powerful enough to withstand individual resolutions passed by parliament, even with a great majority, without being shaken. However, if it encounters constant and determined mistrust and opposition on the part of the parliamentary majority, then laws deemed necessary or appropriate by government will not be voted on; only absolutely unavoidable expenses required for government purposes will be approved at all; the state machinery will come to a grinding halt and will consume its energies in useless friction, without ever being able to fulfill its duties. The ultimate outcome of such an awkward, state-destroying situation can only be either the destruction of constitutionalism or consideration for the wishes of parliament, at least to such an extent that the government no longer faces a firm opposition majority.

[...]

Temporary circumstances, an increase in the individual authority of the government beyond its usual level, disunity among the parties, or a momentary emergency may limit parliament's influence at times, but it cannot be suppressed in the long run; rather, it is a permanent factor in our state life, and is so closely and necessarily connected to the nature of our constitution that it must be recognized as belonging to it. By allowing a constitutional system of governance, the monarchy has not only imposed actual constraints upon itself; it has also assumed the political duty of showing the concern for the consent of parliament that is indispensable in this form of constitution. Moreover, the crown takes care that the political direction advocated by parliament is regarded as deserving substantial consideration in the realms of decision-making that are the government's own preserve—without, however, taking those political views at face value or acknowledging them as decisive, and without going so far as to appoint the leaders of the majority parties to head the government.

Source: Julius Jolly, *Der Reichstag und die Partheien*. Berlin, 1880, pp. 170–72; original German text reprinted in Gerhard A. Ritter, ed., *Das Deutsche Kaiserreich 1871–1914. Ein historisches Lesebuch*, 5th ed. Göttingen: Vandenhoeck & Ruprecht, 1992, pp. 52–53.

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