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HIST 133B: Explore

Flames of Power: The Reichstag Fire and Nazi Martial Law



The trial of Van Der Lubbe following the Reichstag fire. Courtesy of The Wiener Holocaust Library Collections.

The Reichstag Fire Decree issued on Feb. 28, 1933 played a significant role in the establishment of the Hitler's dictatorship in Germany.¹ The decree enabled the Nazis to consolidate power and eliminate political opposition without legal constraints. President von Hindenburg issued the ruling as a state of emergency in response to the burning of the Reichstag building on February 27th. Located in Berlin, the Reichstag building was an iconic symbol of democracy that housed the German parliament responsible for passing laws, approving budgets, and representing the interests of the people (*Volk*). The immediate suspects of the fire were

¹ https://germanhistorydocs.ghi-dc.org/sub_document.cfm?document_id=2325

members of the KPD (Communist Party of Germany), whom Nazi leaders immediately vilified as political arsonists and conspirators of a Bolshevik revolution. The following day, on the basis of Article 48 of the Weimar Constitution, President Hindenburg issued the Reichstag Fire Decree in response to what he feared was a legitimate Communist threat. By promulgating the decree, Hindenburg suspended several civil rights and forced state governments to implement his provisions aimed to destroy the KPD. Various civil rights including freedom of the press, freedom of opinion and assembly, and the right to privacy in mail and telegraphic communications were suspended by Hindenburg's order. It was essentially a decree of martial law that quickly became a sweeping campaign of terror against “Communists, Socialists and Pacifists alike, who were [all] lumped together under the label of Marxist.”² The Reichstag Fire Decree and the political persecution that followed sent shockwaves throughout Germany and captured the attention of other Western democracies.

The Wikipedia page for the Reichstag fire provides key information that contrasts with the Western scholarship about Germany during the year 1933. US and UK publications from that year fail to mention one of the most important figures in the modern canon of the Reichstag fire—Walter Gemp. However, this omission is reasonable when considering how extremely limited the German press was following the Fire Decree. When the flames erupted, Walter Gemp was serving as the head of the Berlin fire department and took on the role of overseeing the fire suppression operations firsthand. The following month, Gemp was dismissed for publicizing evidence that linked the Nazis to the Reichstag burning and he was later murdered in prison in 1939.³ Notably, this information is sourced on Wikipedia from a collection of prison writings and meditations by a German Jesuit priest, Alfred Depp (1907-1945). In contrast to Western reports written in 1933, Depp notes how the emergency legislation of the Reichstag Fire Decree quickly morphed into a permanent measure.

An English translation of the Reichstag Fire Decree is available on the website “German History in Documents and Images,” but it was originally published for use by the Allied prosecutors during the Nuremberg trials of 1945. By translating official documents into English, Allied judges and prosecutors could determine the policies that paved a legal road for Hitler’s

² Wheeler-Bennett, John W. “The New Régime in Germany.” *International Affairs* (Royal Institute of International Affairs 1931-1939) 12, no. 3 (May. 1933): 313–26.

³ Delp, Alfred. *Advent of the Heart: Seasonal Sermons and Prison Writings, 1941-1944*. Ignatius Press, 2006.

dictatorship. The inclusion of the Reichstag Fire Decree in the trials of 1945 demonstrates the lengths that Western intelligence researched to uncover the events and policies that allowed the Nazis to acquire authority. Prior to this publication, Western journalists and scholars relied on their own translations and German sources to follow the Nazis' rise to prominence. English historian John Wheeler-Bennett recalled how friends of his in Berlin, "were warned to expect something remarkable during the week immediately preceding the March 5th [of 1933]." ⁴ When political violence did erupt in Germany following the Reichstag Fire, English and US scholars were engaging in discourse about the implications of the emergency decree. By analyzing those interpretations from scholarly journals, we can understand how Western democracies and academics understood Nazi fascism and its impact on the near future.

⁴ Wheeler-Bennett, John W. "The New Régime in Germany." *International Affairs* (Royal Institute of International Affairs 1931-1939) 12, no. 3 (May. 1933): 313–26.

Annotated Bibliography in Chronological Order

“Chronology.” *Bulletin of International News* 9, no. 18 (Feb. 1933): 10–32.

<http://www.jstor.org/stable/25639140>.

This publication discusses significant international affairs beginning January 31st through February 15th of the year 1933. For Germany, this chronology contextualizes the political landscape that preceded the Reichstag fire. It discusses how the beginning of February saw clashes between Nazis and Communists in the Rhineland that left 17 people dead. This event prompted the Prussian Minister of the Interior to prohibit Communist demonstrations in Prussia on February 2nd. Thus, the freedom of assembly was already restricted before the Reichstag Fire Decree was in effect. The following weeks would see an increase of violence between Nazis and Communists, resulting in 60 deaths from the start of 1933 to February 13th. By this time, Hermann Göring was also dismissing “high administrative and police officials” from important positions. Hence, the Nazi consolidation of power was already in progress before the Reichstag Fire Decree was formally issued.

