



HISTORICAL EXHIBITION PRESENTED BY THE GERMAN BUNDESTAG

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### **The Enabling Act of 23 March 1933**

The political situation in the final stages of the Weimar Republic was confusing and unstable. Changing cabinets and coalitions and political, social and economic crises were the order of the day. Paul von Hindenburg, President of the *Reich*, was resorting more and more frequently to emergency decrees and dissolved the Reichstag twice in 1932. The prevailing political conditions facilitated the transition of the National Socialist German Workers' Party (NSDAP) from a radical splinter group to a party of government. In the two elections to the Reichstag in 1932 and in the election of 1933, which was free only on paper, the NSDAP won the largest share of the vote by far. On 30 January 1933, Adolf Hitler was appointed Chancellor of the *Reich* by President Hindenburg. Hitler was thus placed at the head of a cabinet comprising non-attached Conservative ministers, members of the NSDAP and representatives of the German National People's Party (DNVP).

The direction in which the political situation would develop under Hitler became clear only shortly after he took office. The **Reichstag Fire Decree** (*Reichstagsbrandverordnung*), enacted only one day after the fire in the Reichstag building on 27 February 1933, **severely curtailed fundamental rights**, subjected the police largely to the control of the national government and thereby created all sorts of opportunities for the persecution and elimination of political opponents, which the police and the so-called auxiliary police forces formed by SA and SS troops exploited to the full.

The next step towards the 'Führer state' was the abolition of parliamentary democracy and the rule of law. Although the NSDAP-led government had a stable working majority in the Reichstag, the National Socialists aspired to formalise their absolute *de facto* political power by means of an amendment to the Weimar Constitution. Through the '**Act for the Removal of the Distress of the People and the Reich**' of 24 March 1933, more commonly known as the **Enabling Act** (*Ermächtigungsgesetz*), which consisted of only five articles, the government of the *Reich* was to be vested with almost **unlimited powers** to enact laws, even in cases where the legislation encroached on core provisions of the Constitution.

Since the Act entailed an amendment to the Weimar Constitution, its adoption required both a two-thirds majority in Parliament and the presence in the Reichstag of at least two thirds of all its members. The prospects of achieving the requisite number of votes were good, since the mandates of the 81 deputies from the Communist Party of Germany had been rescinded under the Reichstag Fire Decree. Moreover, many Members of the Reichstag had already fled or been imprisoned or murdered. In order to secure the remaining votes, however, the **support of the Centre Party** was particularly important. In their negotiations with the Catholic party, Hitler and his Interior Minister, Wilhelm Frick, concealed the true purpose of the Act and emphasised its allegedly economic aims. They gave the Centre far-reaching guarantees on the continuing existence of the supreme organs of the Constitution and the *Länder* and promised to respect the rights of the churches, to safeguard fundamental rights and to establish a parliamentary committee to scrutinise legislative bills. In addition, they held out the prospect of a Concordat with the Vatican. With these promises, most of which were never honoured, the government finally managed to arrange the parliamentary support it required.

Besides the NSDAP deputies, those of the German National People's Party, the Centre, the Bavarian People's Party, the German State Party, the Christian Social People's Service (*Christlich-Sozialer Volksdienst*) – a Protestant party – the German Farmers' Party (*Deutsche Bauernpartei*) and the German People's Party all voted for the Enabling Act.

Only the deputies from the Social Democratic Party of Germany voted *en bloc* against the bill, in spite of the massive intimidation by the SA and SS, whose troops had moved in to surround the Kroll Opera House, where the Reichstag was now meeting. The chairman of the SPD parliamentary group, Otto Wels, combined the explanation of his group's rejection of the Enabling Act with a passionate profession of faith in parliamentary democracy. "The elections of 5 March gave the governing parties a majority, thereby giving them the right to govern in strict accordance with the spirit and letter of the Constitution. Where that right exists, there also exists an obligation. Criticism is salutary and necessary. Never in the existence of a German Reichstag has the scrutiny of public affairs by the elected representatives of the people been stifled to such an extent as is happening now and as will happen even more under the new Enabling Act. The effects of such government omnipotence will surely be made all the more disastrous by the fact that the press is also bereft of any freedom of action." In spite of these plain words and the clear depiction of the intended consequences of the Act, only 94 deputies voted against the bill compared with 444 who voted in favour. This means that there would have been a sufficient majority for a constitutional amendment even if the Communist deputies had been able to take part in the vote. Even today, however, it remains a moot point whether the adoption of the Enabling Act was actually consistent with the provisions of the Weimar Constitution.

The adoption of the Act on 23 March 1933 enabled Adolf Hitler's government **to enact laws without the consent of the Reichstag, which continued to exist, or of the Reichsrat and without the countersignature of the President of the Reich**. These extensive powers also applied, almost without restriction, to constitutional amendments and to treaties with other states. The Act thus marked the final eclipse of the democratic state based on the rule of law and the abolition of parliamentary democracy.

**All the legislation of the National Socialist state was based on the Enabling Act.** It served to centralise the public administration, the judiciary, the security apparatus and the armed forces in accordance with the 'Führer principle', to standardise political life in accordance with National Socialist principles (*Gleichschaltung*) by banning political parties and mass organisations and to abolish freedom of the press. The concentration of power in the hands of the government, and hence in the person of Adolf Hitler, sealed the transition to dictatorship.

The Enabling Act was initially adopted for a four-year period but was extended in 1937, 1939 and 1943. It remained the basis of all legislation throughout the Nazi dictatorship and was finally abolished after the capitulation by Law No 1 of the Allied Control Council on 20 September 1945.

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