

## SUMMARY

# SITUATIONIST THEORY IN ACTION

## Prussia and the Reich before the German Supreme Court

The work is devoted to the political history of the Weimar Republic in the final years of its existence. At the end of the 1930s, the crisis of parliamentarism and democracy in the German state reached its zenith. The reasons for this were manifold: the economic and social crisis, as well as a lack of faith in the state and its institutions that had been growing since the creation of the Republic. The Republic was burdened with the original flaw of a “democracy without consensus,” and struggled with problems typical of states that had not been rooted in the past. The democratic system was a novelty that was deemed by most to be foreign to Germany’s constitutional traditions. This was based on the conservative ethos of the infallible emperor. Conservatives, though not all, were not concerned about the restitution of the monarchy; it was their longing for a strong executive, a presidential government, that signposted their political endeavours. This policy had the support of lawyers, especially those engaged in the science of state law. The doctrine of law formed the concept of sovereign dictatorship, and indicated that the Reichspräsident alone could be the “guardian of the constitution”. This was accompanied by a particular interpretation of the law, and in particular the provisions of the Constitution, which had already begun to be called situationism at the turn of the 1930s. This method consisted in a “dynamic”, creative way of understanding its content, enabling the *de facto* simultaneous legalization and legitimization of every political decision of power. The notion of a political “solution” was one of the few indicative ways of justifying political decisions. Therefore it is not compatibility with the law or the constitution but compliance with a political decision that should determine the direction of political and social change, etc. These disputes culminated in a trial before the Reich Court in Leipzig in July 1932. The Reich and Prussia were engaged in a battle over the shape of the political system and, in fact, over the future of Germany. This dispute was of

a constitutional nature, and the Court was expected in particular to clearly indicate boundaries for the Reichpresident's dictatorship. Both parties involved the highest authorities of state law in Germany at the time in the role of scientific commissioners. The court dispute provided an opportunity for two schools of law to clash: the Situationist method and its opposite, the "classical" method of interpretation. Two visions also clashed before the Court – one of a Germany governed by a strong executive and one based on the tradition of the tripartite balance of power. The author holds that these issues are universal, and that they are inherent in the development of democracy and parliamentarianism at all times. The democratic system, in the face of various initial cases of non-feasance on the part of the constitution-makers and later the legislator, is prone to deep and destabilizing crises of power, especially in times of political or economic instability.

*Translated by Rob Pagett*