“Chronology.” *Bulletin of International News* 9, no. 18 (Mar. 1933): 10–32.

<http://www.jstor.org/stable/25639140>.

While February of 1933 is commonly explored for the hostility between Communists and Nazis, there was also political aggression and silencing of other German parties. On February 15, *Vorwärts*, a newspaper published by the Social Democratic Party of Germany, was suppressed. In the same week, Center party papers in Prussia were also suspended following a manifesto of 13 leading Catholic associations that criticized the German government and predicted a civil war. By censoring these political parties, the Nazis could focus their attention on Communism and coerce the German people into choosing between “us or them.” A few days prior to the Reichstag fire, Hermann Göring authorized the employment of the Nazi S.A. and auxiliary forces to shut down the Communist headquarters in Berlin on February 24th. When the Reichstag fire broke out on the 27th, Goring and the German cabinet agreed the following day that “beyond a

reasonable doubt,” leaders of the Communist party were directly connected with the arson. The article also discusses the provisions of the Reichstag Fire Decree, which eliminated freedom of speech, freedom of assembly, and freedom of the press. In a statement made to the foreign press, the Nazis explained how the only alternative to their regime was a brutal Communist state. As the article puts it, “in six months it would be easier to see things in their proper perspective.” Notably, this final sentence purports that British scholars from this bulletin did not believe that Germany’s political violence in 1933 was a permanent measure. The arrests following the Reichstag Fire were perceived more as an attempt to restore order and state authority. In reality, they could not have been further from the truth.

Fay, Sidney B. “Germany Under the Iron Heel.” *Current History* (1916-1940) 38, no. 1 (**Apr. 1933**): 102–6. <http://www.jstor.org/stable/45334295>.

U.S. historian Sidney Bradshaw Fay examined Nazi policies and tactics during the five weeks that preceded the Reichstag elections on March 5th. The Nazis succeeded in winning the election by violently suppressing the voices and rights of opposition parties, namely the Communists, Social Democrats, and the Catholic Center. The Reichstag Fire Decree was fundamental to this process because it allowed the Reich to seize executive power in German states that did not take “sufficient” measures against Communism. According to Fay, the damages incurred by the Reichstag fire were estimated at around \$1,500,000. When adjusted for inflation in 2024, the expense was over \$35,586,000. Fay also mentions that the Reichstag fire was rather uncharacteristic of German Communists, and points out how the Nazis benefitted from blaming them. He cites how “Moscow leaders” were more likely to disseminate widespread terror across the state, rather than use individual acts of terrorism to attain power.

Wheeler-Bennett, John W. “The New Régime in Germany.” *International Affairs* (Royal Institute of International Affairs 1931-1939) 12, no. 3 (**May 1933**): 313–26. <https://doi.org/10.2307/2603187>

Wheeler-Bennett analyzes how the Reichstag fire benefitted the Nazis' quest for popular support in the week leading to the Reichstag election of March 5, 1933. To Hitler's dismay, the previous elections of July and November of 1932 failed to produce the majority needed to control the Reichstag. According to Wheeler-Bennett, as the election drew nearer it became more apparent that the Nazi Party would not succeed in gaining the majority it hoped for. When the Reichstag building was ignited during election week, the Nazis quickly took advantage of that situation to gain more popular support. The official narrative was that a young Dutch Communist had ignited the Reichstag to trigger a greater Bolshevik reaction across Germany. However, Sir Wheeler notes that by May "it has already become a punishable offense to question the validity of this account." With the passing of the Reichstag Fire Decree, Communist and Socialist newspapers became censored and any forms of election propaganda became illegal. According to Wheeler-Bennett, on election day, around ninety percent of the German electorate went to the polls.

Delp, Alfred. *Advent of the Heart: Seasonal Sermons and Prison Writings, 1941-1944*. Ignatius Press, 2006. <https://books.google.com/books/Advent>

Delp (1907–1945) was a German Jesuit priest, theologian, and member of the resistance against the Nazi regime during World War II. Not only did Father Delp help Jews flee persecution, but he also distributed anti-Nazi leaflets and was a member of the Kreisau Circle. Delp was accused of conspiring in the July 20th assassination attempt on Hitler, and was subsequently arrested by the Gestapo, tortured, and hanged in 1945. During his time in solitary confinement at Tegel Prison in Berlin, Father Delp smuggled out his writings using small pieces of paper. His reflections from his time in prison have been widely celebrated for their courage, resilience, and moral conviction. While in Nazi prison he wrote, "There is no reason to lose hope or give up and be depressed. Instead, this is a time for confidence and for tirelessly calling on God" (pg. 148). Today, Father Delp is remembered as a martyr and a symbol of resistance against tyranny and injustice.