

The constitutional development of the German Kaiserreich as evolving federal system between 1871 and 1918 in comparison to the federal integration of the United States of America (1787-1918) and Switzerland (1848-1918)

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The vague 1871 constitution of the newly founded German Empire left the central issue of its state organisation as either confederation or federation unsettled. The internal societal, economic, and cultural unification as of 1871 thus made inevitable the *Reich's* further constitutional development as an evolving federal system in political reality, as indicated by the increasing unitarisation of federal *Reich*-competences and institutions.

This dissertation examines (a) how the *de jure* and *de facto* constitutional development of imperial Germany as an evolving federal system looked in its political context between 1871 and 1919; and (b) whether the patterns of this constitutional development were particular to the German context or, contrariwise, whether they were ordinary, generic features of 19th-century evolving federal systems, comparable with the USA and Switzerland.

While this dissertation principally focuses on the *Reich's* federal evolution, its thematic, contextually sensitive comparison with the well-researched 19th-century U.S. and Swiss federal integrations is meant to expose peculiarities of the German system: The U.S. Supreme Court's central role in federal integration provides a template against which to evaluate the non-existence of a constitutional *Reich*-court; comparative reflections on the Swiss parliamentary federalism permit me to evaluate the German executive federalism.

My dissertation thus adds to the scholarship on imperial Germany a comparative constitutional history of the *Reich* as an evolving federal system in its political setting. There exists no such study yet because the literature on the *Reich's* state organisation is dominated by three disciplinary-methodological paradigms: political historiographies evaluate the *Reich's* structural weaknesses through its political history, routinely neglecting its constitutional dimension; legal historiographies concentrate on juristically evaluating the *Reich's* positive normative provisions, but ignore their historical-political context; and comparative legal-political studies deduce systemic principles from the 1871 constitutional norms, disregarding later dynamic constitutional and political developments.

This dissertation overcomes this fracturing by establishing an integrative methodological approach that proceeds inferentially, reconstructing the *Reich's* constitutional development as an evolving federal system by means of a politically contextualised analysis of the debate among contemporary constitutional lawyers. Hence, my primary sources comprise the works of the contemporary constitutional law debate [*Reichstaatsrechtslehre*] and the complementary documents of the constitutional actors. For the comparative evaluation, the complementary (secondary) literature on the well-researched U.S. and Swiss federal integrations is used.

This study enhances our understanding of imperial Germany in two ways. Substantively, it contributes to the discussion about a German *Sonderweg* by charting a federal evolution that institutionally framed the *Reich's* failed parliamentarisation and democratisation and by evaluating whether the patterns of this evolution were particular to the German context or ordinary features of any evolving federal system. Methodologically, my integrative, interdisciplinary approach overcomes hermeneutic biases of political and legal historiography by providing a forum in which these disciplines can enter into a dialogue on the *Reich's* comparative federal evolution.

Moreover, within the framework of the Gates Cambridge Scholars programme I hope to contribute with this interdisciplinary project to the discussion about patterns of federal constitutional design that can help addressing the problems of diverse societies in states and supranational organizations.

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